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Senate

IRAQ PRE-WAR INTELLIGENCE

Mr. KENNEDY. Mr. President, yesterday Vice President CHENEY said elected officials had access to the intelligence and were free to draw their own conclusions. They arrived at the same judgment about Iraq's capabilities and intentions made by this administration and by the previous administration. What world is the Vice President living in? No one seriously believes what the Vice President is saying. Once again, he is deliberately deceiving the American people. It is a calculated, partisan, political ploy.

President Bush and the Vice President have begun a new campaign of distortion and manipulation because the polls show that Americans have lost trust in the President and believe he manipulated intelligence before the war. The President and Vice President have abandoned any pretense of leading this country and have gone back on to the campaign trail.

But the country won't have it this time. Not only can the President and Vice President not find weapons of mass destruction, they cannot find the truth either. The administration broke the essential bond of trust that has to exist between the White House and the American people. They have to be able to trust that we will be told the truth, especially on the important issues of war and peace.

The Congress did not have access to the intelligence the President and the Vice President had. It is plain wrong. The administration's drumbeat for war began in the summer of 2002, but it did not provide an intelligence estimate—the collective wisdom of the intelligence community—to back up its claims about al-Qaida and nuclear weapons and the immediate threats until Democrats on the Intelligence Committee demanded it.

Even then, the administration did not provide the intelligence estimate until October 1, 2002—2 days before the debate began on the resolution authorizing war. The vote on the resolution occurred 1 week later, on October 11.

Beyond the NIE, the suggestion that the Members of Congress have access to the same classified material as the President is preposterous. The President receives a Presidential daily brief and a briefing every morning with top intelligence officials. The White House has access to memos with intelligence information that the Congress never sees. Even when we ask for this information, they do not provide it.

It is abundantly clear that the administration is engaged in nothing more than a devious attempt to obscure the facts and take the focus off the real reason we went to war in Iraq. No matter what the Vice President says, 150,000 American troops are bogged down in a quagmire in Iraq because the Bush administration misrepresented and distorted the intelligence to justify a war America never should have fought. They misled us on al-Qaida. They misled us on aluminum tubes, materials from Africa, and nuclear weapons.

What was said before by the administration does matter. The President's words matter, and so do the Vice President's, and so do the Secretary of State's, and so do the Secretary of Defense's, and the other high officials in the administration, and they did not square with the facts.

The Intelligence Committee agreed to investigate the clear discrepancies, and it is important they get to the bottom of this and find out how and why this President took America to war in Iraq. Americans are dying. Already more than 2,000 have been killed, and more than 15,000 have been wounded.

The American people deserve the truth. It is time for the President to stop passing the buck and for him to be held accountable. It is time for a change in this country. Something has to give. A tarnished White House and damaged Presidency is pulling America backwards.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I spend most of my time with the work of the Judiciary Committee and the work of the Finance Committee. I do not get into intelligence and Armed Services issues very often. But I listened to Senator KENNEDY's criticism of President Bush and Vice President CHENEY that they deceived the American people.

I saw some things on television last night of which Senator KENNEDY ought to be reminded. If he watched television last night, he might have a little different view.

I heard him say that President Bush maybe had more information than Congress had, and so it was wrong for the President today to say that Congress is rewriting history in any way because he maybe had more information than we had. I believe that is what Senator KENNEDY said.

I do not know for sure if the President has more information than we have because when I go upstairs to S–407, to our secure briefing room, I am assuming I am getting the same information as the President is getting. Perhaps not as often, but getting the same information. So I think it is ludicrous to say that Members of the Senate cannot be up to speed on what the threats are to our Nation. But, for sure, if he had watched television last night, he would have heard a speech by President Clinton in 1998. The speech was on the threat of Saddam Hussein to our country at that time. Surely, Senator KENNEDY cannot deny that President Clinton had exactly the same information President Bush would have had from our intelligence community. I very clearly heard President Clinton, when he was President, speak of the terrible threat that Saddam Hussein was to the world and to America, and that he was going down a road to do something about it.

Now, obviously, that did not happen. But we did pass a resolution called the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Iraqi Liberation Act, where Congress, in a unanimous vote took a position at that period of time that we considered Saddam Hussein a threat and that he ought to be removed from office, from the leadership of his country.

If President Clinton, while he was in office, using that intelligence, saw Saddam Hussein as a threat, the same way President Bush did, I do not see how any Democrat can be on the floor of the Senate and say the President of the United States is deceiving the American people.

Also, last night I happened to hear a 2- or 3-minute speech by Senator CLINTON, made in 2002, how horrible Saddam Hussein was and how he was somebody to fear and a threat and the inclination of doing something about it.

It is intellectually dishonest for any Democrat to come to the floor and accuse our President of misleading the American people. They ought to be ashamed of themselves. Have they no shame?

I have something I want to refer to because we have had people outside the Congress, outside the administration, look at some of these very issues. We had the Robb-Silberman commission report. Senator Robb is a former Democratic Member of this body. Judge Silberman is a Republican, served on the DC Circuit. They gave a report about Presidential daily briefings versus what is in the National Intelligence Estimate. There is no significant difference between the two reports, the Presidential daily briefing and the National Intelligence Estimate. Quoting from the report:

> It was not that the intelligence was markedly different. Rather, it was that the PDBs and the SEIBs, with their attention-grabbing headlines and drumbeat of repetition, left an impression of many corroborating reports where in fact there were very few sources. And in other instances, intelligence suggesting the existence of weapons programs was conveyed to senior policymakers, but later information casting doubt upon the validity of that intelligence was not.

That is shortcomings of our intelligence community, the same shortcomings that President Clinton probably experienced during his time in office, when he was making estimates of the threat of Saddam Hussein, the same way that President Bush was making those estimates.

The Robb-Silberman commission found Presidential daily briefings to contain similar intelligence in ''more alarmist'' and ''less nuanced'' language. Continuing to quote:

> As problematic as the October 2002 [National Intelligence Estimate] was, it was not the Community's biggest analytic failure on Iraq. Even more misleading was the river of intelligence that flowed from the CIA to top policymakers over long periods of time—in the President's Daily Brief and in its more widely distributed companion, the Senior Executive Intelligence Brief. These daily reports were, if anything, more alarmist and less nuanced than the [National Intelligence Estimate].

That is what one former Democratic Senator and a Republican judge, appointed to a commission to look into this, have reported. When you take all of these things into consideration, plus the quotes of Senator CLINTON that I referred to in the year 2002 that I saw on television last night, or the statements by President Clinton in 1998 when he was President that I saw on television last night, it seems to me it is absolutely wrong and misleading to come up here and say the President of the United States and the Vice President were deceiving the American people, particularly when Senators can have briefings if they want them.

FREEDOM IN ASIA AND BURMA

Mr. MCCONNELL. Mr. President, I want to take a moment to commend President Bush for his superb remarks regarding freedom and democracy in Asia. It is fitting that these comments were made in Japan, a key strategic ally of the United States.

I will not recount the entire speech—which I encourage all my colleagues to read—but will highlight two paragraphs. The President said:

> Unlike China, some Asian nations still have not taken even the first steps toward freedom. These regimes understand that economic liberty and political liberty go hand in hand, and they refuse to open up at all. The ruling parties in these countries have managed to hold onto power. The price of their refusal to open up is isolation, backwardness, and brutality. By closing the door to freedom, they create misery at home and sow instability abroad. These nations represent Asia's past, not its future.
>
> We see that lack of freedom in Burma—a nation that should be one of the most prosperous and successful in Asia but is instead one of the region's poorest. Fifteen years ago, the Burmese people cast their ballots—and they chose democracy. The government responded by jailing the leader of the pro-democracy majority. The result is that a country rich in human talent and natural resources is a place where millions struggle simply to stay alive. The abuses by the Burmese military are widespread, and include rape, and torture, and execution, and forced relocation. Forced labor, trafficking in persons, and use of child soldiers, and religious discrimination are all too common. The people of Burma live in the darkness of tyranny—but the light of freedom shines in their hearts. They want their liberty—and one day, they will have it.

These words should ring loudly and clearly throughout the region. I commend President Bush for these comments and for the solid leadership he provides in supporting freedom in Burma. Moreover, I applaud the efforts made by President Bush and Secretary Rice to put Burma on the U.N. Security Council's agenda.

SUPPORT FOR JAILED JOURNALISTS DAY

Mr. LUGAR. Mr. President, today is ''action day'' to support jailed journalists around the world, as declared by the independent organization, Reporters Without Borders. I rise today to express my support for this cause and to emphasize that our country has long believed that a free press is a cornerstone of democracy, both here and abroad. Last year, at my urging, Congress created a free press institute at the National Endowment for Democracy to promote, as part of our democracy-building efforts, free, independent and sustainable news media organizations overseas. This year, I introduced the Free Flow of Information Act to allow journalists in this country to protect the identity of their confidential sources. After I introduced the legislation, a reporter for one of America's most respected media organizations, Judith Miller of the New York Times, was jailed for 85 days for failing to disclose a confidential source, while another, Matt Cooper of Time magazine, was also threatened with jail for the same reason. I believe that in order for the United States to foster the spread of freedom and democracy globally, we must support an open and free press at home.

According to Reporters Without Borders, 112 journalists are currently jailed in 23 countries, including places like China, Cuba, Eritrea, and Burma. This is not good company for the United States to keep. I urge the administration and our diplomats overseas to do everything they can to gain the release of these jailed journalists, who were doing nothing more than trying to keep their fellow citizens informed. I ask unanimous consent that the following information from Reporters Without Borders be printed in the RECORD.

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

16TH JAILED JOURNALISTS' SUPPORT DAY, THURSDAY, NOVEMBER 17, 2005.

Reporters Without Borders calls on the media to demonstrate their solidarity with imprisoned journalists. We were exceptionally active when journalists were being held hostage in Iraq, and our challenges may seem less urgent now. But that is not the case. A total of 186 media people (112 journalists, 3 assistants and 71 cyber-dissidents) are imprisoned in 23 countries. What crimes have they committed? They have revealed sensitive issue, called for democracy and greater respect for individual freedoms, refused to give in to censorship or to an enforced line of thought. In short, they simply tried to do their jobs.

In an appeal for solidarity with imprisoned journalists, Reporters Without Borders is organizing the 16th consecutive annual day of action. We are urging the worldwide news media- throughout the world— to acknowledge the fate of those who have to struggle every day for the right to report the news.

To break the silence concerning their plight and to bring it to the public attention of the public, Reporters Without Borders calls on the news media to highlight the case of an imprisoned journalist on this year's ''action day'', Thursday, November 17.

The jails of three countries alone are holding more than half of the world's imprisoned journalists. The three countries that constitute the world's biggest prisons traps for the press are China (with 31 journalists behind bars), Cuba (23), and Eritrea (13).

Mobilization is needed to ease the harsh reality of prison conditions. Denied contact with their families and even proper nourishment, most of these journalists live within

poor or non-existent sanitary conditions. They are frequently isolated from fellow prisoners and left to cope in terrible isolation.

The purpose of this Day is above to free these journalists from yet another prison, that of silence and oblivion. Unless their cases are regularly brought before international public the guilty governments will retain impunity. They will have no reason to worry about the fate of prisoners in their jails. Publicity thus becomes a sort of ''life insurance'' contributing directly to the protection of the prisoners.

It also allows a furtherance of the struggle begun by the imprisoned journalists. Articles that media write about them underscore the reasons and the circumstances of their arrest as well as the issues the journalists were working on before they were imprisoned. In speaking about their case, the sponsor circumvents the censorship they suffered and exposes the unfairness of their imprisonment.

A media's decision to cover the plight of a journalist demonstrates its commitment to defend the right to freely inform and to be informed. It allows journalists to show their solidarity with colleagues with whom they share their passion for a job that is so crucial to ensuring democracy. Since this campaign was launched in 1989, more than 100 journalists have been sponsored by media all around the world. Some media outlets decided to cover their plight without endorsing one particular case. Almost half of them have been released and in part as a result of the support from their sponsors. Several journalists sponsored by International media have been released like Fatimah Nisreen (The Maldives) amnestied on 9 May 2005 or Raul Rivero (Cuba) released on 30 November 2004.

On the day of their release, many journalists stressed the value of not feeling ''utterly forgotten''. It gave them the courage to continue to bear their imprisonment.

The struggle the news media undertake alongside Reporters Without Borders to defend the existence of a free press is not hopeless. Even when those steps appear to have been in vain, we know that international backing for a prisoner brings essential psychological support and often protects his or her life. This achievement alone represents a victory over authoritarianism and repression carried out by so many governments.

Please find below:

—a few examples of cases of jailed journalists

—press freedom barometer—Key statistics

—the list of 112 journalists imprisoned worldwide (as of November 2, October 2005)

—the list of the current sponsors

Yu Dongyue—CHINA

A journalist and art critic with the Liuyang News, he was arrested on 23 May 1989 during student demonstrations in Tienanmen Square in Beijing. He was convicted on 11 July that year of ''sabotage'' and ''counter-revolutionary propaganda'' and jailed by the Beijing intermediate municipal court for 20 years, with five years deprivation of civil rights. His sentence was cut by two years in March 2000 but he is not due to be released until 21 May 2007. Yu is suffering from psychological problems as a result of long spells in solitary confinement.

Miguel Galván Gutiérrez—CUBA

Journalist with the independent news agency Havana Press, he was accused of being ''a mercenary in the pay of a foreign power'' and convicted to 26 years in jail. As with other dissidents arrested at the time, his arrest reportedly came after a long search of his home and seizure of papers and equipment such as a typewriter, fax machine and phone. He appeared last August before the prison disciplinary council for sending information to Miami radio stations. He was then put in solitary confinement, without electricity, and was not allowed to use the phone.

His health has steadily worsened in prison. His frequent spells in solitary confinement (73 days in his first 11 months) aggravated his ailments, including frequent diarrhea, stomach and joint pains, swollen feet and a paralyzed arm and, in April 2005, high fever, urinary problems and back pain. He does not get the medicine he needs.

Win Tin—BURMA

Win Tin, one of the political mentors of Nobel Peace Prize winner Aung San Suu Kyi, continues to serve his 20–year prison sentence. He is regularly offered freedom in exchange for a signed promise to give up all political activity. But ''Saya'' (Teacher), as his friends call him, has always refused to cut such a deal and break his ties with the National League for Democracy, which was cheated out of its landslide victory at the 1990 general elections.

He was convicted of ''subversion'' and ''anti-government propaganda.'' In 1996, he was held for five months in a dog-kennel at Rangoon's Insein prison. He has since had two heart attacks and lost most of his teeth. Now 75, he has been shuttling back and forth between his cell and the spartan prisoners' wing of Rangoon hospital for the past few years.

These days, Burma's military rulers treat him with a little more respect and he now has his own cell. But he is still not allowed to write anything.

Akbar Ganji—IRAN

This Iranian journalist with the reformist daily Sobh-e-Emruz, Neshat and Asr-é-Azadegan was arrested on April 22, 2000 when he returned from a conference in Berlin that the Iranian authorities considered ''anti-Islamic'' and ''anti-revolutionary.'' In January 2001, he was sentenced to 10 years in jail and to banishment.

He had to answer 10 charges, based on complaints filed by the ministry of intelligence, the police and a former minister of intelligence. The prosecutor accused him of ''acting against national security'', ''circulating propaganda against the Islamic system'', and ''insulting religious figures.'' He was also accused of publishing articles accusing senior officials of involvement in the murder of regime opponents and intellectuals in 1998. In May 2001, his sentence was reduced from 10 years to six months. In July 2001, the Supreme Court increased it to 6 years.

Akbar Ganji was held in Evin prison in Tehran, where he was able to continue reading and writing. But he was not able to telephone his family or receive medical treatment despite suffering from acute asthma. He began a hunger strike on June 11 and lost 44 kilos in the course of the next month. Akbar Ganji finally calls off his hunger strike after more than 60 days. He was sent back to Evin prison in early September.

Pham Hong Son—VIETNAM

Medical doctor and local representative of a foreign pharmaceutical company. He has been in prison since March 2002 for translating and posting online an article from the local US embassy website called ''What is democracy?'' and an essay called ''Encouraging signs for democracy in Vietnam.'' He had earlier written and posted on Vietnamese online discussion groups several articles advocating democracy and human rights.

He was sentenced to 13 years imprisonment in June 2003 for ''spying,'' followed by three years of house arrest, by the Hanoi People's Court. The prison sentence was reduced on appeal to five years on 26 August that year. He has a groin hernia which could kill him if he does have an operation.

Dominique Makeli—RWANDA

Dominique Makeli, a Radio Rwanda commentator, has been in prison in Rwanda since 18 September 1994. After being moved several times, he is now in the main prison in Kigali.

The public prosecutor told Reporters Without Borders in October 2001 that he was accused of ''incitement to genocide in his reporting.'' He had reported on an apparition of the Virgin Mary in Kibeho (west of Butare) in May 1994 and had quoted her supposed words : ''The parent is in heaven.''

The prosecutor said people would have understood this as divine support for President [Juvenal] Habyarimana and, by extension, for the policy of exterminating Tutsis. Thiswas disputed by Makeli and many witnesses. His case-file was sent in August 2004 to a gacaca (a village court system revived by the authorities).

Complete biographies of these journalists and others are available upon request. Please contact Lucie Morillon, Reporters Without Borders Washington Director, (202) 256–5613 or lucie.morillon@rsf.org

PRESS FREEDOM KEY STATISTICS AS OF NOVEMBER 2, 2005

Reporters Without Borders has been defending the public's right to news and information for 20 years. It intervenes as soon as possible when the freedom to inform and be informed is under threat is at risk, or as soon as a journalist somewhere in the world is imprisoned anywhere just for doing their job. Journalists are still being routinely targeted in more than half the world's countries represented at the United Nations.

By paying for defense lawyers when to assist journalists are tried at their trial, giving financial aid to the families of murdered or imprisoned journalists who have been killed or imprisoned, waging public- awareness campaigns and taking care offering help to of journalists who are forced to flee their country, Reporters Without Borders takes action every day to combat censorship.

PRESS FREEDOM BAROMETER

Worldwide, more than 684 journalists have been killed since 1992.

More than 1,450 journalists were arrested, beaten, threatened, kidnapped or otherwise harassed and more than 320 media were censored in 2004.

53 journalists have been killed since the start of 2005.

5 media assistants have lost their lives since the start of 2005.

73 journalists have been killed in Iraq in March 2003, making it the deadliest war for the press since World War II.

Worldwide, 112 journalists and 3 media assistants are currently in prison for doing their job.

71 cyber-dissidents are currently in prison, 62 of them in China. 112 journalists are currently in prison just for trying to report the news.

The jails of three countries alone are holding more than half of the world's imprisoned journalists.

The three countries that constitute the world's biggest prisons traps for the press are China (with 31 journalists behind bars), Cuba (23), and Eritrea (13).

Their crimes? Revealing embarrassing facts, demanding more respect for civil rights, or refusing to submit to censorship or adopt a particular set of views. Physical and psychological harassment, intimidation and permanent surveillance are also used routine.

The 112 journalists imprisoned worldwide (as of November 2, October 2005)

Afghanistan (1): Ali Mohaqiq Nasab: sentenced to two years in prison.

Algeria (1): Mohammed Benchicou: sentenced to two years in prison.

Burma (6): Lazing La Htoi: arrested on July 27 July, 2004, and still awaiting trial.

Ne Min: sentenced to 15 years.

Monywa Aung-Shin: sentenced to 7 years.

Than Win Lhaing: sentenced to 7 years.

Thaung Tun: sentenced to 8 years.

Win Tin: sentenced to 20 years.

China (31): Asia continues to be the world's most repressive continent for journalists. In East Asia, China is ranked 159th in the Reporters Without Borders Worldwide Press Freedom Index (October 20, 2005), making. That puts it among one of the world's 10 worst countries. Some media have been privatized, but the government's propaganda department is watchful scrutinizing the media and the banned media has been banned from covering dozens of sensitive subjects in the course of the pover the last year. Crackdowns by the authorities and violence against journalists by armed groups prevent are keeping the media from expressing themselves freely.

Ching Cheong: imprisoned in jail since April 22, 2005. Still awaiting trial.

Tashi Gyaltsen, Lobsang Dhargay, Thoe Samden, Tsultrim Phelgay, Jampel Gyatso: imprisoned since January 14, 2005. Awaiting trial.

Shi Tao: sentenced to 10 years in prison.

Zhao Yan: awaiting trial.

Li Minying: sentenced to 6 years.

Yu Huafeng: sentenced to 8 years.

Zhang Wei: sentenced to 6 years.

Zuo Shangwen: sentenced to 5 years.

Ou Yan: his release date has yet to be announced. Although he has already completed a 2-year prison sentence.

Wang Daqi: sentenced to 1 year in prison, he was not freed after completing serving his sentence.

Lu Wanbin: arrested on December 22, 2001. Awaiting trial.

Ma Linhai: arrested on November 24, 2001. Awaiting trial.

Feng Daxun: he was never released after completing a 3-year prison sentence.

Jiang Weiping: sentenced to 9 years.

Xu Zerong: sentenced to 13 years.

Li Jian: arrested in November 1999. No news about his trial.

Zha Jianguo: sentenced to 9 years.

Gao Hongming: sentenced to 8 years.

Yu Tianxiang: sentenced to 10 years.

Gao Qinrong: sentenced to 13 years.

Qin Yongmin: sentenced to 12 years.

Fan Yingshang: sentenced to 15 years.

Zhang Yafei: sentenced to 11 years.

Hu Liping: sentenced to 10 years.

Yu Dongyue: sentenced to 20 years.

Chen Renjie and Lin Youping: sentenced to life imprisonment in July 1983.

North Korea (1): There has been no news of Song Keum Chul since he was jailed in 1996.

Cuba (24): 161st place in the Worldwide Press Freedom Index. Two journalists have just joined the 21 others who have been imprisoned since the March 2003 crackdown. One of them, Oscar Mario González Pérez, is awaiting trial and faces up to 20 years in prison under Law 88, which that protects ''Cuba's national independence and economy.''

Lamasiel Gutiérrez Romero: sentenced to 7 months in prison.

Albert Santiago Du Bouchet Fernández: sentenced to 1 year in prison.

Normando Hernández González: sentenced to 25 years.

Omar Moisés Ruiz Hernández: sentenced to 18 years.

Juan Carlos Herrera Acosta: sentenced to 20 years.

Alejandro González Raga: sentenced to 14 years.

Alfredo Felipe Fuentes: sentenced to 26 years.

Mijail Barzaga Lugo: sentenced to 15 years.

Mario Enrique Mayo Hernández: sentenced to 20 years.

Pablo Pacheco Ávila: sentenced to 20 years.

Fabio Prieto Llorente: sentenced to 20 years.

Adolfo Fernández Sainz: sentenced to 15 years.

Héctor Maseda Gutiérrez: sentenced to 20 years.

Julio César Gálvez Rodríguez: sentenced to 15 years.

Alfredo Manuel Pulido López: sentenced to 14 years.

José Ubaldo Izquierdo Hernández: sentenced to 16 years.

Victor Rolando Arroyo Carmona: sentenced to 26 years.

Miguel Galván Gutiérrez: sentenced to 26 years.

Pedro Argüelles Morán: sentenced to 20 years.

Omar Rodríguez Saludes: sentenced to 27 years.

José Luis García Paneque: sentenced to 24 years.

Ricardo González Alfonso: Reporters Without Borders correspondent, sentenced to 20 years.

Ivan Hernández Carrillo: sentenced to 25 years.

Egypt (1): Abd al-Munim Gamal al Din Abd al Munim has been subject to serving out an indefinite internment order since October 30, 1993.

Eritrea (13): 166th in the Worldwide Press Freedom Index-, is a ''black hole'' country for news. Not one of the 13 journalists currently detained in custody has ever been given a trial. So therefore, none has received an official sentence.

Hamid Mohamed Said, Saleh Al Jezaeeri and Saidia Ahmed have been in prison since February 2002.

Seyoum Tsehaye, jailed since September 21, 2001.

Temesgen Gebreyesus and Said Abdulkader, since September 20, 2001.

Mattewos Habteab and Yusuf Mohamed Ali, since September 19, 2001.

Medhanie Haile, Emanuel Asrat, Dawit Isaac and Fessehaye Yohannes, since September 18, 2001.

Dawit Habtemichael, since September 2001.

Ethiopia (2): Neither of the two imprisoned journalists have been tried, and so neither of them have been officially sentenced.

Shiferraw Insermu and Dhabassa Wakjira: imprisoned prisoners since 22 April 2004.

Iraq (5): Five journalists are being held incommunicado by the US Army without any information being provided to them.

Hameed Majeed: detained since September 15, 2005.

Ali Omar Abrahem Al-Mashadani: detained since August 8, 2005.

Samer Mohamed Noor: imprisoned behind bars since June 4, 2005.

Ammar Daham Naef Khalaf: detained since April 11, 2005.

Abdel Amir Younes Hussein: in prison since April 5, 2005.

Iran (6): Mohammad Sedigh Kabovand: sentenced to 18 months.

Madh Amadi: awaiting trial, in prison since July 28, 2005.

Masoud Bastani: awaiting trial, in prison since July 25, 2005.

Siamak Pourzand: sentenced to 11 years in prison. Thanks to international pressure, he was given leave to return home for an indefinite period in December 2002, but was sent back to prison on March 30, 2003.

Hossein Ghazian: sentenced to four-and-a-half years in prison.

Akbar Ganji: sentenced to 6 years in prison.

Laos (1): Thongpaseuth Keuakoun was sentenced to 20 years in prison.

Libya (1): Abdullah Ali Al-Sanussi Al-Darrat has been in prison since January 1, 1973 and, is by all accounts, has yet to have been sentenced.

Maldives (3): Jennifer Latheef: sentenced to 10 years in prison.

Colonel Mohammed Nasheed: awaiting trial.

Abdullah Saeed: awaiting trial.

Morocco (2): Anas Tadili: sentenced to 10 months in prison on a non-political charge dating back 10 years, and then was given an additional 6 months in a press case. The sentences were commuted to 1 year on appeal (on September 29, 2004) to one year. The Judicial authorities are investigating some 10 other accusations that have been brought against him.

Abderrahmane El Badraoui: sentenced to 4 years.

Nepal (2): Nagendra Upadhyaya and Tejnarayan Sapkota: detained under an anti-terrorist law, and awaiting trial.

Uzbekistan (4): Nosir Zokirov: sentenced on August 26, 2005 to 6 months in prison.

Sabirjon Yakubov: sentenced to 20 years in prison.

Jusuf Ruzimuradov: arrested on August 18, 1999. Sentenced to 8 years in prison.

Mohammed Bekjanov: sentenced to 15 years in prison.

Rwanda (4): Father Guy Theunis: imprisoned since September 10, 2005, pending trial.

Jean-Leónard Rugambage: detained since September 7, 2005, pending trial.

Tatiana Mukakibibi: detained since October 2, 1996. Has not yet been tried.

Dominique Makeli: imprisoned since September 18, 1994. Not yet been tried.

Sierra Leone (1): Paul Kamara: serving prison sentences totalling 4 years (two year sentences).

Tunisia (1): Hamadi Jebali: sentenced on January 31, 1991 to 1 year in prison for defamation. Given an additional 16–year sentence on August 28, 1992 for ''membership in an illegal organization'' and ''wanting to change the nature of the state.''

Turkey (2) Memik Horuz: sentenced to 15 years in prison on June 13, 2002 to 15 years in prison.

Sinan Kara: sentenced to 9 months in prison.

Working together to advance the cause of press freedom. Reporters Without Borders would like to thank the sponsors of imprisoned journalists for all they have done and will continue to do to achieve obtain the release of those they have their adopted colleagues.

Since 1989, we have been inviting the French and international news media to adopt journalists who are in prison just for doing their jobs. On November 17, sponsors are will be asked to take special initiatives specific actions to pressure authorities for releasing of their adopted journalists and to publicize their cases, so that they will not be forgotten and so that the publicity affords will offer them some protection from their jailers. By writing to journalists in prison, contacting their families, protesting to the relevant competent authorities, and getting viewers, listeners, readers and Internet users interested in their cases, the news organizations, festivals and city halls who are sponsors can help Reporters Without Borders to support these men and women whose only crime is was wanting to reporting the news.

Thanks to the media that support a journalist:

93.3 Radio Québec, Christian Action for the Abolition of Torture and Executions (ACAT), AGEFI, Agencia Cover, Agriculture Horizon,

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SCIENCE-STATE-JUSTICE APPROPRIATIONS

Mr. BIDEN. Mr. President, yesterday the U.S. Senate approved the conference report to accompany H.R. 2862, the Science-State-Justice appropriations bill. I voted for this legislation because it provides critical funding for the Department of Justice, the FBI, and the Drug Enforcement Administration. However, I rise to explain that I am voting for this bill reluctantly because I feel that some of the funding priorities set forth in the bill will leave our communities more vulnerable to terrorist attacks traditional crime. In particular, this bill continues the wrongheaded trend of slashing Federal funding for State and local law enforcement and important criminal justice programs. This bill slashes funding for the Justice Assistance Grant and the COPS Program. And, for the first time, the Congress has decided to zero out the COPS hiring Program. I believe that this decision is a terrible mistake on so many levels, and I fear that our Nation's citizens will be less safe from traditional crime and terrorism as a result. Further, the bill slashes Federal assistance for the effective and cost-efficient drug court program by an astounding 75 percent.

Back in 1994 when we passed the legislation that created the COPS Program, our crime rates were at all-time highs. At that time, we made a commitment to our State and local law enforcement partners. During those years, we invested roughly $2.1 billion for State and local law enforcement each year and substantially upgraded our ability to combat crime. We added over 100,000 officers to patrol our neighborhoods, and we expanded crime prevention programs such as community policing programs across the Nation. What was the ultimate result? Crime rates for violent crime, murder and rape were all reduced, and today they remain at all-time lows. Many law enforcement experts and local officials credit the COPS Program for helping to achieve these results. In fact, no one, to my knowledge, with law enforcement expertise has argued otherwise. The International Association of Chiefs of Police, the National Sheriffs Association, the Fraternal Order of Police, the National Association of Police Organizations, and other local law enforcement groups all support the COPS Program. Attorney General Ashcroft has stated that the COPS Program was a miraculous success, and Attorney General Gonzalez stated that the COPS Program put officers on the street and we reduced crime. Moreover, a recent report by the Government Accountability Office concluded that COPS hiring grants had an impact on reducing crime rates.

Why would the Congress eliminate a program that is strongly supported by local law enforcement officials and has been proven effective by statisticians at the Government Accountability Office? Well, it has its basis in ideology. Some of my Republican colleagues argue that local crime is a local problem and the Federal Government should not be funding these local efforts. I completely disagree. How can it be a local responsibility when roughly 60 percent of all the crimes committed in America relate to drugs, abuse of drugs, and the sale and trafficking of illicit drugs? These drugs are smuggled across our national borders from State to State and city to city by sophisticated drug cartels and street gangs. How does a local sheriff prevent drugs that start out in a foreign country from being trafficked into his or her county? How does a police chief prevent the recruitment of local kids into international street gangs? In my opinion, crime is a national problem, and it requires a national response. The COPS Program demonstrated the Federal Government's commitment to approach crime as a national problem—and it worked.

I would also point out that State and local law enforcement forms our first line of defense against terrorism. Homeland security experts have pointed out the value that community policing programs can have in combating terrorism. This only makes sense—it is the local officer who knows the neighborhood who will be able to provide the types information necessary to help infiltrate a local terror cell. In addition, it will be a local officer walking the beat who happens to catch a suspect trying to pump sarin gas into the local mall air-conditioning ducts. It won't be a brave Special Forces agent with night vision goggles; it will be a local cop walking the beat. In this era of uncertainty, we need to be providing more support for our local police agencies to help make their efforts against terrorism and crime as robust as possible.

And by cutting the drug court program—one of the most effective programs to reduce substance abuse in the criminal population—we are sending a devastating message to the 16,000 individuals that graduate from drug courts each year. We are telling them that we don't care that diversion programs are successful at helping people overcome addiction to reenter society as productive citizens, holding down jobs, and regaining custody of their children. We are sending a message that we would prefer to revert to the bad old days of locking up nonviolent drug offenders in prisons where most will get no drug treatment and they will most likely just sink deeper into a life of crime.

And what message are we sending to the 70,000 people currently enrolled in drug courts who are working hard to live sober, crime-free lives? By slashing funding for the drug court program we are telling them that we are not invested in their recovery and we are putting their future in drug court programs in jeopardy.

It makes absolutely no sense to me that we are cutting this cost-effective program by 75 percent. By enrolling nonviolent drug offenders in drug courts, States save an enormous amount of money. One study showed that California's drug courts save the State $18 million a year. Another study showed that every dollar spent on a drug court program saves the city of Dallas, TX, $9.43 over a 40 month period. It is inconceivable to me that we would choose to cut this program. The

National Association of Drug Court Professionals estimates that our actions here today will result in more than 13,000 individuals losing access to drug court services. These 13,000 people will likely continue their lives of crime and drugs and being a threat to public safety instead of getting enrolled in a tough-love program that will help them to turn their lives around and get sober. It is truly a tragedy.

It is my opinion that we found a winning formula when we made the decision to invest in our State and local law enforcement partners and smart on crime initiatives in the nineties, and I believe that we are making a terrible mistake when we reduce funding for them. There is no greater responsibility of the Federal Government than the protection of its citizens. This is true whether the threat comes from international terrorist or from a thug down the street, and I strongly believe that we are taking the wrong approach when we cut funding for our State and local law enforcement partners. Sheriff Ted Sexton, the president of the National Sheriffs Association, got it right when he stated that ''cuts of this magnitude will seriously inhibit our ability to protect our communities and secure the homeland.'' And, the president of the International Association of Chiefs of Police was correct in pointing out that ''demanding that we play a central role in our Nation's homeland security efforts, while at the same time cutting the resources we need to do our job, is both hypocritical and irresponsible.'' I hope that the Republican-led Congress and President Bush will heed the call of these brave men and women and fully fund these critical programs next year.

MANUFACTURING DEDUCTION LEGISLATION

Mr. SANTORUM. I introduced a bill last month, S. 1816, that is vitally important to manufacturing businesses and the workers they employ in Puerto Rico. My bill extends the benefits of the manufacturing deduction, enacted last year with the American Jobs Creation Act of 2004, to apply to manufacturing operations that are conducted in Puerto Rico and are subject to full U.S. tax.

The new manufacturing deduction means that U.S. businesses operating in any of the 50 States will pay tax on their manufacturing income at 32 percent. Without the manufacturing deduction, U.S. businesses operating a branch in Puerto Rico will pay tax on their manufacturing income at 35 percent. This difference in tax treatment creates a disincentive for U.S. companies to conduct manufacturing operations in Puerto Rico, distorting manufacturing location choices and putting Puerto Rico at a disadvantage in terms of attracting and retaining investment.

My bill makes sure that manufacturing in the 50 States and manufacturing in Puerto Rico will be taxed at the same 32 percent rate. This will level the playing field for operations in Puerto Rico and operations in the States. I have a number of constituent corporations that operate in my State and have operations in Puerto Rico, and this provision is important to them.

I realize the proposal cannot be added to the budget reconciliation tax bill at this time but am hopeful it will be considered and enacted this year.

I want to applaud Ways and Means Committee Chairman BILL THOMAS for introducing H.R. 4323, which includes this extension of the manufacturing deduction to Puerto Rico. I look forward to working with Chairman THOMAS to get this important provision enacted.

MASSACRE AT SAN JOSE DE APARTADO

Mr. LEAHY. I want to speak about a matter that I suspect few Senators are aware of, but which should concern each of us.

On February 21, 2005, in the small Colombian community of San Jose de Apartado, eight people, including three children, were brutally murdered. Several of the bodies were mutilated and left to be eaten by wild animals.

This, unfortunately, was not unusual, as some 150 people, overwhelmingly civilians caught in the midst of Colombia's conflict, have been killed by paramilitaries, rebels, and Colombian soldiers in that same community since 1997. None of those crimes has resulted in effective investigations or prosecutions. No one has been punished.

That is an astonishing fact. Think of 150 murders, including massacres of groups of people, in a single rural community, and no one punished.

This latest atrocity occurred in a remote area frequented by rebels and paramilitaries. As a result, the presence of the Colombian army has also grown significantly there. Yet the army, which was sent to that area to protect civilians from attacks by illegal armed groups, is now suspected by some of having committed this massacre.

Residents of San Jose de Apartado have blamed the army, and international observers who went with community members to locate the bodies witnessed disturbing behavior by soldiers who reportedly laughed while body parts were being exhumed, who took pictures of themselves making victory signs, and who mishandled evidence from the massacre sites. There is also the possibility that paramilitaries acted in collusion with the army. And some have speculated that there were two separate groups of perpetrators, perhaps including the FARC, the Revolutionary Armed Forces of Colombia, the country's oldest rebel group.

Even before an investigation began, top Colombian officials publicly declared that the FARC was responsible. The Minister of Defense, who has since resigned, insisted that the army could not have done this because on February 21 they were more than 2 days' walking distance from the crime scene. It was soon determined, however, that there were soldiers only half a day's walk away, and army helicopters had recently been seen in the vicinity.

While it has not been proven who is responsible for this horrific crime, the government's rush to judgment was only its first mistake. That was quickly followed by the decision, against the wishes of the community, to send armed police officers into their midst. While I do not doubt the authority of Colombian police to enter that territory, it caused the majority of its inhabitants to flee their homes out of fear that the police would become a target of illegal groups and that the villagers could once again be harmed.

In fact, such an attack took place on June 26, when three policemen were wounded in an attack by the FARC and community members were caught in the crossfire. Later, on July 18, an old man was found beaten to death. There were two more killings by the FARC, one in August and another in September, and verbal threats and acts of intimidation by soldiers and police officers towards members of the community have reportedly steadily increased. Then last month, there were three incidents in which armed paramilitaries and soldiers reportedly threatened members of the community and destroyed property. It appears that the community may be no safer today than it was on February 21.

One of the consequences of the government's tactless approach to this and previous cases is that several witnesses from the community have refused to come forward and give testimony, and this has hindered the investigation. After a massacre of 6 members of this same community 5 years ago when over 100 people gave testimony to judicial authorities, no one was convicted and no report on the investigation was ever issued. Convincing witnesses to come forward this time will require a degree of sensitivity by the government that has, to date, been sorely lacking.

We are told by the Colombian Government that an investigation of the massacre is ongoing. That, unfortunately, is the story of most heinous crimes in Colombia. Investigations often continue without end, and often the perpetrators avoid punishment. I am concerned that this case may be no different.

According to information I have received, neither the soldiers who were in the area at the time of the February 21 killings nor hospital workers who treated a girl who was wounded by soldiers there the previous day have been interviewed by investigators. I find this hard to believe, but if it is correct the government has much to answer for.

For 5 years, the United States has provided significant military aid to Colombia despite ongoing concerns about human rights. Several months ago, the

Secretary of State certified that the Colombian Government had met the human rights conditions in our law, and recommended the release of additional military aid. However, the report accompanying her certification also noted that ''[w]hile the human rights performance of many of the Army's units is improving, an exception is evidenced by continued accusations of human rights violations and collusion with paramilitaries against the Army's 17th Brigade, which operates in northern Colombia. These reportedly include some 200 allegations involving the peace community of San Jose de Apartado in 2000–2001 and, most recently, of involvement in the killings near San Jose de Apartado in February 2005. . . As a result of these allegations, the United States has informed the Government of Colombia that it will not consider providing assistance to the 17th Brigade until all significant human rights allegations involving the unit have been credibly addressed.''

While I might differ with the Secretary's decision to make the certification at the time she did, which coincidently occurred just hours before President Uribe's arrival at President Bush's ranch in Texas, I commend her decision to withhold aid to the 17th Brigade. It is noteworthy, however, that concerns about the 17th Brigade had been conveyed to the State Department well before this incident, including reports that its members were openly colluding with paramilitaries. Yet there is reason to believe that U.S. aid continued despite those reports.

This case presents the Bush administration with an important challenge. It shows that despite billions of dollars from the United States and lofty rhetoric about human rights, the Colombian Government's initial reaction to this despicable crime was not appreciably different from what we saw years ago. They denied responsibility and blamed the victims even before an investigation began, and some of the key witnesses may not even have been interviewed 8 months later.

This is unfortunate because there has been progress on human rights under President Uribe's government. Parts of the country are noticeably safer. The government reports a significant decline in violent crime. But labor leaders and human rights defenders are still threatened and killed, the judicial system remains sluggish, and impunity is more the rule than the exception. Clearly, much more needs to be done to protect human rights.

This case also presents a challenge for the Colombian Government to demonstrate, albeit belatedly, that it can respond with sympathy, with impartiality, and effectively to bring justice to the victims of a crime that epitomizes the worst of Colombia's conflict.

I am also told that the Office of the United Nations High Commissioner for Human Rights conducted its own investigation of the massacre, but that the Colombian Government has not requested a copy of the report of that investigation. If this is correct I urge the government to do so immediately and to release as much of the report to the public as possible without compromising the investigation.

This conflict has brought nothing but suffering to the Colombian people. It has caused the deaths of countless innocent civilians, uprooted millions from their homes, and perpetuated the trade in illegal drugs that has corrupted many sectors of society. The people of San Jose de Apartado, with the conflict raging around them, sought to insolate themselves from this danger by declaring themselves a peace community. That strategy failed, as one after another of their members was brutally murdered.

Before February 21, I was not aware of the many tragedies this community had already suffered. While I do know, as a former prosecutor, that some crimes are harder to solve than others, in Colombia, as in so many countries, political will is often what really matters. It is imperative that this case not be added to the long list of unsolved, unpunished crimes in San Jose de Apartado, or become part of the history of impunity in Colombia. Who ever was responsible must be brought to justice.

Mr. President, I also want to mention the demobilization of paramilitaries that is underway in Colombia. We all want these narco-terrorist organizations to be dismantled, their commanders punished, their illegally acquired assets seized, and their victims compensated. The Colombian Government is asking the United States for millions of dollars to help finance the demobilization, and we want to help.

I am concerned, however, because if the demobilization of the paramilitary unit located in the area of San Jose de Apartado is indicative of the way this process is unfolding, there are serious problems that need to be addressed. According to reports I have received, paramilitaries are engaging in the same threatening and violent behavior, they continue to collude with the army, and some have joined the army. Little has changed for the people in that area who continue to live in fear of losing their property and their lives. I hope the Colombian authorities who have been touting the success of the demobilization process will investigate these reports.

THE GREAT AMERICAN SMOKEOUT

Mr. SANTORUM. Mr. President, I would like to take a moment to acknowledge an important event that is taking place today in Philadelphia, PA and across the Nation—the 29th Annual American Cancer Society Great American Smokeout.

We are all aware that cancer is one of the greatest healthcare risks facing Americans today. For years, this disease has taken the lives of our families, our friends, and our neighbors. As a member of the bipartisan Senate Cancer Coalition, I certainly understand that there are few things that would have a greater impact on the quality of life, for millions throughout the world, than the eradication of this terrible disease.

Unfortunately, we are also all aware of the fact that we have not yet found a cure. And while scientists and researchers around the world work feverishly towards this lofty aspiration, the most important action we can take is the promotion of cancer prevention. The Great American Smokeout is a wonderful example of a successful program aimed at assisting those at great risk of developing cancer to change their ways. This annual event has, undoubtedly, saved lives.

Since the inaugural Great American Smokeout took place in 1976, this initiative has provided a powerful platform for the American Cancer Society to encourage Americans to stop smoking. This event, which urges Americans who take the unnecessary health risks associated with the use of tobacco products to band together and make a lifestyle change, is one of the most recognized awareness initiatives in the history of the American Cancer Society—and rightfully so. Rarely does any organization touch so many with its message in a single day as the American Cancer Society during the smokeout. And rarely is the intention of the message as important as reducing the number of Americans who use tobacco products.

I am also pleased that the American Cancer Society has chosen my home State to host this year's smokeout. Pennsylvania has a long history of working with the American Cancer Society, and in 2002, together with the Pennsylvania Department of Health, they established the Pennsylvania Free Quitline. This toll-free service, available 24 hours a day, 7 days a week, provides advice and counseling to those attempting to quit smoking. Studies have shown that smokers who take advantage of such services are twice as likely to successfully quit smoking. By choosing Pennsylvania as the host for one of their most important events, the society is reaffirming its commitment to decreasing the prevalence of tobacco use in my state—and, in turn, improving the health of all Pennsylvanians.

Mr. President, these types of efforts have helped the American Cancer Society develop a reputation as one of the most influential and effective participants in the fight to better the health of every American. The Great American Smokeout is a vital event put on by a truly impressive organization, and I thank the American Cancer Society for its leadership.

COLON CANCER SCREEN FOR LIFE ACT

Mr. NELSON of Nebraska. Mr. President, I rise in support of the Colon Cancer Screen for Life Act, S. 1010. Some

of its provisions were included in an amendment included in the reconciliation package. This legislation will increase the likelihood that Medicare beneficiaries will receive a colonoscopy screening examination which is proven to be the most effective way to detect and treat colorectal cancer.

Colorectal cancer is the No. 2 cancer killer in the United States today. This year, according to the American Cancer Society, approximately 145,000 new cases will be diagnosed and 56,000 Americans will die from colon cancer. We have the power to change these sobering statistics by increasing access to this lifesaving procedure. Although Congress passed a colonoscopy screening benefit for Medicare beneficiaries back in 1997, the percentage of seniors receiving a colonoscopy reportedly has increased by only an estimated 1 percent. A recent UCLA study, as discussed in an October 11 Wall Street Journal article, documents the continuing underutilization of screening colonoscopies. It points out that colorectal cancer screening rates still lag far behind those for cervical, breast and prostate cancer. As the Wall Street Journal article concludes, ''The results were particularly disturbing because 'we could eliminate this disease if America had the will,''' as the study's lead author noted.

One reason for the underutilization of colonoscopy screening in the Medicare population is rapidly declining rates of reimbursement for the procedure. Medicare reimbursement for colonoscopies performed in the outpatient setting has dropped by nearly one-third from the initial 1998 reimbursement rates. In the majority of States today, Medicaid payment rates actually exceed Medicare reimbursement for colonoscopy. This fact alone underscores the Medicare reimbursement problem is real. This legislation increases Medicare reimbursement for colorectal cancer-related procedures to assure more equitable reimbursement for physicians who absorb significant costs in providing these valuable services.

Another reason for this underutilization is that Medicare currently does not pay for a physician office visit prior to a screening colonoscopy, although it does pay for a physician office visit prior to a diagnostic colonoscopy. The procedures are identical—both involve the same amount of risk, so there is simply no reason why Medicare would pay for an office visit prior to one procedure and not the other. Because Medicare does not pay for this necessary office visit, many physicians must provide them for free. This amendment would fix this discrepancy by providing Medicare coverage for a preoperative visit or consultation prior to a screening colonoscopy, as it does for a diagnostic colonoscopy.

Every year, thousands of Americans needlessly die from colorectal cancer. We have the means to change this and we should do so. I appreciate our Senate colleagues joining in support of this important legislation.

NATIONAL ADOPTION DAY

Mr. JOHNSON. Mr. President, I rise today to acknowledge National Adoption Day on November 19, 2005. With over 118,000 children available for adoption out of the U.S. foster care system, I think it is crucial to celebrate those lawyers, social workers, officials, and, most importantly, parents who help get many children out of foster homes into adoptive families.

National Adoption Day was started in 2000 by the Alliance for Children's Rights, the Freddie Mac Foundation, and the Dave Thomas Foundation for Adoption and helped complete foster care adoptions in nine jurisdictions. National Adoption Day continued to grow and in 2001 completed adoptions in 17 jurisdictions. In 2002, the Casey Family Services, Children's Action Network, the Congressional Coalition on Adoption Institute and Target became National Adoption Day partners and helped 34 cities across the country finalize 1,350 adoptions. In 2003, 3,100 adoptions were completed. National Adoption Day 2004 was the biggest celebration to date, finalizing the adoptions of more than 3,400 children from foster care. It seems quite appropriate that as we celebrate Thanksgiving, we also celebrate the formation of new families through adoption.

As a member of the bipartisan Congressional Coalition on Adoption, I am committed to assisting children in the United States to find stable, loving and permanent homes. Additionally, I support the goals of National Adoption Day to encourage others to adopt children from foster care, to build stronger ties between local adoption agencies, courts, and adoption advocacy organizations, and to continue to research and learn more about families wanting to adopt and the children waiting to be adopted.

I am also proud that Members of the Senate continue to support ways to make adoption easier and more affordable. Since the cost of adoption can be very high, we ought to do what we can to lessen this initial burden for the exceptional people who provide caring homes for children. Adoption proceedings and legal fees for some domestic adoptions can cost more than $40,000. To ease some of this burden, Congress adopted a $10,000 tax credit for adoption expenses. If we ask individuals to care for and adopt children, we must provide some relief from the financial burdens associated with that care. The adoption tax credit is an effective vehicle to provide this relief.

The commitment of adoptive parents in South Dakota and throughout our country to provide children with safe, permanent, and loving homes will, of course, have a positive impact on their lives. As we celebrate National Adoption Day on November 19, 2005, I call on my colleagues to continue supporting efforts to make adoption easier for parents, children and other important players in the adoption process.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS TYLER R. MACKENZIE

Mr. SALAZAR. Mr. President, I want to take a few moments of this body's time to remember a true fallen hero, a Coloradan that has been lost to us in defense of our freedoms.

Last week, on Veterans' Day, the family of PFC Tyler R. Mackenzie buried him back home in Weld County. A native of Evans, CO, Private First Class Mackenzie was killed in early November near Baghdad when an improvised explosive device detonated near his Humvee. He was only 20 years old, taken from his family and friends just a few days shy of his 21st birthday.

Tyler was a tower of a young man, a six-foot-seven-inch high school football player at Greeley West High School. Tyler's coaches remember him for having held himself to the highest standards and being his own toughest critic. He enjoyed the horticulture classes at Greeley West. He expected excellence from himself and refused to accept anything less.

After graduating Greeley West in 2003, Tyler went to work at his family's business, manufacturing kitchen cabinets. He also worked for the Greeley-Evans School District 6.

Tyler was a man of faith, active in his church. Tyler also had a sense of humor, and his older sister used to call him ''Monkey'' for his ability to climb across the rafters of the family's basement.

But seeking something else, perhaps a larger opportunity to give back to this Nation, Tyler joined the Army in January of this year. He became a member of the 1st Battalion, 502nd Infantry Regiment, 2nd Brigade Combat Team of the storied 101st Airborne Division that bravely halted the march of tyranny across Europe during World War II. Private First Class Mackenzie was following a long tradition of military service in his family: his two grandfathers had served in the Navy during World War II, and his father had served as a military police officer with the Army.

Private First Class Mackenzie completed basic training in May of this year and was deployed to Iraq on September 28. He had been in Iraq only 6 weeks before his tragic death.

Tyler is exactly the kind of young man we as a Nation are so fortunate to have serving in our Armed Forces. He was a young man of intellect, self-discipline, courage and concern. He joined the Army because he wanted to help, to serve his country as his father and grandfathers and so many others had before him. He wanted to ensure that Iraqis knew the full blessings of their new freedom and could share the same opportunities he had here.

Tyler's sacrifice on behalf of this Nation is a reminder to all of us of the

precious gift we have to live in such a country. To his parents, David and Julie, his sister Nicole and the entire Mackenzie family, this Nation humbly thanks you for Tyler. We are forever grateful for your sacrifice and his.

MARINE LANCE CORPORAL JEREMY P. TAMBURELLO

Mr. President, I wish to speak for a moment about a brave son of Westminster, CO, lost to us in the fighting in Iraq: Marine LCpl Jeremy P. Tamburello.

Lance Cpl. Tamburello was killed earlier this month when his military vehicle was struck by an improvised explosive device near Rutbah, Iraq. He was a member of the 1st Light Armor Reconnaissance Battalion, 1st Marine Division, I Marine Expeditionary Force, and was only 19 years old.

Jeremy was a straight-A high school student at Ranum High School in Adams County. Jeremy had a gift for science and dreams of serving his Nation in the United States Marine Corps before going on to pursue a degree in computer science.

When Jeremy announced his intention to join the Marine Corps, his father, Kevin tried at first to talk him out of it, warning him of the terrible risks of serving during this time of conflict in Iraq. Kevin suggested to his son that he pursue a computer science degree at a technical college.

Jeremy's response to his father was respectful, but firm: ''This is what I want to do, Dad. Sign the papers.''

And so in the summer of 2004, Jeremy Tamburello joined the Marine Corps and began his brave journey of service to America. This past August, he was deployed to Iraq. It was a challenge in which he was a firm believer. He cared about the future of the people of Iraq and about the sacrifices made by the over 3,000 Americans in the September 11th attacks. He wanted to serve his Nation and protect those freedoms that all too often so many of us take for granted and help bring them to the fledgling democracy of Iraq.

This Nation is blessed to have a young man like Lance Cpl. Tamburello. He served his country with honor and distinction, with a courage and conviction that makes us all so very proud. Lance Cpl. Tamburello did not seek glory or parade honors, but instead chose to humbly serve to help shine the blessings of freedom and liberty to those who had for too long languished behind a curtain of oppression.

To Jeremy's family, I can only offer the quiet and humble thanks of a grateful Nation. Jeremy exemplified the nobility and honor, courage and self sacrifice, that has made every American proud of his example. We shall not forget your sacrifice, nor his.

TRIBUTE TO STAFF SERGEANT KYLE B. WEHRLY

Mr. GRASSLEY. Mr. President, today I pay tribute to a true American hero, SSG Kyle B. Wehrly. On November 3, 2005, Staff Sergeant Wehrly was tragically killed in action during Operation Iraqi Freedom by an improvised explosive device outside of Ashraf, Iraq. He served with B Battery of the 2nd battalion, 123rd Field Artillery Regiment in the Army National Guard.

I request that all Americans join me today in honoring Staff Sergeant Wehrly. We should all remember his bravery, his compassion, and his final sacrifice to the cause of freedom. Throughout our history, great men and women have stood up and given their lives for their country, and it is with great sadness that we pay tribute to another brave American whose time with us was all too short.

Staff Sergeant Wehrly patriotically joined the National Guard when he was only a junior in high school and was sent to the Middle East in October 2004. Upon his arrival in Iraq, his father, Rev. Peter Wehrly of Springfield, IL, recalls that his son only wanted to be sent things he could give away to the Iraqi children. ''All he wanted was stuff for kids. Candy, flip-flops. . . . We had five boxes of stuff. He didn't want anything for himself,'' Reverend Wehrly said.

All those who knew Staff Sergeant Wehrly will greatly miss him. My prayers go out to his family and friends in their time of grief, his father Peter, his mother Nita, and his wife Janet. We should especially remember Staff Sergeant Wehrly's 6-year-old daughter, Kylee, who will unfortunately grow up with too few memories of her courageous and compassionate father. Our thoughts and prayers are with her and with the entire family. It is important to remind them and to remind all Americans that Staff Sergeant Wehrly did not die in vain but, rather, died protecting his country and protecting the freedom of countless individuals around the world. May he always be remembered as the true American hero that he was.

LANCE CORPORAL SCOTT ZUBOWSKI

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man who grew up in North Manchester. Scott Zubowski, 20 years old, died on November 12 near Fallujah, Iraq when a roadside bomb exploded under the military vehicle in which he was riding. With his entire life before him, Scott risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Remembered for his intelligence and honorable service, Scott was killed during his second tour of duty in Iraq. A 2003 graduate of Manchester High School, Scott enlisted in the Marine Corps shortly after graduation, inspired by his older brother's Marine service. Recently married to another Manchester graduate, Scott was set to return home before his 21st birthday in March. One of his classmates told the Muncie Star Press that ''Not only was he the smartest guy I've ever known, he was unique in a way for which words aren't good enough to actually describe who he was. But to those of us who knew him and were his friends, his presence made a profound impact in our lives that still continues to shape us today.''

Scott was killed while serving his country in Operation Iraqi Freedom. He was a member of the 2nd Batallion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force. This brave young soldier leaves behind his wife, Klancey; his mother, Barbara Weitzel; his father, Richard Zubowski; and his brothers, David and Brian.

Today, I join Scott's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Scott, a memory that will burn brightly during these continuing days of conflict and grief.

Scott was known for his dedication to his family and his love of country. Today and always, Scott will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Scott's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Scott's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Scott Zubowski in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Scott's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Scott.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law,

sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 22, 1998, in Madison, WI, Johnny L. Ellis attacked a man in what police say was a hate motivated crime. The victim, a man dressed in woman's clothing, was hit over the head with a full 40-ounce bottle of malt liquor, causing the bottle to break. Mr. Ellis then stabbed the victim in the stomach with the broken bottle, causing a wound that required 55 stitches. Throughout the ordeal Mr. Ellis referred to the victim as a ''he-she.''

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

RECOGNITION OF DANIEL PACK

• Mr. ALLARD. Mr. President, I rise today to congratulate Daniel Pack for receiving Colorado's Professor of the Year Award in 2005.

Daniel J. Pack, Ph.D., P.E. currently serves as a professor in the Department of Electrical Engineering at the U.S. Air Force Academy, Colorado Springs, CO. He has enjoyed a distinguished career as teacher, scholar, and professional peer. Daniel Pack's long list of accomplishments is evidence of his superb teaching ability, dedication to his students and commitment to U.S. Air Force Academy.

It is an honor for me to recognize this outstanding achievement of Daniel Pack. I commend him for his efforts to enhance the quality of education and scholarship. We are very grateful for all he does to make a difference. His efforts are greatly appreciated.

Now more than ever before, it is essential that our students receive a well-rounded education. We must be able to trust in the skills and talents of college professors like Daniel Pack if we are to produce the next generation of our nation's leaders.

Congratulations again to Daniel Pack, recipient of Colorado's Professor of the Year Award in 2005.•

TRIBUTE TO TOMMY F. GRIER

• Mr. ALLARD. Mr. President, I rise today to pay tribute to Tommy F. Grier, who is retiring as the director of the Division of Emergency Management for the State of Colorado after spending more than 12 years in the emergency management field.

Colorado has been honored to have Tommy, a leading expert in the field of operational design and preparedness, helping to establish Colorado as a leader in the areas of homeland security and emergency management. Prior to working for the State of Colorado, BG Tommy F. Grier served his country as an operations officer in the U.S. Army with assignments spanning the gamut of organizations from battalion though division level. He is a graduate of both the Naval War College and the Army War College.

Tommy had a long and distinguished military career, earning the Silver Star, the Legion of Merit with Oak Leaf Cluster, the Distinguished Flying Cross with three Oak Leaf Clusters, the Bronze Star with two Oak Leaf Clusters, Meritorious Service Medal with four Oak Leaf Clusters, Air Medal with ''V'' device and Numeral ''40'', the Army Commendation Medal, the master Parachutist Badge, Senior Army Aviator Badge, Special Forces Tab, and Army Staff Identification Badge.

He received his commission on August 16, 1962, through the U.S. Army Reserve Officers Training Corps. In July 1963, he was transferred to the Special Forces Training Group where he served as executive officer to the commander and then subsequently as an instructor.

In 1966, he began the first of two tours in Southeast Asia, serving as an armed helicopter section leader with the 121st Aviation Company in the Republic of Vietnam; as Operations Officer, 25th Aviation Battalion, 25th Infantry Division during the Cambodian Incursion, and he commanded the 238th Aerial Weapons Company in I Corps, II Corps, and Laos.

Grier's assignments included the Directorate, Office of the Deputy Chief of Staff for Operations in Washington, DC; Executive to the Director of Requirements; Senior Operations Officer, Joint Staff for Planning and Controlling for ''Jack Frost '79''—a full-scale military joint force readiness exercise; Chief, Infantry and Armor Branch, Enlisted Personnel Management Directorate, Military Personnel Center; and Operations Officer, 7th Infantry Division at Fort Ord, CA.

From July 1987 until his retirement from active duty, he served as Senior Advisor for the Colorado Army National Guard. Brigadier General Tommy F. Grier was appointed Assistant Adjutant general and Commander of the Army National Guard on Oct. 1, 1993. He retired from the Colorado Army National Guard in 1996.

While serving as the Assistant Adjutant General for Army and commander of the Colorado Army National Guard, Brigadier General F. Tommy Grier oversaw the participation of State troops and assets for World Youth Day 1993 where more than half a million pilgrims traveled to Denver to hear Pope John Paul II deliver his international message of peace. Tommy has also planned, directed, and participated in countless search and rescue missions both domestically and abroad.

With relentless emphasis on weapons of mass destruction, WMD, contingency planning, Tommy put Colorado in a very desirable position from a preparedness standpoint at a most appropriate time. In preparation for the Denver Summit of the Eight in 1997, he initiated and coordinated several innovative technical assistance visits from the Department of Defense Chemical and Biological Defense Command.

Tommy's remarkable insight undoubtedly set the benchmark for future programs. His WMD efforts in Colorado predate the Defense Against Weapons of Mass Destruction Act of 1996, also known as the Nunn-Lugar-Domenici amendment to the National Defense Authorization Act for fiscal year 1997, which stipulated the training of first responders to deal with WMD terrorist incidents.

Tommy worked closely with the Federal Emergency Management Agency, FEMA, to ensure affected local communities received the support necessary to facilitate recovery during numerous Colorado emergencies, including the 1997 and the 1999 floods, the 2002 wildfires, and the ''blizzard of the century'' in 2003.

But perhaps Tommy's greatest contribution to the State of Colorado has been his efforts in helping modernize the State's emergency preparedness efforts. Playing a key role in the set up of the new Colorado Multi-Agency Coordination Center, MACC, and State Emergency Operations Center, SEOC, his in-depth knowledge and operational expertise has helped craft a nationwide model of excellence.

Tommy and his wife Jan are the proud parents of three sons: Tom III, Jud, and Andy.

I commend Tommy Grier for his dedicated service to his country, his commitment to ensuring public safety, and his leadership in emergency management. Colorado is a better place because Tommy Grier chose to serve.•

TRIBUTE TO PEGGY SHADDUCK PALOMBI

• Mr. BUNNING. Mr. President, today I pay tribute to Peggy Shadduck Palombi of Lexington, KY, on being recognized as one of America's top professors in the 2005 U.S. Professors of the Year Program by the Council for Advancement and Support of Education.

The annual U.S. Professors of the Year Program was established in 1981 to reward outstanding professors for their dedication to teaching, commitment to students, and innovative instructional methods. It is the only national program to recognize college and university professors for their teaching skills.

Ms. Palombi, an associate professor at Transylvania University, in Lexington, KY, has been recognized by the Council for Advancement and Support of Education for her tireless work in exhibiting excellence at Transylvania University. Ms. Palombi sets an example of excellence for both colleagues

and students alike. She inspires her students to achieve academically and contribute to the community.

I now ask my fellow colleagues to join me in thanking Ms. Palombi for her dedication and commitment to the education of America's future. In order for our society to continue to advance in the right direction, we must have professors like Peggy Shadduck Palombi in our institutions of higher learning, in our communities, and in our lives. She is Kentucky at its finest.●

RECOGNIZING OF THE SOCIETY OF PHYSICS STUDENTS

● Mr. BUNNING. Mr. President, I pay tribute to the members of the Society of Physics Students, SPS, in the Department of Physics at the University of Louisville. The SPS will be celebrating 2005 as the World Year of Physics. The celebration will coincide with the 100 year anniversary of the publication of Albert Einstein's Special Theory of Relativity, Quantization of the Electromagnetic Field, and the Energy-Mass Relationship.

The University of Louisville chapter has been recognized for achievement by numerous national physics organizations. Their recent accomplishments include the Blake Lilly Prize for Outreach, a national SPS designation as Outstanding Chapter, along with the Marsh White Award for Education and Outreach from the Sigma Pi Sigma National Physics Honor Society. In light of these efforts, I ask my fellow colleagues to join me in recognizing the Society of Physics Students at the University of Louisville for their celebration of 2005 as the World Year of Physics.●

MICHIGAN STATE UNIVERSITY SESQUICENTENNIAL

● Mr. LEVIN. Mr. President, I rise to pay tribute to Michigan State University as they continue their 150th anniversary celebration. Throughout its history, Michigan State has made a tremendous contribution to the State of Michigan and to our Nation as a whole.

Michigan State University, or the Agricultural College of the State of Michigan as it was originally known, was created in 1855 by an act of the Michigan Legislature authorizing the creation of a school of higher education for agriculture. Two years later, Michigan State welcomed its first class of 63 students.

Nearly 100 years ago, President Teddy Roosevelt visited Michigan State and delivered a commencement speech to more than 20,000 students, faculty, and family of the graduates. In his speech, he stated ''The fiftieth anniversary of the founding of this college is an event of national significance, for Michigan was the first State in the Union to found this, the first agricultural college in America.''

While Michigan State was the first agricultural college in the United States, the curriculum studied by its students went far beyond agriculture and included classes in English, philosophy, and economics. This multifaceted approach to higher education produced well-rounded graduates and became the foundation of the educational philosophy later employed by the land grant colleges created by Congress in 1862. In addition, this philosophy marked an important change in the way higher education was perceived around the country. No longer was a college degree available only to society's elite, but also to the less privileged who made use of the practical education they received to improve their own standard of living as well as that of their family, community, and our Nation as a whole. The significance of this shift in thinking cannot be overstated and remains as important today as it was in the mid-1800s.

Of course, President Roosevelt's commencement address was only one of many significant events in the history of Michigan State University. The University welcomed its first female students in 1870 and presented 22 degrees to women by 1895. Michigan State's color barrier was broken in the early 1900s when it awarded its first degrees to an African-American man, William Thompson, in 1904 and an African-American woman, Myrtle Craig, in 1907.

Among the nearly 400,000 Michigan State Alumni worldwide are 16 Rhodes Scholars, a Pulitzer Prize winner, a Grammy award winner, two former Michigan Governors, a former U.S. Senator and Secretary of Energy, and the first women to represent the State of Michigan in the U.S. Senate, my colleague and friend, Debbie STABENOW. Michigan State now offers more than 200 programs of study and serves almost 45,000 current students from all 50 States and more than 120 foreign countries.

Among many other things, researchers at Michigan State University are credited with the development of leading cancer fighting drugs and the process of milk homogenization. Michigan State is currently home to the National Superconducting Cyclotron Laboratory, the leading rare isotope research facility in the country. The nuclear science research taking place at this facility is improving our knowledge of the elements that make up the world around us and could provide new medical breakthroughs, including new tools for the treatment of cancer. This research, primarily funded by the National Science Foundation and the university, has made Michigan State's nuclear physics doctoral program one of the most prestigious in the Nation.

I know my colleagues will join me in congratulating Michigan State University on 150 years of contributions to Michigan and the Nation as a whole. I would also like to wish Michigan State University, its students, faculty, alumni, and supporters good luck and continued success as they work to make the next 150 years as productive and full of accomplishment as previous 150 have been.●

● Ms. STABENOW. Mr. President, I rise today to celebrate the sesquicentennial, the 150th anniversary, of my alma mater, Michigan State University, MSU.

Located on the banks of the Red Cedar River, Michigan State University was the first agricultural college in the Nation and the prototype for land-grant institutions later established under the Morrill Act of 1862. In fact, in the mid 1950s, the U.S. Postal Service honored Michigan State University with a postage stamp commemorating it as the original land-grant university.

The land-grant philosophy is rooted in the principle to extend the values of education to all who seek it, and the Morrill Act grew out of a movement to bring benefits of education to rural areas. The original tract of land in 1855 for my nascent college, then known as the Agricultural College of the State of Michigan, consisted of 677 acres. Additional lands were purchased, and presently, the combined size of Michigan State lands—from its central campus to its research stations around the state—totals close to 20,000 acres across Michigan. As the campus has grown, so has Michigan State's imprint on the world through its commitment to its students and its offering of a quality, public higher education to all.

Academically, MSU students and colleges are highly regarded. The university has had more Rhodes Scholars than any other Big Ten Conference university in the past generation. U.S. News & World Report ranks 10 of MSU's graduate departments in the Top 10 in their field nationally. On an international note, the University's Study Abroad program is the largest of any public university in the Nation, offering more than 190 programs in more than 60 countries on all continents, including Antarctica. Furthermore, MSU is proud to have the highest percentage of in-state students among Michigan universities, with many of those who receive a bachelor's degree from MSU staying and working in the state.

The University has a notable and strong athletic history. In its 108-year football history, Michigan State has won six NCAA national football championships, while last year, both its men's and women's basketball teams made it to their respective and coveted Final Four tournaments. Sparty the Spartan is Michigan State University's fearless and loveable mascot, a figure known throughout the State of Michigan and recognized across the Nation as well. Sparty is the heart of Michigan State, forever supporting its teams, bringing smiles to young and old and continually uplifting all who meet him.

The State of Michigan has always been the ''first beneficiary'' of MSU's

high-quality academic programs and its global networks. But it is through those networks that MSU also is engaged with the world beyond the boundaries of its campus. Michigan State has built partnerships across the Nation and around the globe that fulfill its land-grant responsibilities to an international society and at the same time rebound benefits to Michigan, working in ways that will bring my constituents the greatest value and return, ways that will strengthen our communities, fuel our economy and provide all of our citizens with a better quality of life.

As I applaud today the deep history and strength of Michigan State University, I know its best days are still before it. From this Spartan, I wish Michigan State University a most wonderful sesquicentennial.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Environment and Public Works.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:34 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 161. An act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

ENROLLED BILL SIGNED

At 10:55 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2862. An act making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30,2006, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 562. An act to authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933.

H.R. 866. An act to make technical corrections to the United States Code.

H.R. 1036. An act to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.

H.R. 1442. An act to complete the codification of title 46, United States Code, ''Shipping'', as positive law.

H.R. 1492. An act to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes.

H.R. 1790. An act to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.

H.R. 3351. An act to make technical corrections to laws relating to Native Americans, and for other purposes.

H.R. 3647. An act to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors.

H.R. 4133. An act to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

H.R. 4337. An act to amend the Internal Revenue Code of 1986 to provide for Gulf tax credit bonds and advance refundings of certain tax-exempt bonds, and to provide a Federal guarantee of certain State bonds.

The message also announced that the House has passed the following bill, without amendment:

S. 1234. An act to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 230. Concurrent resolution expressing the sense of the Congress that the Russian Federation must protect intellectual property rights.

H. Con. Res. 268. Concurrent resolution expressing the sense of the Congress regarding oversight of the Internet Corporation for Assigned Names and Numbers.

At 2:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 72. Joint resolution making further continuing appropriations for the fiscal year 2006, and for other purposes.

At 4:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House, having had under consideration the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, it was,

Resolved, that the House insist upon its disagreement to the amendment of the Senate.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 562. An act to authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933; to the Committee on Energy and Natural Resources.

H.R. 866. An act to make technical corrections to the United States Code; to the Committee on the Judiciary.

H.R. 1036. To amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes; to the Committee on the Judiciary.

H.R. 1442. An act to complete the codification of title 46, United States Code, ''Shipping'', as positive law; to the Committee on the Judiciary.

H.R. 1492. An act to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1790. To protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3647. An act to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 230. Concurrent resolution expressing the sense of the Congress that the Russian Federation must protect intellectual property rights; to the Committee on Foreign Relations.

H. Con. Res. 268. Concurrent resolution expressing the sense of the Congress regarding oversight of the Internet Corporation for Assigned Names and Numbers; to the Committee on Commerce, Science, and Transportation.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 17, 2005, she had presented to the President of the United States the following enrolled bills:

S. 161. An act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

S. 1713. An act to make amendments to the Iran Nonproliferation Act to 2000 related to International Space Station payments, and for other purposes.

S. 1894. An act to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4673. A communication from the Secretary, Judicial Conference of the United States, transmitting, a report of legislative proposals to amend sections 1441(a) and 1447 of title 28, United States Code, to amend 18 U.S.C. 3672, and to amend 28 U.S.C. 753 and the Judiciary Appropriations Act of 1991; to the Committee on the Judiciary.

EC–4674. A communication from Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''Report to Congress on the Activities and Operations of the Public Integrity Section for 2004 (CORRECTED)''; to the Committee on the Judiciary.

EC–4675. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a conformation in the position of Assistant Administrator, Bureau for Global Health and a conformation in the position of Assistant Administrator, Bureau for Economic Growth, Agriculture and Trade, received on November 15, 2005; to the Committee on Foreign Relations.

EC–4676. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification regarding the proposed transfer of major defense equipment valued at $14,000,000 or more from the Government of the Netherlands to the Government of Chile; to the Committee on Foreign Relations.

EC–4677. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to the Republic of Korea, Australia, Canada, United Kingdom, Israel, and Italy; to the Committee on Foreign Relations.

EC–4678. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $14,000,000 or more to Mexico (Sentinel radars and Sentry command and control software); to the Committee on Foreign Relations.

EC–4679. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to the United Kingdom (AN/VIC–3 Vehicle Intercommunications System); to the Committee on Foreign Relations.

EC–4680. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services in the amount of $100,000,000 or more to Japan (F–15 aircraft spare parts and equipment and F100 engines); to the Committee on Foreign Relations.

EC–4681. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report for 2004 on United States Participation in the United Nations; to the Committee on Foreign Relations.

EC–4682. A communication from the Under Secretary of Commerce for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the Northwest Atlantic Fisheries Convention Act 2004 Annual Report; to the Committee on Commerce, Science, and Transportation.

EC–4683. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule: Closure of the Regular B Days-at Sea Pilot Program'' (I.D. No. 100305A) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4684. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer'' (I.D. No. 053105F) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4685. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Emergency Action for Paralytic Shellfish Poisoning Closure'' (RIN0648–AT48) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4686. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Change of Controlling Agency for Restricted Areas; HI'' ((RIN2120–AA66)(2005–0236)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4687. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of VOR Federal Airway V–343; MT'' ((RIN2120–AA66)(2005–0235)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4688. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Organization Designation Authorization Program'' (RIN2120–AH79) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4689. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reservation System for Unscheduled Arrivals at Chicago's O'Hare International Airport'' ((RIN2120–AI47)(2005–0002)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4690. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Cheyenne, WY'' ((RIN2120–AA66)(2005–0239)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4691. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D and Class E Airspace; Salina Municipal Airport, KS'' ((RIN2120–AA66)(2005–0241)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4692. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Dodge City Regional Airport, KS'' ((RIN2120–AA66)(2005–0242)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4693. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Legal Description of Class D and Class E Airspace; Topeka, Forbes Field, KS'' ((RIN2120–AA66)(2005–0238)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4694. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment and Revision of Area Navigation Routes; Western United States'' ((RIN2120–AA66)(2005–0245)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4695. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Colored Federal Airways; AK'' ((RIN2120–AA66)(2005–0243)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment and Revision of Area Navigation Routes; Western United States'' ((RIN2120–AA66)(2005–0244)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Yakutat, AK'' ((RIN2120–AA66)(2005–0237)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Eagle, CO'' ((RIN2120–AA66)(2005–0240)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E3 Airspace; Riverside March Field, CA'' ((RIN2120–AA66)(2005–0246)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials Training Requirements'' (RIN2120–AG75) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aviointeriors S.p.A., Series 312 Box Mounted Seats'' ((RIN2120–AA64)(2005–0503)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A320–111 Airplanes; and Model A320–200, A321–100, and A321–200 Series Airplanes'' ((RIN2120–AA64)(2005–0504)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SP, and 747SR Series Airplanes'' ((RIN2120–AA64)(2005–0505)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 727, 727C, 727–100, and 727–100C Series Airplanes'' ((RIN2120–AA64)(2005–0506)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1390. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes (Rept. No. 109-182).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2029. An original bill to amend and enhance certain maritime programs of the Department of Transportation, and for other purposes (Rept. No. 109-183).

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 1354. A bill to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II.

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1614. A bill to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes.

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 1961. A bill to extend and expand the Child Safety Pilot Program.

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 2006. A bill to provide for recovery efforts relating to Hurricanes Katrina and Rita for Corps of Engineers projects.

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2032. An original bill to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted on November 16,2005:

By Mr. WARNER for the Committee on Armed Services:

Army nominations beginning with Brigadier General Robert P. French and ending with Colonel Terry L. Wiley, which nominations were received by the Senate and appeared in the Congressional Record on November 4,2005.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STEVENS for the Committee on Commerce, Science, and Transportation.

*William E. Kovacic, of Virginia, to be a Federal Trade Commissioner for a term of seven years from September 26, 2004.

*J. Thomas Rosch, of California, to be a Federal Trade Commissioner for the term of seven years from September 26, 2005.

Coast Guard nominations beginning with Capt. William D. Baumgartner and ending with Capt. Brian M. Salerno, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

By Mr. SPECTER for the Committee on the Judiciary.

Joseph Frank Bianco, of New York, to be United States District Judge for the Eastern District of New York.

Timothy Mark Burgess, of Alaska, to be United States District Judge for the District of Alaska.

Gregory F. Van Tatenhove, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Eric Nicholas Vitaliano, of New York, to be United States District Judge for the Eastern District of New York.

Kristi Dubose, of Alabama, to be United States District Judge for the Southern District of Alabama.

W. Keith Watkins, of Alabama, to be United States District Judge for the Middle District of Alabama.

Virginia Mary Kendall, of Illinois, to be United States District Judge for the Northern District of Illinois.

Emilio T. Gonzalez, of Florida, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.

Catherine Lucille Hanaway, of Missouri, to be United States Attorney for the Eastern District of Missouri for the term of four years.

By Mr. ROBERTS for the Select Committee on Intelligence.

*Dale W. Meyerrose, of Indiana, to be Chief Information Officer, Office of the Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 2028. A bill to provide for the reinstatement of a license for a certain Federal Energy Regulatory Commission project; to the Committee on Energy and Natural Resources.

By Mr. STEVENS:

S. 2029. An original bill to amend and enhance certain maritime programs of the Department of Transportation, and for other purposes; from the Committee on Commerce, Science, and Transportation; placed on the calendar.

By Mr. BIDEN:

S. 2030. A bill to bring the FBI to full strength to carry out its mission; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 2031. A bill to provide for the valuation of employee personal use of noncommercial aircraft for purposes of Federal income tax inclusion; to the Committee on Finance.

By Mr. SHELBY:

S. 2032. An original bill to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

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

S. 2033. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

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

S. 2034. A bill to direct the Secretary of the Interior to conduct a study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and assess the suitability and feasibility of including the farm in the National Park System as part of the Minute Man National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 2035. A bill to extend the time required for construction of a hydroelectric project in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 2036. A bill to designate the facility of the United States Postal Service located at 320 High Street in Clinton, Massachusetts, as the ''Raymond J. Salmon Post Office.''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SALAZAR:

S. 2037. A bill to establish the Sangre de Cristo National Heritage Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. BAUCUS, Mr. THUNE, Mr. GRASSLEY, Mr.

ENZI, Mr. THOMAS, Mr. BINGAMAN, Mr. JOHNSON, Mr. HARKIN, Mr. DORGAN, Mr. CONRAD, Mr. BYRD, and Mr. WYDEN):

S. 2038. A bill to amend the Agricultural Marketing Act of 1946 to restore the original deadline for mandatory country of origin; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself, Mr. SPECTER, Mr. DEWINE, Mr. LEAHY, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. HARKIN, Mr. AKAKA, Mr. LAUTENBERG, Ms. CANTWELL, Mr. PRYOR, and Mr. KERRY):

S. 2039. A bill to provide for loan repayment for prosecutors and public defenders; to the Committee on the Judiciary.

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

S. 2040. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to ensure that the Department of Homeland Security is led by qualified, experienced personnel; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID:

S. 2041. A bill to provide for the conveyance of a United States Fish and Wildlife Service administrative site to the city of Las Vegas, Nevada; to the Committee on Environment and Public Works.

By Mr. CHAMBLISS (for himself and Mr. HARKIN):

S. 2042. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself, Mr. COCHRAN, and Mr. SALAZAR):

S. 2043. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide grants for mass evacuation exercises for urban and suburban areas and the execution of emergency response plans, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEVIN:

S. 2044. A bill to amend the Immigration and Nationality Act to resolve inequities in existing law by reducing the residency requirement for the naturalization of aliens with extraordinary ability so that such aliens may represent the United States at international events; to the Committee on the Judiciary.

By Mr. OBAMA:

S. 2045. A bill to provide incentives to the auto industry to accelerate efforts to develop more energy-efficient vehicles to lessen dependence on oil; to the Committee on Finance.

By Mr. DEWINE:

S. 2046. A bill to establish a National Methamphetamine Information Clearinghouse to promote sharing information regarding successful law enforcement, treatment, environmental, social services, and other programs related to the production, use, or effects of methamphetamine and grants available for such programs, and for the other purposes; to the Committee on the Judiciary.

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

S. 2047. A bill to promote healthy communities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA:

S. 2048. A bill to direct the Consumer Product Safety Commission to classify certain children's products containing lead to be banned hazardous substances; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself, Mr. DORGAN, and Mr. TALENT):

S. 2049. A bill to improve the security of the United States borders and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Ms. CANTWELL):

S. 2050. A bill to establish a commission on inland waters policy; to the Committee on Commerce, Science, and Transportation.

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

S. 2051. A bill to extend eligibility for certain Federal benefits to citizens of the Freely Associated States; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAMBLISS (for himself and Mr. ISAKSON):

S. Res. 318. A resolution designating November 27, 2005, as ''Drive Safer Sunday''; to the Committee on the Judiciary.

By Ms. MIKULSKI:

S. Res. 319. A resolution commending relief efforts in response to the earthquake in South Asia and urging a commitment by the United States and the international community to help rebuild critical infrastructure in the affected areas; to the Committee on Foreign Relations.

By Mr. BURR (for himself, Mr. OBAMA, Mr. BINGAMAN, Mr. BOND, Mr. KERRY, Mr. SMITH, Mr. SALAZAR, Mr. SCHUMER, Mr. DURBIN, Ms. COLLINS, and Ms. SNOWE):

S. Con. Res. 65. A concurrent resolution recognizing the benefits and importance of Federally-qualified health centers and their Medicaid prospective payment system; to the Committee on Finance.

By Mr. VITTER:

S. Con. Res. 66. A concurrent resolution affirming that the intent of Congress in passing the National Wildlife Refuge System Improvement Act of 1997 was to allow hunting and fishing on public land within the National Wildlife Refuge System and declaring that the purpose of reserving certain land as public land is to make the land available to the public for reasonable uses; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 31

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 31, a bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes.

S. 132

At the request of Mr. SMITH, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 333

At the request of Mr. SANTORUM, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 380

At the request of Ms. COLLINS, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 441

At the request of Mr. SANTORUM, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 441, a bill to amend the Internal Revenue Code of 1986 to make permanent the classification of a motorsports entertainment complex.

S. 863

At the request of Mr. CONRAD, the names of the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Minnesota (Mr. COLEMAN), the Senator from Maine (Ms. COLLINS), the Senator from Texas (Mr. CORNYN), the Senator from Minnesota (Mr. DAYTON), the Senator from Wyoming (Mr. ENZI), the Senator from South Carolina (Mr. GRAHAM), the Senator from Iowa (Mr. GRASSLEY), the Senator from New Hampshire (Mr. GREGG), the Senator from Utah (Mr. HATCH), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Indiana (Mr. LUGAR), the Senator from Florida (Mr. MARTINEZ), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Illinois (Mr. OBAMA), the Senator from Nevada (Mr. REID), the Senator from Wyoming (Mr. THOMAS) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 908

At the request of Mr. MCCONNELL, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 1215

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1215, a bill to authorize the acquisition of interests in underdeveloped coastal areas in order better to ensure their protection from development.

S. 1418

At the request of Mr. ENZI, the names of the Senator from Maine (Ms. SNOWE), the Senator from Michigan (Ms. STABENOW) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 1418, a bill to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1496

At the request of Mr. CRAPO, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1508

At the request of Mr. FEINGOLD, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1508, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 1513

At the request of Ms. MIKULSKI, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. DODD), the Senator from Michigan (Mr. LEVIN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1513, a bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

S. 1631

At the request of Mr. DORGAN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1631, a bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer, and for other purposes.

S. 1719

At the request of Mr. INOUYE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1719, a bill to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes.

S. 1841

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1883

At the request of Mr. HATCH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1883, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to assist property owners and Federal agencies in resolving disputes relating to private property.

S. 1952

At the request of Mr. COLEMAN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1952, a bill to provide grants for rural health information technology development activities.

S. 1959

At the request of Mr. KERRY, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1959, a bill to direct the Architect of the Capitol to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall.

S. 1961

At the request of Mr. BIDEN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1961, a bill to extend and expand the Child Safety Pilot Program.

S. 1969

At the request of Mr. BAUCUS, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1969, a bill to express the sense of the Senate regarding Medicaid reconciliation legislation to be reported by a conference committee during the 109th Congress.

S. 2015

At the request of Mr. ISAKSON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2015, a bill to provide a site for construction of a national health museum, and for other purposes.

S. CON. RES. 55

At the request of Mr. CRAIG, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Oklahoma (Mr. COBURN), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Con. Res. 55, a concurrent resolution expressing the sense of the Congress regarding the conditions for the United States to become a signatory to any multilateral agreement on trade resulting from the World Trade Organization's Doha Development Agenda Round.

S. CON. RES. 60

At the request of Mr. TALENT, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Con. Res. 60, a concurrent resolution designating the Negro Leagues Baseball Museum in Kansas City, Missouri, as America's National Negro Leagues Baseball Museum.

AMENDMENT NO. 2587

At the request of Mr. DORGAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 2587 proposed to S. 2020, an original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

AMENDMENT NO. 2596

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Washington (Mrs. MURRAY) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 2596 proposed to S. 2020, an original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 2028. A bill to provide for the reinstatement of a license for a certain Federal Energy Regulatory Commission project; to the Committee on Energy and Natural Resources.

Mr. BYRD. Mr. President, I ask unanimous consent that the text of my bill to reinstate a hydroelectric license for a Federal Energy Regulatory Commission project in Grafton, WV, be printed in the RECORD.

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

S. 2028

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

SECTION 1. REINSTATEMENT OF LICENSE FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to project numbered 7307 of the Federal Energy Regulatory Commission, the Commission shall, on the request of the licensee for the project, in accordance with that section (including the good faith, due diligence, and public interest requirements of that section and procedures established under that section), extend the time required for commencement of construction of the project until December 31, 2007.

(b) APPLICABILITY.—Subsection (a) shall apply to the project on the expiration of any extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the time required for commencement of construction of the project.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If a license of the Commission for the project expires before the date of enactment of this Act, the Commission shall—

(1) reinstate the license effective as of the date of the expiration of the license; and

(2) extend the time required for commencement of construction of the project until December 31, 2007.

By Mr. BIDEN:

S. 2030. A bill to bring the FBI to full strength to carry out its mission; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the Full Strength Bureau Initiative Act of 2005. This is a piece of legislation that I think is critically important to our national security. Over the past four years, we

have had numerous debates here in the Senate about what we need to do to protect ourselves from international terrorists. While I have disagreed with many of the specific decisions this Congress and President Bush have made, I do agree that we face a grave threat from radical fundamental terrorists. And, it should be a primary focus of our national security efforts. However, it simply makes no sense for us to spend all of our time worrying about terrorism if we turn a blind eye to traditional crime and the threat that it poses to our citizens. We simply have to be able to do both, and the legislation that I am introducing today will help do that.

Part of the response to address this threat has been to shift the primary function of the Federal Bureau of Investigation from investigating and capturing criminals to the prevention of terror attacks. I don't disagree that this is an appropriate shift in priorities, but, we haven't made the investments necessary for the FBI to shift priorities and meet its commitment to combat traditional crime. To address this concern, I am introducing legislation that will authorize funding for the FBI to hire an additional 1,000 agents. These agents will replace the ones that have been reassigned to counterterrorism cases and will help keep our communities safe. The cost—$160 million per year—is minimal when compared to the benefits it will provide. Its passage will help ensure that the FBI has the resources to achieve its counterterrorism priorities without neglecting its traditional crime fighting functions.

A 2004 Government Accountability Office found that the number of overall agents at the FBI has increased by only seven percent since 2001. During the same time, the overall percentage of agents dedicated to counterterrorism by twenty five percent—with 678 agents being permanently shifted from drug, white collar, and violent crime cases to counter-terror activities. In addition, we know that many agents are working on counterterrorism cases even if they have not been ''officially'' dedicated to that effort in a process know within the FBI as ''overburning.''

Ultimately, the GAO concluded, as it often does, that the impact on traditional crime was statistically inconclusive; however the report demonstrated many concerns. First, the report found that the FBI referred 236 counterterrorism matters to U.S. Attorneys for prosecution in fiscal year 2001, which ended three weeks after September 11. Two years later, in fiscal year 2003, the FBI referred 1,821 counterterrorism cases to U.S. Attorneys for prosecution—this is a 671 percent increase. During the same period of time, referrals for drug, whitecollar, and violent crime matters all declined by 39 percent, 23 percent, and 10 percent respectively. This statistically demonstrates that the reprogramming effort—while critical—has had an impact on the FBI's traditional crime fighting efforts.

In addition to investigating Federal crimes, the FBI also provides critical assistance to State and local law enforcement. Quite simply, the FBI has technical expertise and resources that are not available to many State and local agencies—especially smaller jurisdictions. These local agencies rely on the FBI to assist them on technical matters, and as the FBI continues to divert resources from criminal cases, a gap in overall law enforcement capabilities is developing. In order to preserve public safety and national security this is a gap that must be filled.

Unfortunately, local budget woes are making it impossible for local agencies to fill the slack. A recent survey indicated that 23 of 44 police agencies are facing an officer shortfall. The USA Today and the New York Times have reported officer shortages in New York, Cleveland, Los Angeles, Houston and others. In addition, I recently attended a Judiciary Committee hearing in Philadelphia and we heard testimony from the Philadelphia Chief of Police that he had lost 2,000 officers in recent years, and the Pittsburgh police chief reported that she had lost nearly ¼ of her officers and had to suspend her community policing programs and other crime prevention programs due to budget cuts.

In addition to local budget woes, the U.S. Congress continues to slash Federal assistance for State and local law enforcement. In this year's Commerce, Justice, State appropriations bill, the Congress cut roughly $300 million from the Justice Assistance Grant and completely eliminated the COPS hiring program. Any local sheriff or police chief will tell you how important this funding assistance is to their efforts, and the investments that we made in them over the past ten years helped drive down crime rates from all-time highs to the lowest levels in a generation. In addition, the COPS program has been statistically proven to reduce crime by the Government Accountability Office, and the Justice Assistance Grants are the primary grant programs used by local agencies to combat illegal drug use in their communities. I voted for this spending bill because it provided critical funding for the FBI and the Drug Enforcement Agency, but I remain very critical of the cuts to state and local law enforcement assistance and hope that the President and the Republican-led Congress will change course.

Unfortunately, these cuts and the FBI reprogramming of agents from crime to counter-terror cases is creating a perfect storm that I'm afraid will contribute to rising crime rates in the future. The good news is that the 2004 Uniform Crime Reports show that crime rates remain at historic lows. But, many criminologists have pointed out that many crime indicators should caution against complacency. Last year, there were over 16,000 murders throughout the United States, and police chiefs and sheriffs are reporting worrying signs of local youth violence. Indeed, a 2005 report by the FBI on youth gangs shows that gang activity is on the rise. Rather than pull-back, we need to re-double our effort to ensure that crime rates don't rise in the future and to push them even lower. I've often said that the safety of Nation's citizens should be the top priority of our Federal Government—this applies to combating international terrorists and traditional crime.

We spent a bulk of the nineties creating a Federal, State, and local partnership that helped make our Nation safer than it has been in a generation. This partnership is breaking down because the President and many in Congress feel that local crime is not a national priority. I couldn't disagree more. The safety of the American people is the most important priority that we have. It doesn't matter whether the threat comes from international terrorists, drug traffickers, or from the thug down the street. In my opinion, it is a terrible mistake to use the successes of the past ten years and the new focus on terrorism as an excuse to abandon our critical anti-crime responsibilities. We can—and we must do both. The American people are counting on us, and the legislation that I am introducing today will help ensure that we meet our commitment to the American people to make sure that they are safe from crime and terrorism.

By Mr. DURBIN (for himself, Mr. SPECTER, Mr. DEWINE, Mr. LEAHY, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. HARKIN, Mr. AKAKA, Mr. LAUTENBERG, Ms. CANTWELL, Mr. PRYOR, and Mr. KERRY):

S. 2039. A bill to provide for loan repayment for prosecutors and public defenders; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise today to introduce the Prosecutors and Defenders Incentive Act of 2005. I am honored to have the support and cosponsorship of Senator DEWINE with whom I have enjoyed working on similar measures in previous Congresses. I am further pleased that Senators SPECTER, LEAHY, KENNEDY, FEINGOLD, FEINSTEIN, AKAKA, CANTWELL, HARKIN, LAUTENBERG, PRYOR, and KERRY have also agreed to join me as original cosponsors of this legislation. Our bill is designed to encourage the best and the brightest law school graduates to enter public service as criminal prosecutors and public defenders by making a student loan repayment program available to them.

I am pleased that this legislation enjoys bipartisan support. I am anxious to work closely with Chairman SPECTER and Ranking Member LEAHY to advance it through the Judiciary Committee and secure its enactment by the full Senate.

Our proposed loan repayment program is supported by the American Bar Association, the National District Attorneys Association, the National Association of Prosecutor Coordinators, the National Legal Aid and Defender Association, and the American Council of Chief Defenders.

We can—and should—do more to help prosecutor and public defender offices compete with the higher salaries available in the private sector. In many instances, despite high aspirations and strong motivation to work in the public sector, many graduates find it economically impossible to pursue that career path due to the overwhelming burden of debt. The availability of student loan repayment can be a powerful incentive for attracting some of our most talented new lawyers to public service employment.

Many of today's law graduates are finishing law school owing staggering amounts of student loan debt. According to the American Bar Association, the median total cumulative educational debt for law school graduates in the class of 2004 was $97,763 for private schools and $66,810 for public schools. Educational loan debts represent a serious financial obligation which must be repaid. A default on any loan triggers serious consequences. Moreover, the looming obligation can impact career choices for many new graduates.

Many budding prosecutors and public defenders face a disheartening dilemma. On the one hand, they have a deep commitment to pursuing a career in public service. On the other hand, they need a level of income to meet the demands of exorbitant educational loan liabilities. This wrenching choice has not only personal impact but adverse implications for the legal profession and its commitment to ensuring access to justice for all citizens. And from an employer's perspective, comparatively low salaries and high debt make it extremely difficult to recruit and retain attorneys in prosecutor and public defender offices.

The results of a special study, ''Lifting the Burden: Law Student Debt as a Barrier to Public Service,'' published in August 2003 by the American Bar Association, reflects eight key findings, which I will describe in more specificity in my remarks.

First, law school tuition levels have skyrocketed. Second, the vast majority of law students borrow funds to finance their legal education. Third, law students are borrowing increasingly larger sums to finance their legal education. Fourth, public service salaries have not kept pace with rising law school debt burdens or private sector salaries. Fifth, high student debt bars many law graduates from pursuing public service careers. Sixth, many law graduates who take public service legal jobs must leave after they gain 2 to 3 years of experience. Seventh, public service employers report serious difficulty recruiting and retaining lawyers. And eighth, the legal profession and society pay a severe price when law graduates are shut out from pursuing public service legal careers due to high educational debt burden.

On the matter of skyrocketing tuition levels, since the early 1970s, there have been steep and persistent hikes in the costs of legal education and in the tuition rates law schools charge. Researchers found that tuition increased about 340 percent from 1985 to 2002 for private law school students and out-of-state students at public law schools. In state students at public law schools saw their tuition jump about 500 percent. During the period 1992–2002, the cost of living in the United States rose 28 percent while the cost of tuition for public law schools rose 134 percent for residents and 100 percent for nonresidents, and private law school tuition increased 76 percent.

In 1975, when private law school tuition averaged $2,525 and public law school tuition for in state residents was $700, the need to borrow to finance a legal education was not as prevalent or necessary. In 1990, when tuition was $11,680 for private institutions and $3,012 for public law schools, it was at least manageable. In 2002, the median law school annual tuitions were $24,920 for private law schools, $18,131 for nonresident students at public law schools, and $9,252 for resident students at public law schools.

A computation of the tuition rates of the 186 ABA-accredited law schools for 2004 reflects that charges for State residents at public law schools average $10,820 per year. For nonresidents attending public law schools, the average tuition amounts to $20,176 per year. Students attending private law schools pay an average of $25,603 per year.

Additional amounts for food, lodging, books, fees and personal expenses increase the costs for 3 years to more than $60,000 in almost all cases and well over $100,000 in many instances.

The vast majority of law students must borrow funds to finance their legal education. In 2002, almost 87 percent of law students borrowed to finance their legal education. That level remained consistent in 2004. Many of these students also carried unpaid debt from their undergraduate studies.

Law students are borrowing increasingly larger sums to finance their legal education. As tuition and other expenses of attending law school rose, more and more students found they needed to borrow to pay for law school. During the 1990s, the average amount students borrowed more than doubled. Today, the amount borrowed by many students exceeds $80,000.

Public service salaries have not kept pace with rising law school debt burdens or private sector salaries. Entry-level salaries for government or other public service position, have always been significantly lower than those in private practice.

Over the years since the mid-1970s, the median starting salaries in private practice have risen at a much faster pace than entry-level public service salaries. Between 1985 and 2002, the median starting salaries at private law firms rose by about 280 percent. Government lawyers, such as prosecutors and public defenders, saw their salaries increase by just 70 percent.

According to the 2004 Public Sector and Public Interest Attorney Salary Report, published in August 2004 by the National Association for Law Placement, Inc., the median entry-level salary for public defenders is $39,000; with 11 to 15 years of experience, the median is $65,000. The salary progression for State and local prosecuting attorneys is similar, starting at about $40,000 and progressing to $68,000–69,000 for those with 11 to 15 years of experience.

In August 2004, NALP also released the results of its tenth annual comprehensive survey of associate compensation in private sector law firms. According to the 2004 Associate Salary Survey Report, based on salary information as of April 1, 2004 provided by 599 offices, the median salary for first-year associates ranged from $65,000 in firms of 2 to 25 attorneys to $120,000 in firms of 500 attorneys or more, with a first-year median for all participating firms of $95,000. These figures evidence the stark reality of compensation differentials for those graduates electing to devote their skills to public service jobs as prosecutors and defenders.

High student debt bars many law graduates from pursuing public service careers. As law school tuition and student debt have sharply escalated, fewer and fewer law school graduates can afford to take the comparatively low-paying public service positions that are available in government agencies or with prosecutor, public defender, or legal services offices.

A national study of law school debt conducted by Equal Justice Works, the Partnership for Public Service, and the National Association for Law Placement found that law student debt prevented two-thirds of law student respondents from considering a public service career.

The report was based on a spring 2002 survey of graduating law students. Survey respondents included 1,622 students from 117 law schools representing 40 States, the District of Columbia, and Canada. Among the findings reported were the following: Overall, 66 percent of respondents stated that law school debt kept them from considering a public interest or government job. The percentage is higher among those who ultimately accepted jobs in small or large private firms, with 83 percent and 78 percent, respectively, stating that debt prevented them from seeking work with public interest organizations or the Federal Government.

Seventy-three percent of students who had not yet accepted a job when surveyed also indicated that they were disinclined to seek a public interest or government position due to heavy debt load. Providing $6,000 a year in available loan repayment assistance would

result in increased interest in a post graduate Federal Government job for 83 percent of student respondents.

Despite their high debt burden, some law graduates initially accept public service jobs. However, the magnitude of debt precipitates high turnover because many of these cannot repay loan obligations on a median starting salary of $36,000 and pay all their other remaining living expenses with the remaining $1,100 per month. Some who begin careers in public service, and who would like to remain, leave after a few years when they find their debts are too severely constraining on their hopes for making ends meet, much less raising children or saving for retirement.

Many public service employers report having a difficult time attracting the best qualified law graduates. Public service employers, such as prosecutor or public defender offices, have vacancies they cannot fill because new law graduates cannot afford to work for them. Alternatively, those who do hire law graduates find that, because of educational debt payments, those whom they do hire leave just at the point when they have acquired the experience to provide the most valuable services.

The legal profession and society pay a severe price when law graduates are shut out from pursuing public service legal careers due to high educational debt burden. Lawyers with dreams of serving their communities as prosecutors or public defenders are unable to use their skills to do so. And when governments cannot hire new lawyers or keep experienced ones, the ability to protect the public safety is challenged. The inability of poor and moderate-income persons to obtain legal assistance can result in dire consequences to those individuals and the communities in which they live.

Our bill, the Prosecutors and Defenders Incentive Act, is designed to help remedy some of these problems. Enacting this measure will help make legal careers in public service as prosecutors and public defenders in the criminal justice system more financially viable and attractive to law school graduates who have incurred significant financial obligations in acquiring their education.

Our proposal would establish, within the Department of Justice, a program of student loan repayment for borrowers who agree to remain employed for at least 3 years as public attorneys who are either State or local criminal prosecutors or State, local, or Federal public defenders in criminal cases. It would allow eligible attorneys to receive student loan debt repayments of up to $10,000 per year, with a maximum aggregate over time of $60,000.

Repayment benefits for such public attorneys would be made available on a first-come, first-served basis and subject to the availability of appropriations. Priority would be given to borrowers who received repayment benefits for the preceding fiscal year and have completed less than 3 years of the first required service period. Borrowers could enter into an additional agreement, after the required 3-year period, for a successive period of service which may be less than 3 years. It would cover student loans made, insured, or guaranteed under the Higher Education Act of 1965, including consolidation loans. Furthermore, it would extend to Federal public defenders the existing Perkins loan forgiveness program available for Federal prosecutors.

Our bill is modeled on the program for Federal executive branch employees which has been enjoying growing success. Federal law permits Federal executive branch agencies to repay their employees' student loans, up to $10,000 in a year, and up to a lifetime maximum of $60,000. In exchange, the employee must agree to remain with the agency for at least 3 years.

During fiscal year 2004, 28 executive branch agencies provided 2,945 Federal employees with more than $16.4 million in student loan repayments, as reported by the Office of Personnel Management in April 2005. This marked a 42-percent increase in the number of beneficiaries and a 79-percent increase in benefits over fiscal year 2003.

It is noteworthy that across the Federal Government in 2004, agencies used the loan repayment program most often to recruit and retain attorneys. In fiscal year 2004, 473 Federal lawyers received loan repayments, representing 16.1 percent of all employees who received the benefit.

The Securities and Exchange Commission provided the benefit to 239 lawyers, and the Justice Department distributed program benefits to 118 of its attorneys. According to the Office of Personnel Management's report, the Nuclear Regulatory Commission reported that the program has been of tremendous benefit in recruiting and retaining attorneys in its Honors Law Graduate Program. NRC commented that law school debt is continuing to rise—to more than $100,000 in some cases—and a gap exists between Federal and private law firm salaries. As a result, some quality candidates may rule out a career as an attorney in the Federal Government. NRC believes the Federal student loan repayment program helps the Commission overcome these obstacles.

I recently received a compelling letter from Jennifer Walsh, the assistant appellate defender for the State of Illinois. Her experiences portray in testamentary terms the real dilemmas encountered by perhaps thousands of attorneys desiring public service careers despite exorbitant student loan obligations.

To simply paraphrase Ms. Walsh's sentiments would diminish their impact, so I would like to quote some excerpts from her letter: ''I love being a public servant. . . . Helping those who cannot afford to help themselves isn't charity and it isn't socially progressive. It is justice and it has made me a better person. . . . However, the one problem that I have consistently had since becoming a public defender is getting my student loans paid. I have a debt burden over $110,000. . . . My student loan payments will soon exceed $950 a month. This represents about one-third of my monthly take-home pay. I cannot help pay the mortgage on my house. I cannot save for my two children's futures. During a financial crisis, my husband knows that he cannot look to me to help the family finances. . . . I am now faced with a Hobson's choice—do I fulfill the needs of my indigent clients or my struggling family? I absolutely, positively don't want to leave. But my responsibilities to my family and my student loan creditors make staying in the public sector feel selfish and irresponsible. Imagine that—working for the public good seems selfish and irresponsible because I cannot do what I love and, at the same time, repay what I owe.''

I appreciate Ms. Walsh's willingness to share her perspectives with me. By enacting and funding this legislation, we can take a meaningful step toward alleviating some of the financial burden for attorneys such as Ms. Walsh who choose careers as criminal prosecutors and public defenders.

I know there are many other law graduates who, like Jennifer Walsh, want to apply their legal training and develop their skills in the public sector, but are deterred by the weight of student loan obligations. Passage of our legislation will help them make their careers dreams a reality. I urge its swift adoption.

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

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

S. 2039

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 ''Prosecutors and Defenders Incentive Act of 2005''.

SEC. 2. LOAN REPAYMENT FOR PROSECUTORS AND DEFENDERS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

''PART HH—LOAN REPAYMENT FOR PROSECUTORS AND PUBLIC DEFENDERS

''SEC. 2901. GRANT AUTHORIZATION.

''(a) PURPOSE.—The purpose of this section is to encourage qualified individuals to enter and continue employment as prosecutors and public defenders.

''(b) DEFINITIONS.—In this section:

''(1) PROSECUTOR.—The term 'prosecutor' means a full-time employee of a State or local agency who—

''(A) is continually licensed to practice law; and

''(B) prosecutes criminal cases at the State or local level.

''(2) PUBLIC DEFENDER.—The term 'public defender' means an attorney who—

''(A) is continually licensed to practice law; and

''(B) is—

''(i) a full-time employee of a State or local agency or a nonprofit organization operating under a contract with a State or unit of local government, that provides legal representation to indigent persons in criminal cases; or

''(ii) employed as a full-time Federal defender attorney in a defender organization established pursuant to subsection (g) of section 3006A of title 18, United States Code, that provides legal representation to indigent persons in criminal cases.

''(3) STUDENT LOAN.—The term 'student loan' means—

''(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965(20 U.S.C. 1071 et seq.);

''(B) a loan made under part D or E of title IV of the Higher Education Act of 1965(20 U.S.C. 1087a et seq. and 1087aa et seq.); and

''(C) a loan made under section 428C or 455(g) of the Higher Education Act of 1965(20 U.S.C. 1078–3 and 1087e(g)) to the extent that such loan was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H of such Act.

''(c) PROGRAM AUTHORIZED.—The Attorney General shall establish a program by which the Department of Justice shall assume the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

''(1) is employed as a prosecutor or public defender; and

''(2) is not in default on a loan for which the borrower seeks forgiveness.

''(d) TERMS OF AGREEMENT.—

''(1) IN GENERAL.—To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement that specifies that—

''(A) the borrower will remain employed as a prosecutor or public defender for a required period of service of not less than 3 years, unless involuntarily separated from that employment;

''(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Attorney General the amount of any benefits received by such employee under this section;

''(C) if the borrower is required to repay an amount to the Attorney General under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee (or such employee's estate, if applicable) by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

''(D) the Attorney General may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest; and

''(E) the Attorney General shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

''(2) REPAYMENTS.—

''(A) IN GENERAL.—Any amount repaid by, or recovered from, an individual or the estate of an individual under this subsection shall be credited to the appropriation account from which the amount involved was originally paid.

''(B) MERGER.—Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

''(3) LIMITATIONS.—

''(A) STUDENT LOAN PAYMENT AMOUNT.—Student loan repayments made by the Attorney General under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Attorney General in an agreement under paragraph (1), except that the amount paid by the Attorney General under this section shall not exceed—

''(i) $10,000 for any borrower in any calendar year; or

''(ii) an aggregate total of $60,000 in the case of any borrower.

''(B) BEGINNING OF PAYMENTS.—Nothing in this section shall authorize the Attorney General to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Attorney General entered into an agreement with the borrower under this subsection.

''(e) ADDITIONAL AGREEMENTS.—

''(1) IN GENERAL.—On completion of the required period of service under an agreement under subsection (d), the borrower and the Attorney General may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

''(2) TERM.—An agreement entered into under paragraph (1) may require the borrower to remain employed as a prosecutor or public defender for less than 3 years.

''(f) AWARD BASIS; PRIORITY.—

''(1) AWARD BASIS.—Subject to paragraph (2), the Attorney General shall provide repayment benefits under this section on a first-come, first-served basis, and subject to the availability of appropriations.

''(2) PRIORITY.—The Attorney General shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

''(A) received repayment benefits under this section during the preceding fiscal year; and

''(B) has completed less than 3 years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

''(g) REGULATIONS.—The Attorney General is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2006 and such sums as may be necessary for each succeeding fiscal year.''.

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

S. 2040. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to ensure that the Department of Homeland Security is led by qualified, experienced personnel; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce legislation that will help ensure our homeland security is in the hands of the best and the brightest leaders. The Department of Homeland Security Qualified Leaders Act will establish minimum qualification standards for most Senate-confirmed positions in the Department of Homeland Security, DHS. I am joined by Senators LAUTENBERG and CARPER in introducing this bill, and I thank them for their support.

Hurricane Katrina and the resignation of Under Secretary Michael Brown have raised concerns regarding the experience and qualifications of political appointees in the Federal Government. Mr. Brown had minimal emergency management experience prior to joining the Federal Emergency Management Agency, FEMA. Despite Mr. Brown's 3 years as a senior official at FEMA, the agency faltered during Hurricane Katrina under his leadership.

While not all of the Government's failures to prepare for and respond to Hurricane Katrina can be placed at Mr. Brown's doorstep, leadership matters. At a recent Homeland Security and Governmental Affairs Committee hearing on the Coast Guard's response to Hurricane Katrina, Cpt Bruce C. Jones, the commanding officer of Coast Guard Air Station New Orleans, testified, ''What counts most in a crisis, is not the plan, it's leadership. Not processes, but people. And not organizational charts, but organizational culture.''

According to Captain Jones, one of the reasons the Coast Guard was able to respond immediately and perform efficiently during Hurricane Katrina is because the leaders of the Eighth District and Sector New Orleans were able to make quick, sound decisions while following a predetermined plan. Quick thinking and good judgement cannot be written into a plan.

In addition, DHS, with its multitude of management challenges, requires leaders with strong management experience. Over the past few years, the DHS Inspector General and the Government Accountability Office have cited DHS for poor contract management, ineffective financial systems, and major human capital challenges. Moreover, DHS is in the process of implementing its Second Stage Review, an attempt to better organize the Department to meet its many missions. As Secretary Michael Chertoff overhauls the Department to create what will hopefully be a structure that serve DHS well for years to come, he needs senior officials who have experience running large organizations—people who know which systems and chains of command work and which do not. Good managers are needed across the Federal Government, but nowhere are they more needed than in an infant agency.

Comptroller General David Walker said in a September 21, 2005, interview with Federal Times that ''for certain positions, given the nature of the position, there should be statutory qualification requirements for any nominee.'' I agree.

For these reasons, we must ensure that the right people are leading DHS. Our bill delineates requirements for Senate-confirmed positions based on their compensation under the Executive Schedule. The most senior officials, those in Executive Level II and III, will be required to possess at least 5 years of management experience, 5 years of experience in a field relevant to the position for which the individual

is nominated, such as customs intelligence, or cybersecurity, and a demonstrated ability to manage a substantial staff and budget. These requirements will apply to the following positions: the Under Secretary of Science and Technology; the Under Secretary of Preparedness; the Director of FEMA; and the Under Secretary of Management. The Secretary and Deputy Secretary of Homeland Security are exempt from this bill.

Executive Level IV positions will be required to possess significant management experience, at least 5 years of experience in a field relevant to the position for which the individual is nominated, and a demonstrated ability to manage a substantial staff and budget. These position include the Assistant Secretary for Immigration and Customs Enforcement; the Assistant Secretary for Customs and Border Patrol; the Assistant Secretary for Border and Transportation Security Policy; the Assistant Secretary for Plans, Programs, and Budgets; the Director of the Office State and Local Government Coordination and Preparedness; the Director of U.S. Citizenship and Immigration Services; the Inspector General; the Chief Financial Officer; the U.S. Fire Administrator; and the General Counsel. The bill exempts the commandant of the Coast Guard from this section since requirements for selection of the commandant already exist in law.

I believe that any program or agency will succeed or fail based on leadership. This is especially true at Federal agencies, which need senior leaders with management skills and subject matter expertise. Our bill is a step in the right direction, and I urge my colleagues to join us in passing this important legislation.

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

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

S. 2040

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 ''Department of Homeland Security Qualified Leaders Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Department of Homeland Security, a large organization comprised of 180,000 employees and 22 legacy agencies, has a complex mission of securing the homeland from man-made and natural disasters;

(2) the Department and the agencies within require strong leadership from proven managers with significant experience in their respective fields; and

(3) the majority of positions requiring Senate confirmation at the Department do not have minimum qualifications.

SEC. 3. QUALIFICATIONS OF CERTAIN SENIOR OFFICERS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 103 the following:

''SEC. 104. QUALIFICATIONS OF CERTAIN SENIOR OFFICERS.

''(a) EXECUTIVE SCHEDULE LEVEL II OR III POSITIONS.—

''(1) POSITIONS.—This subsection shall apply to any position in the Department that—

''(A) requires appointment by the President, by and with the advice and consent of the Senate; and

''(B) is at level II or III of the Executive Schedule under section 5313 or 5314 of title 5, United States Code, (including any position for which the rate of pay is determined by reference to level II or III of the Executive Schedule).

''(2) ADDITIONAL QUALIFICATIONS.—In addition to any other qualification applicable to a position described under paragraph (1), any individual appointed to such a position shall possess—

''(A) at least 5 years of executive leadership and management experience in the public or private sector;

''(B) at least 5 years of significant experience in a field relevant to the position for which the individual is nominated; and

''(C) a demonstrated ability to manage a substantial staff and budget.

''(b) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—

''(1) POSITIONS.—This subsection shall apply to any position in the Department that—

''(A) requires appointment by the President, by and with the advice and consent of the Senate; and

''(B) is at level IV of the Executive Schedule under section 5315 of title 5, United States Code, (including any position for which the rate of pay is determined by reference to level IV of the Executive Schedule).

''(2) ADDITIONAL QUALIFICATIONS.—In addition to any other qualification applicable to a position described under paragraph (1), any individual appointed to such a position shall possess—

''(A) significant executive leadership and management experience in the public or private sector;

''(B) at least 5 years of significant experience in a field relevant to the position for which the individual is nominated; and

''(C) a demonstrated ability to manage a substantial staff and budget.

''(c) EXCEPTIONS.—This section shall not apply to the position of—

''(1) the Secretary;

''(2) the Deputy Secretary of Homeland Security; or

''(3) the Commandant of the Coast Guard.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to lessen any qualification otherwise required of any position.

''(e) SENSE OF CONGRESS.—It is the sense of Congress that individuals nominated by the President for the positions of Secretary and Deputy Secretary of Homeland Security should possess significant management experience and expertise in a relevant field because of the significant level of responsibility entrusted to these individuals.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by inserting after the item relating to section 103 the following:

''Sec. 104. Qualifications of certain senior officers.''.

By Mr. REID:

S. 2041. A bill to provide for the conveyance of a United States Fish and Wildlife Service administrative site to the city of Las Vegas, Nevada; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I rise today to introduce the Ed Fountain Park Expansion Act. This legislation would transfer approximately eight acres of Federal land to the city of Las Vegas to allow for the expansion of one of the city's most popular parks.

Ed Fountain Park is one of the best known and well-used parks in the city of Las Vegas. Located in a mature part of the city, adjacent to the city's oldest golf course, Ed Fountain Park has provided recreational opportunities for generations of local residents. For many years it has been home to Pop Warner football practices, youth soccer games, and family picnics and reunions. On any given day or night, a multitude of activities are taking place at the park, many of which are associated with the numerous nonprofit organizations that utilize the park's resources.

The city of Las Vegas contacted my office several months ago to express their desire to expand Ed Fountain Park by acquiring land adjacent to the park that served as the site of the local administrative offices for the Bureau of Land Management, BLM, and U.S. Fish and Wildlife Service. The property was vacated by both Federal land management agencies several years ago after they relocated to a larger, multijurisdictional facility in the northwest part of the Las Vegas Valley.

The property to be acquired by the city is technically classified as part of the Desert National Wildlife Refuge Complex and is currently under the jurisdiction of the Fish and Wildlife Service. The parcel in question, however, is many miles away the actual wildlife refuge and sits as a vacant urban lot. The former administrative offices that were housed on the land were placed there many decades ago when this area was considered to be in the outskirts of town. Now, after years of unprecedented growth, this land is surrounded by well-established neighborhoods. The site also contains a single empty historical structure that would be part of the conveyance.

Were the property under the jurisdiction of the BLM, as is usually the case in the Las Vegas Valley, the property could have been transferred administratively under the authority of the Recreation and Public Purposes Act. But because it is the property of the Fish and Wildlife Service, legislation is needed to transfer ownership of the property from the Fish and Wildlife Service to the city.

This legislation provides the city with maximum flexibility to use the parcel to expand Ed Fountain Park, to build new athletic fields, to develop a community center, or any combination of these uses. All of these potential uses are in the public interest and provide important justification for conveying the land to the city at no cost.

I look forward to working with the distinguished chairman and ranking

member of the Environment and Public Works Committee to move this legislation forward in a timely manner.

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

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

S. 2041

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 ''Ed Fountain Park Expansion Act ''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATIVE SITE.—The term ''administrative site'' means the parcel of real property identified as ''Lands to be Conveyed to the City of Las Vegas; approximately, 7.89 acres'' on the map entitled ''Ed Fountain Park Expansion'' and dated November 1, 2005.

(2) CITY.—The term ''City'' means the city of Las Vegas, Nevada.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

SEC. 3. CONVEYANCE OF UNITED STATES FISH AND WILDLIFE SERVICE ADMINISTRATIVE SITE, LAS VEGAS, NEVADA.

(a) IN GENERAL.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the administrative site for use by the City—

(1) as a park; or

(2) for any other recreation or nonprofit-related purpose.

(b) ADMINISTRATIVE EXPENSES.—As a condition of the conveyance under subsection (a), the Secretary shall require that the City pay the administrative costs of the conveyance, including survey costs and any other costs associated with the conveyance.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines that the City is not using the administrative site for a purpose described in paragraph (1) or (2) of subsection (a), all right, title, and interest of the City in and to the administrative site (including any improvements to the administrative site) shall revert, at the option of the Secretary, to the United States.

(2) HEARING.—Any determination of the Secretary with respect to a reversion under paragraph (1) shall be made—

(A) on the record; and

(B) after an opportunity for a hearing.

By Mr. CHAMBLISS (for himself and Mr. HARKIN):

S. 2042. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CHAMBLISS. Mr. President, today, Senator HARKIN and I are introducing the POPs, LRTAP POPs and PIC Implementation Act of 2005. This bill would amend the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to implement the United States' pesticide-related obligations under the Stockholm Convention on Persistent Organic Pollutants (POPs Convention), the Aarhus Protocol on Persistent Organic Pollutants to the Geneva Convention on Long Range Transboundary Air Pollution (LRTAP POPs Protocol) and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Convention).

POPs are certain chemicals that are toxic, persist in the environment for an extended period of time and can bioaccumulate in the human food chain. POPs have been linked to adverse health effects on humans and animals. Due to their persistent characteristics and ability to circulate globally, POPs that are released in one part of the world can travel to neighboring regions and negatively affect environments where they are not produced or used.

The United States has taken a leading role in reducing and eliminating the use POPs. For example, in the late 1970s, the United States prohibited the manufacture of new PCBs and severely restricted the use of remaining stocks. And over the past 35 years, the United States has had a strong regulatory process that restricted the production and use of dangerous pesticides. Even prior to signing the POPs Convention, the United States prohibited the sale of all the POPs pesticides initially targeted by the convention.

In 2001, President George W. Bush signed the POPs Convention. Its ultimate goal is the safe management of hazardous chemicals. Over time, the convention will help bring an end to the production and use of dangerous pollutants around the world and to positively affect the U.S. environment and public health.

Specifically, the convention requires all signatory nations to stop the production and use of 12 listed POPs, including DDT, PCBs and dioxins. Parties to the convention also agree to control sources of POPs by-products to reduce releases and provide for the safe handling and disposal of POPs in an environmentally sound manner. The convention includes a science-based procedure to allow other POPs to be added and provides technical and financial assistance to help developing countries manage and control POPs.

In 1998, the United States and members of the United Nations Economic Commission for Europe (UN-ECE) negotiated a regional protocol on POPs under the auspices of the Convention on Long Range Transboundary Air Pollution (LRTAP). Informally, the agreement is called the LRTAP POPs Protocol. The goal of the protocol is to eliminate production and reduce emissions of POPs in North America and Europe.

The LRTAP POPs Protocol was the basis for the POPs Convention. The two agreements are similar in purpose, except that the LRTAP treaty is regional and it does not include trade restrictions or the technical and financial assistance available to developing nations under the POPs Convention. Also, the LRTAP POPs Protocol includes four additional chemicals to the 12 listed in the POPs Convention.

In 1998, the PIC Convention established an information-sharing process to promote cooperative efforts among the parties to the convention regarding trade in chemicals. The process is designed to help nations decide whether to allow a chemical to be imported. Basically, the PIC Convention provides for prior notification to potential importing countries by nations exporting chemicals that have been banned or severely restricted in the exporting country. Countries exporting the chemicals listed in the convention must generally ensure that the importing country has consented to import the chemical.

The bill we are introducing today would prohibit the sale, distribution, use, production or disposal of any listed POPs pesticides or LRTAP POPs pesticide. It would establish notice and reporting procedures to ensure the American public is aware of potential actions and decisions made by the parties to the conventions. The bill also would add new export reporting and labeling requirements to ensure compliance with U.S. obligations under the PIC Convention.

In order for the United States to become a party to the conventions, the Senate must ratify the POPs and PIC Conventions. Congress also must pass implementing legislation. This bill does not include a ratification resolution and it does not amend the Toxic Substances Control Act.

At this time, the United States is not a party to the conventions and does not have a seat at the negotiating table. This weak position hampers the ability of our technical experts and negotiators to protect our leadership role in international pesticide policy and regulation. Our observer-only status also limits our ability to participate in the critical decisions that affect U.S. businesses and economic interests and our environment and public health. The delay in ratifying the conventions serves to marginalize us.

The U.S. delegation was unable to fully participate in the first meeting of parties to the POPs Convention held in May 2005 in Punta del Este, Uruguay. The next meeting of the parties to the POPs Convention is May 2006. I urge my colleagues to ratify the conventions and pass implementing legislation so that the United States can reclaim its rightful place as a world leader in the safe management of hazardous chemicals.

I look forward to working with my colleagues on the Senate Foreign Relations Committee and the Environment and Public Works Committee on this matter.

Mr. HARKIN. Mr. President, today I am pleased to join with Chairman CHAMBLISS in introducing legislation to implement the Stockholm Convention on Persistent Organic Pollutants, the

LRTAP POPs Protocol, and the Rotterdam PIC Protocol. These three agreements provide an international framework for controlling and eliminating the use of chemicals that have the greatest potential for long-term environmental damage. These persistent organic pollutants, or POPs, are chemicals that do not easily break down in the environment. As a result, they tend to move across international boundaries and bio-accumulate—in other words, they travel up the food chain. This legislation modifies existing U.S. law under the Federal Insecticide, Fungicide and Rodenticide Act, FIFRA, to bring us into compliance with these agreements with regard to chemicals used in agriculture. Implementation of the agreements will also require modification of the Toxic Substances Control Act, TSCA.

These conventions and protocols have already entered into force. But at this point, though the United States is a signatory to all of them, we have not ratified them. All of the chemicals that are listed in the agreement are already banned or tightly controlled under U.S. law, but the Stockholm Convention's Review Committee just met in Geneva and further meetings are planned, and decisions are being made without our delegation able to fully participate as a party to the agreement. The United States needs to ratify the convention in order to have a voice in this process.

Our goal in writing this legislation is narrow. It has not been our intention to open up FIFRA as part of this process, but only to craft those changes compelled by our international commitments. That is not to say that FIFRA is perfect or could not be improved and strengthened—only that this is not the occasion to launch into changing the domestic law beyond the narrow goal of compliance with these agreements.

Some have urged that this measure provide for automatic processes triggered by the decisions of the review committee overseeing the Stockholm Convention. For instance, if the review committee lists a chemical, they would have the United States automatically take steps to regulate or ban the chemical domestically. I have sympathy with that approach, and I would hope that our existing environmental laws would be used to restrict the use of such a chemical before international action, as they have with all the initial chemicals listed in the Stockholm Convention.

But that is not what is called for in the Stockholm Convention. The convention that this legislation will implement does not compel parties to adopt new chemicals added to the convention in future years. Instead, the parties are allowed to opt in to the convention's restrictions. The legislation we are introducing today would allow for any information or studies generated as part of the international process to be used as part of a domestic regulatory action on the chemical, but would not provide an automatic process that compelled the Environmental Protection Agency, EPA, to take action. In essence, we are allowing the EPA to move forward and take action on a chemical if the case made in the international review for a ban is strong, and not make EPA reinvent the wheel and generate new data to back up their conclusions, while at the same time, not mandating EPA action to ban or regulate a chemical. This legislation strikes a fair balance and one that is consistent with the limited goal we have in this process to bring FIFRA into compliance with our international obligations.

The most controversial aspects of this legislation are the provisions that deal with the process by which new chemicals are brought under the convention's control. It is critically important that the position of the United States in the international regulation of chemicals take into account the views of all parties—pesticide manufacturers, farmers, environmental scientists, State regulators—everyone who has a stake in the process.

Under the Stockholm Convention, the process of listing new POPs chemicals follows a three-part process. The review committee determines whether a chemical satisfies the agreed screening criteria in the convention; if the criteria are satisfied, a risk profile is prepared; if on the basis of the risk profile, it is determined that global action is required, the committee or parties would consider listing the chemical.

In each of these stages, the U.S. position should be informed by formal notice and comment periods as provided in existing law. The Federal notice and comment process is open, well developed, and well understood by stakeholders in the process. If this process is optional, there is the risk that the U.S. position could be formed without taking into account important views. While nothing in this legislation dictates that any particular position in this established process be taken by the administration, there is a requirement that the administration use this process to collect information to inform its position in the international body regarding any particular chemical.

The administration's draft of this legislation gave the EPA Administrator permission to initiate a notice and comment period but did not require it. The argument for this position was a constitutional claim that the executive's authority over negotiations with other nations includes a right to rely on whatever information that the president chooses to use. The ''remedy'' for negotiating a faulty treaty, according to the letter received from the Department of Justice, is for the Senate to refuse to consent to the treaty.

This position is not consistent with existing Federal law and is impractical particularly in a process like this one, where the negotiation in question would never be subject to ratification by the Senate. My concern with this constitutional theory resulted in an exchange of correspondence last year, when this bill was being drafted by then-Chairman COCHRAN.

I wrote to then-Administrator Michael Leavitt at the EPA, asking for a written explanation of the administration's position on this issue. This resulted in two letters, one from Administrator Leavitt on behalf of the EPA dated March 25, 2004, and one from Assistant Attorney General William Moschella on behalf of the Department of Justice dated March 25, 2004. Finally, I requested an analysis of the constitutional issues raised by this provision from the American Law Division of the Congressional Research Service and received a memorandum dated March 30, 2004. I will offer all of these letters and the CRS memorandum for inclusion in the RECORD at the end of my statement.

Having reviewed all this material, I find that the administration's position is not well supported, and I would urge the Senate to reject any effort to include it in this legislation. The CRS memorandum on the EPA draft summarizes the state of the law as follows:

Stated succinctly, the separation of powers doctrine ''implicit in the Constitution and well established in case law, forbids Congress from infringing upon the Executive Branch's ability to perform its traditional functions.'' The Supreme Court has established that in determining whether an act of Congress has violated the doctrine, ''the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutionally assigned functions.''

The memo goes on to state that it is ''difficult to see how a mandatory notice and comment requirement would implicate this traditional executive function.'' The memorandum concludes that ''it does not appear that a mandatory notice and comment requirement would present any substantive separation of powers concerns.'' Clearly, there is no merit to the Justice Department's contention that mandatory notice and comment would be an unconstitutional intrusion into the President's exclusive prerogative over foreign policy. Clearly, future steps taken domestically to carry out these international agreements should be informed by the views of all stakeholders and build the record through the notice and comment procedure for domestic implementation of any international action. This legislation makes the right choice by mandating notice and comment.

I appreciate the opportunity to work with Chairman CHAMBLISS on this legislation, and with our committee's previous chair, Senator COCHRAN, whose staff worked tirelessly to develop this legislation. I am hopeful that we can work together with the other body to reach agreement on implementing legislation along the lines of this bill,

that will clear the way for ratification of the Stockholm Convention.

I ask unanimous consent to include in the RECORD a letter to Administrator Michael Leavitt, his response from March 25, 2004, the response to the same letter by William Moschella on behalf of the Justice Department, and the memorandum of law from the Congressional Research Service.

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

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, February 12, 2004.

Hon. MICHAEL LEAVITT,
Administrator, Environmental Protection Administration, Washington, DC.

DEAR ADMINISTRATOR LEAVITT: Thank you for your note asking for my help in passing legislation to implement the Stockholm Protocols. I certainly want to be helpful in that regard and support moving implementing legislation quickly that will enhance the ability of the Environmental Protection Agency to eliminate the threat that persistent organic pollutants (POPs) pose to our environment.

As we move forward on this legislation, I believe it is important to regulate not only the so-called ''dirty dozen'' POPs that are explicitly controlled by the Stockholm Protocols, but also to improve your agency's ability to address these types of pollutants through the EPA's regulatory system as expeditiously as possible, with opportunities for public participation and comment. This public participation and comment is particularly important to inform the agency in its evaluation of potential new pollutants brought before the review committee formed by this legislation.

One version of proposed implementing legislation would provide for mandatory notice and comment periods to allow public input at each of the three stages of the review committee process. The most recent draft of the legislation put forward by the EPA, however, makes each of these notice and comment periods fully subject to the agency's discretion. It has also been asserted that if Congress required the agency to provide a notice and comment period based on action of the international body, it would unconstitutionally impinge on our national sovereignty. This is a novel constitutional analysis that I would like to understand better before this legislation moves forward.

I request that, prior to our Committee taking up this issue, you provide me with any legal analysis, legal opinions, and citations to any legal authority supporting the proposition that Congress cannot require the EPA to hold notice and comment periods in response to the actions of an international body. I know that you are as committed as I am to move this legislation expeditiously, and I look forward to receiving this information soon.

Again, I look forward to working with you on this matter and want to help in any way I can to assist you in your work of improving our nation's environment.

Sincerely,

TOM HARKIN,
Ranking Democratic Member.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, March 25, 2004.

Hon. TOM HARKIN,
Ranking Member, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: Thank you very much for your letter of February 12, 2004. I appreciate your willingness to support the legislative efforts of the Administration to allow the United States to become a Party to the Stockholm Convention on Persistent Organic Pollutants, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Protocol on Persistent Organic Pollutants to the 1979 Convention on Long-Range Transboundary Air Pollution.

In your letter, you noted a particular interest in the discretionary notice and comment procedures contained within the Administration's proposed legislation to implement the FIFRA-related obligations of the three environmental treaties referenced above. The Administration's proposal does not make these notice and comment procedures mandatory, and you requested additional information about the constitutional concerns that underlie that decision. I asked my staff to organize a meeting for the Department of Justice to discuss its constitutional concerns with your legislative assistants and to answer any questions. I understand that meeting occurred on March 3, 2004.

As you know, the Stockholm Convention creates an international ''Persistent Organic Pollutants Review Committee'' to evaluate whether various substances should be added or removed from the Convention's coverage. The United States expects to play a strong role at the international meetings of the Review Committee, and, as you note in your letter, the United States could use the notice and comment procedures under the proposed bill to ''allow public input at each of the three stages of the review committee process.''

U.S. stakeholders will no doubt have a great deal of expertise about proposed pollutants brought before the international review committee, and the Administration proposal specifically includes notice and comment procedures to allow the Executive branch to take advantage of this knowledge. The statutory notice and comment procedures are precatory, however, because the Department of Justice has advised the Administration that it has concluded that a mandatory consultation requirement would raise constitutional concerns with respect to the President's authority to conduct negotiations with other nations. I have forwarded your letter to the Department of Justice to respond to you more specifically on this point.

I do, however, agree with the concern behind your letter that ''public participation and notice and comment is particularly important to inform the agency in its evaluation of potential new pollutants brought before the review committee.'' The constitutional concerns that are presented by a mandatory requirement could be avoided by fully authorizing the Executive Branch to gather information from the public, but not requiring the Executive Branch to exercise that authority. In order to ensure that the public is well informed about events that are taking place internationally, and to provide an opportunity for the consideration of public comment in the event that the Administration does not execute the discretionary notice and comment procedures, my staff has included a new section in the legislation that I transmitted to you on February 25.

In this section, there is a mandatory requirement that the Administration publish a semiannual federal register notice that provides a full description of the events occurring at the international level and any domestic regulatory actions that have been initiated. Because this requirement is based on the calendar, relates to information that is publicly available, and is not linked to decisions in the international process, it does not raise the same constitutional concerns. This new provision also obligates the Environmental Protection Agency to consider comments received as a result of these semiannual federal register notices. I will be interested in your reaction to this proposal, which I believe addresses our respective concerns.

I appreciate the reiteration of your commitment to passing this legislation and to completing the necessary steps for the United States to deposit its instrument of consent to join these three very important multilateral environmental treaties. I look forward to working with you. If you have any further questions or concerns, please contact me or your staff may contact Peter Pagano in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564–3678.

Sincerely,

MICHAEL O. LEAVITT.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, March 25, 2004.

Hon. TOM HARKIN,
Ranking Member, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: The EPA has forwarded to the Department of Justice your letter dated February 12, 2004, regarding legislation proposed by the Administration to implement the Stockholm Convention on Persistent Organic Pollutants, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Protocol on Persistent Organic Pollutants to the 1979 Convention on Long-Range Transboundary Air Pollution.

Specifically, you are interested in the discretionary notice and comment procedures contained within the Administration's proposed legislation to implement the FIFRA-related obligations of the three environmental treaties referenced above. At the request of the Department of Justice, the Administration's proposal does not make these consultations mandatory, and you requested additional information about the constitutional concerns underlying that decision.

The Stockholm Convention creates an international ''Persistent Organic Pollutants Review Committee'' to evaluate whether various substances should be added to, or removed from, the Convention's coverage. Also, as you note in your letter, the notice and comment procedures under the proposed bill would ''allow public input at each of the three stages of the review committee process.'' The statutory notice and comment procedures are precatory, however, because a mandatory consultation requirement would raise constitutional concerns.

The Executive branch has sole authority over the United States' negotiations with other nations. *See, e.g.,* Letter to Edmond Charles Genet, from Thomas Jefferson, Secretary of State (1793), reprinted in 9 The Writings of Thomas Jefferson 256 (Andrew A. Lipscomb ed., 1903) (''[T]he President of the United States. . . being the only channel of communication between this country and foreign nations, it is from him alone that foreign nations or their agents are to learn what is or has been the will of the nation.''). The Supreme Court has long concurred in this understanding of the President's power, noting that this exclusive authority extends throughout the entire ''field of negotiation.'' *See United States* v. *Curtiss-Wright Corp.,* 299 U.S. 304,319 (1936) (''In this vast external realm, with its important, complicated, delicate, and manifold problems, the President

alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it.''). *See also New York Times Co.* v. *United States,* 403 U.S. 713, 728 (1971) (Stewart, J., concurring) (''In the governmental structure created by our Constitution, the Executive is endowed with enormous power in the two related areas of national defense and international relations.''); *United States* v. *Louisiana,* 363 U.S. 1, 35 (1960) (the President is ''the constitutional representative of the United States in its dealings with foreign nations''); *Earth Island Inst.* v. *Christopher,* 6 F.3d 648, 652–54 (9th Cir. 1993); *Sanchez-Espinoza* v. *Reagan,* 770 F.2d 202, 210 (D.C. Cir. 1985) (Scalia, J.) (''[B]road leeway'' is ''traditionally accorded the Executive in matters of foreign affairs.'').

Within this constitutional framework, statutes cannot direct the President to vote a certain way in an international forum, and they cannot require that the President consult with specific private organizations as he prepares to cast such a vote. Congress can certainly assist the President in his intentional negotiations by providing him with the authority to gather information from private citizens, cf. *New York Times Co.,* 403 U.S. at 729–30, but it remains for the President to decide how much, if any, additional information is needed and what should be done with it. If a proposed treaty is ill-informed, then the Constitution provides the remedy: the Senate may refuse to concur in that document. Joseph Story, 3 Commentaries on the Constitution of the United States §1507 (1833) (''The President is the immediate author and finisher of all treaties; and all the advantages, which can be derived from talents, information, integrity, and deliberate investigation on the one hand, and from secrecy and despatch on the other, are thus combined in the system. But no treaty, so formed, becomes binding upon the country, unless it receives the deliberate assent of two thirds of the Senate.''). What Congress may not do is direct, through legislation, how the President exercises his exclusive power to negotiate.

The Administration's concerns over legislation that would mandate consultation with Congress or with private parties in connection with the conduct of international negotiations are not new. Similar concerns were raised by the Department of Justice under President Clinton, President George H. W. Bush, and President Reagan. In each case, the Department objected to legislative proposals that would have required that the Executive branch consult in the context of international negotiations. For example, during the Clinton administration, the Department of Justice objected to legislative proposals that would have directed the Executive branch to consult with interested parties prior to negotiating trade agreements or prior to taking a position before the World Trade Organization. In 1991, the Department advised that the United States Trade Representative could not be required to periodically consult with interested parties on the progress of international trade negotiations. During the Reagan Administration, the Department wrote to Senator Lowell Weicker explaining that a proposed consultation requirement was objectionable because any provision that would require that the Executive branch disclose information that might interfere with the success of international negotiations would be subject to a valid claim of executive privilege. Presidents of both parties have also noted concerns about appropriations legislation containing similar provisions, and have stated that they would interpret such provisions not to intrude into this exclusive constitutional power over international negotiations. *See* Statement on Signing the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 36 Weekly Comp. Pres. Doc. 2809–10 (Nov. 13, 2000) (Statement of President Clinton) (''Certain provisions of the Act could interfere with my sole constitutional authority in the area of foreign affairs by directing or burdening my negotiations with foreign governments and international organizations . . . I will not interpret these provisions to limit my ability to negotiate and enter into agreements with foreign nations.''); Statement on Signing the Foreign Operations, Export Financing, and Related Programs Appropriations, 2002, 38 Weekly Comp. Pres. Doc. 49–50 (Jan. 10, 2002) (Statement of President Bush) (objecting to . provision ''which purports to direct the Secretary of State to consult certain international organizations in determining the state of events abroad'' and noting this and other provisions ''shall be construed consistent with my constitutional authorities to conduct foreign affairs, participate in international negotiations, and supervise the Executive Branch'').

In the pending legislation, the Department concluded that a mandatory requirement for ''public participation and comment'' would raise similar constitutional concerns and therefore recommended that more precatory language be used.

That said, the Department does not take issue with the general belief that ''public participation and notice and comment is particularly important to inform the [Administration] in its evaluation of potential new pollutants brought before the review committee.'' The constitutional concerns that are presented by a mandatory consultation requirement can be avoided by fully authorizing the Executive Branch to gather information from the public, but not requiring the Executive Branch to exercise that authority. To ensure that the public is well informed about events that are taking place internationally, and to provide an opportunity for the consideration of public comment in the event that the President chooses not to execute the discretionary notice and comment procedures, the bill requires that the Administration publish a semi-annual Federal Register notice that provides a full description of the events occurring at the international level and any domestic regulatory actions that have been initiated. Because this requirement based on the calendar, relates to information that is publicly available, and is not linked to decisions in the international process, this does not raise the same constitutional concerns.

We trust this provides an answer to your inquiry. We would welcome the opportunity to assist you with any future inquiries you may have. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

WILLIAM MOSCHELLA,
Assistant Attorney General.

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 30, 2004.

Re: Validity of Provisions Mandating Notice and Comment Proceedings in Response to the Decisions of Parties Operating Pursuant to International Conventions and Protocols.

Hon. TOM HARKIN: Pursuant to your request, this memorandum analyzes certain provisions of a draft bill forwarded by the Administration that would amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to allow for the implementation of the Stockholm Convention on Persistent Organic Pollutants (POPs Convention), the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Convention) and the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution (LRTAP POPs Protocol). In pertinent part, the draft bill would imbue the Administrator of the Environmental Protection Agency (hereinafter referred to as ''Administrator'') with discretionary authority to publish notices in the Federal Register and to provide an opportunity for comment in response to certain actions taken by parties to the POPs Convention and the LRTAP POPs Protocol.

The Administration has asserted that the notice and comment provisions in its proposal are necessarily ''precatory'' in nature, ''because a mandatory consultation requirement would raise constitutional concerns.'' You have asked whether it would be constitutionally problematic to make the notice and comment provisions in the draft proposal mandatory, despite the concerns raised by the Administration. A review of relevant constitutional principles appears to indicate that such a requirement would pass constitutional muster.

POPS CONVENTION

The POPs Convention was signed by the United States on May 31, 2001, and requires nations to reduce or eliminate the production and use of listed chemicals. The POPs Convention allows new chemicals to be added to the list by amendment to the relevant treaty annexes, and an amendment may be proposed by any party to the Convention. Amendments may be adopted at a meeting of the Conference of the Parties after the circulation of such a proposal to all parties at least six months in advance of the meeting. The POPs convention also creates a Persistent Organic Pollutants Review Committee (POPs Review Committee) that is to consist of government-designated experts in chemical assessment or management. The POPs Review Committee is charged generally with determining whether a listing proposal submitted by a party meets screening criteria established in the Convention, determining whether global action is warranted regarding the proposal, and recommending whether a proposed chemical should be considered for listing by the Conference of the Parties.

LRTAP POPS PROTOCOL

The 1998 Aarhus Protocol on Persistent Organic Pollutants (hereinafter referred to as ''LRTAP POPs Protocol'') amended the Convention on Long-Range Transboundary Air Pollution with the objective of eliminating discharges, emissions and losses of listed persistent organic pollutants during their production, use and disposal. Any party may offer an amendment to add a new chemical to the LRTAP POPs Protocol, which may be adopted by consensus of the parties represented at a session of the Executive Body

of the Convention. Prior to the addition of a chemical, the LRTAP POPs Protocol requires the completion of a risk profile on the chemical establishing that it meets selection criteria specified under the protocol.

THE DRAFT PROPOSAL

The Administration's draft proposal, as supplied by your office, provides for the implementation of the PIC and POPs Conventions and the LRTAP POPs Protocol. To effectuate this implementation, the proposal imbues the Administrator with the discretionary authority to publish notices in the Federal Register in response to actions taken to add chemicals to the list of those covered under the POPs Convention and the LRTAP POPs Protocol specifically.

As noted above, the POPs Convention establishes a POPs Review Committee that is responsible for considering proposals to add chemicals to those listed in the POPs Convention and recommending to the Conference of the Parties whether a proposed chemical should be considered for listing by the Conference. In the event that the POPs Review Committee does not forward a proposal, the Conference may choose to consider the proposal on its own accord. Section 3(4) of the draft bill contains several provisions authorizing the Administrator of the EPA to publish notices in the Federal Register at certain stages of the listing process and to provide an opportunity for comment on a proposed listing. In particular, Section 3(4), establishing a new 7 U.S.C. 136o(e)(3), authorizes the publication of a notice and opportunity for comment after a decision by the POPs Review Committee that a listing proposal meets the screening criteria specified in the POPs Convention or, alternatively, if the Conference of the Parties decides that such a proposal should proceed.

Likewise, a new 7 U.S.C. 136o(e)(4) would authorize the publication of notice and opportunity for comment upon a determination by the POPs Review Committee that a proposed listing warrants global action, or, alternatively, if the Conference of the Parties decides that the proposal should proceed. Finally, a new 7 U.S.C. 136o(e)(5) would authorize the publication of notice and opportunity for comment after the POPs Review Committee recommends that the Conference of the Parties consider making a listing decision regarding the chemical at issue.

Publication of notice and opportunity for comment would also be authorized after a party to the LRTAP POPs Protocol submits a risk profile in support of a proposal to add a chemical to those already listed. Additional notice and comment proceedings would be authorized in instances where the Executive Body determines that further consideration of a pesticide is warranted, as well as after the completion of a technical review of a proposal to add a chemical to the LRTAP POPs Protocol. It is interesting to note that while the draft proposal makes the decision as to whether to engage at all in notice and comment procedures discretionary, the Administrator is required to provide detailed elements of notice in the event that such procedures are offered.

ANALYSIS

You have specifically inquired as to whether it would violate the doctrine of separation of powers to make the aforementioned discretionary notice and comment procedures mandatory, irrespective of the general concern voiced by the Administration that ''a mandatory consultation requirement would raise constitutional concerns.'' An examination of applicable principles and precedent appears to indicate that a mandatory notice and comment requirement would be constitutionally permissible.

Stated succinctly, the separation of powers doctrine ''implicit in the Constitution and well established in case law, forbids Congress from infringing upon the Executive Branch's ability to perform its traditional functions.'' The Supreme Court has established that in determining whether an act of Congress has violated the doctrine, ''the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutionally assigned functions.'' Furthermore, as was noted by the Court of Appeals for the Ninth Circuit in *Confederated Tribes of Siletz Indians* v. *United States:*

Although the Supreme Court has not announced a formal list of elements to be considered when determining whether a violation of the doctrine has taken place, it has consistently looked to at least two factors: (1) the governmental branch to which the function in question is traditionally assigned, *see Mistretta*, 488 U.S. at 364, 109 S.Ct. at 65–51; *Morrison* v. *Olson*, 487 U.S. 654, 694–96, 108 S.Ct. 2597, 2620–22, 101 L.Ed. 2d 659 (1988); and (2) the control of the function retained by the branch, *see Mistretta*, 488 U.S. at 408–12, 109 S.Ct. at 673–75; *Morrison*, 487 U.S. at 692–96, 108 S.Ct. at 2619–22.

Applying these factors to the case at hand, it appears unlikely that a reviewing court would hold that mandatory notice and comment provisions would violate the doctrine. As is indicated by the DOJ letter, it seems that any argument that a mandatory requirement would offend the separation of powers doctrine would hinge on the assertion that such a requirement necessarily constitutes an intrusion into the core power of the Executive Branch over external affairs. Specifically, in *United States* v. *Curtiss-Wright Corp.*, the Supreme Court declared:

[n]ot only . . . is the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, 'the President is the sole organ of the nation in its external relations, and its sole representative with foreign nations.'

However, it is difficult to see how a mandatory notice and comment requirement would implicate this traditional executive function. Specifically, while it is generally conceded that there are some powers enjoyed by the President alone regarding foreign affairs, it is likewise evident that Congress possesses wide authority to promulgate policies respecting foreign affairs. Congress has often exercised this authority to determine policy objectives for the United States in international negotiations and to require subsequent legislative approval of international agreements before they may enter into force for the United States.

A mandatory notice and comment requirement would not appear to be an attempt to control the substance of negotiations between the United States and other parties to POPs Convention or the LRTAP POPs Protocol. Instead, such a requirement would simply establish that the Administrator must publish notices in the Federal Register providing information regarding chemicals that are being considered for listing to either the Convention or the Protocol. A somewhat analogous requirement in the international arena may be found at 19 U.S.C. 3537, which requires the United States Trade Representative to consult with the appropriate congressional committees and to publish detailed notices in the Federal Register whenever it is a party to any dispute settlement proceedings under the WTO. Furthermore, it should be noted that this notification provision could be likened to reporting requirements that are often imposed by Congress. As a general proposition, Congress is entitled to full access to information that is in the possession of the Executive Branch, subject to claims of executive privilege.

In addition to the general assertion that a mandatory notice and comment requirement would intrude on the President's power over the ''field of negotiation'' in foreign affairs, the DOJ letter states that any potential requirement that the Administrator consult with private parties or give consideration to comments received therefrom would also be constitutionally problematic. However, it is likewise difficult to ascertain how such a provision would necessarily impair the ability of the executive branch to carry out its core functions in this context. There is no indication that such a provision would be drafted so as to require the disclosure of sensitive information, or to require the inclusion of such individuals in the actual negotiation process. Rather, the notice and comment procedures at issue would appear to be tailored to ensure that the public is kept informed regarding ongoing proceedings in this context, and is further afforded the opportunity to comment on proposals under consideration. Accordingly, it appears that such a dynamic would not raise concerns any more significant than existing consultation requirements. Based on these factors, it does not appear that a mandatory notice and comment requirement would present any substantive separation of powers concerns.

T.J. HALSTEAD,
Legislative Attorney,
American Law Division.

By Mr. DURBIN (for himself, Mr. COCHRAN, and Mr. SALAZAR):

S. 2043. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide grants for mass evacuation exercises for urban and suburban areas and the execution of emergency response plans, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

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

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

S. 2043

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 ''Mass Evacuation Exercise Assistance Act of 2005''.

SEC. 2. MASS EVACUATION EXERCISES AND EXECUTION OF EMERGENCY RESPONSE PLANS.

Section 201 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131) is amended by adding at the end the following:

''(e) GRANTS FOR MASS EVACUATION EXERCISES FOR URBAN AND SUBURBAN AREAS AND THE EXECUTION OF EMERGENCY RESPONSE PLANS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall make grants to States or units of local governments nominated by States to—

''(A) establish programs for the development of plans and conduct of exercises for

the mass evacuation of persons in urban and suburban areas; and

''(B) execute plans developed under subparagraph (A), including the purchase and stockpiling of necessary supplies for emergency routes and shelters.

''(2) CONDITIONS.—As a condition for the receipt of assistance under paragraph (1)(A), the Secretary of Homeland Security may establish any guidelines and standards for the programs that the Secretary determines to be appropriate.

''(3) REQUIREMENTS.—To the maximum extent practicable, a program assisted under paragraph (1)(A) shall incorporate the coordinated use of public and private transportation resources in the plans developed and the exercises carried out under the program.

''(4) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—

''(A) IN GENERAL.—The Secretary of Defense may authorize the participation of members of the Armed Forces and the use of appropriate Department of Defense equipment and materials in an exercise carried out under a program assisted under this subsection.

''(B) REIMBURSEMENT FOR PARTICIPATION OF GUARD.—In the event members of the National Guard in State status participate in an exercise carried out under a program assisted under this subsection pursuant to an authorization of the chief executive officer of a State, the Secretary of Defense may, using amounts available to the Department of Defense, reimburse the State for the costs to the State of the participation of such members in such exercise.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for each of fiscal years 2006 through 2010.

''(f) MASS EVACUATION PLANS.—

''(1) REQUIREMENT.—Each State or unit of local government receiving a grant under subsection (e)(1) shall, in consultation with relevant local governments, develop and maintain detailed and comprehensive mass evacuation plans for each area in the jurisdiction of the State unit of local government.

''(2) PLAN DEVELOPMENT.—In developing the evacuation plans required under paragraph (1), each State or unit of local government shall, to the maximum extent practicable—

''(A) assist urban and suburban county and municipal governments in establishing and maintaining mass evacuation plans;

''(B) assist hospitals, nursing homes, other institutional adult congregate living facilities, group homes, and other health or residential care facilities that house individuals with special needs in establishing and maintaining mass evacuation plans; and

''(C) integrate the plans described in subparagraphs (A) and (B) and coordinate evacuation efforts with the entities described in subparagraphs (A) and (B).

''(3) PLAN CONTENTS.—State, county, and municipal mass evacuation plans shall, to the maximum extent practicable—

''(A) establish incident command and decisionmaking processes;

''(B) identify primary and alternate escape routes;

''(C) establish procedures for converting 2-way traffic to 1-way evacuation routes, removing tollgates, ensuring the free movement of emergency vehicles, and deploying traffic management personnel and appropriate traffic signs;

''(D) maintain detailed inventories of drivers and public and private vehicles, including buses, vans, and handicap-accessible vehicles, that may be pressed into service;

''(E) maintain detailed inventories of emergency shelter locations and develop the necessary agreements with neighboring jurisdictions to operate or use the shelters in the event of a mass evacuation;

''(F) establish procedures for informing the public of evacuation procedures before and during an evacuation and return procedures after an evacuation, including using television, radio, print, and online media, land-based and mobile phone technology, and vehicles equipped with public address systems;

''(G) identify primary and alternate staging locations for emergency responders;

''(H) identify gaps in the ability to respond to different types of disasters, including the capacity to handle surges in demand for hospital, emergency medical, coroner, morgue, and mortuary services, quarantines, decontaminations, and criminal investigations;

''(I) establish procedures to evacuate individuals with special needs, including individuals who are low-income, disabled, homeless, or elderly or who do not speak English;

''(J) establish procedures for evacuating animals that assist the disabled;

''(K) establish procedures for protecting property, preventing looting, and accounting for pets; and

''(L) ensure the participation of the private and nonprofit sectors.

''(4) UPDATING OF PLANS.—State, county, municipal, and private plans under this subsection shall be updated on a regular basis.

''(g) ADDITIONAL ASSISTANCE TO STATES.—The Secretary of Homeland Security shall assist States and local governments in developing and maintaining the plans described in subsection (f) by—

''(1) establishing and maintaining comprehensive best practices for evacuation planning, training, and execution;

''(2) developing assistance teams to travel to States and assist local governments in planning, training, and execution;

''(3) developing a training curriculum based on the best practices established under paragraph (1);

''(4) providing the training curriculum developed under paragraph (3) to State and local officials;

''(5) maintaining a list of qualified government agencies, private sector consultants, and nonprofit organizations that can assist local governments in setting up evacuation plans; and

''(6) establishing and maintaining a comprehensive guide for State and local governments regarding—

''(A) the types of Federal assistance that are available to respond to emergencies; and

''(B) the steps necessary to apply for that assistance.

''(h) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General of the United States shall conduct a study detailing—

''(1) any Federal laws that pose an obstacle to effective evacuation planning;

''(2) any State or local laws that pose an obstacle to effective evacuation planning; and

''(3) the political and economic pressures that discourage governors, county executives, mayors, and other officials from—

''(A) ordering an evacuation; or

''(B) conducting exercises for the mass evacuation of people.''.

By Mr. DEWINE:

S. 2046. A bill to establish a National Methamphetamine Information Clearinghouse to promote sharing information regarding successful law enforcement, treatment, environmental, social services, and other programs related to the production, use, or effects of methamphetamine and grants available for such programs, and for the other purposes; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, today I am introducing a bill that would create a National Methamphetamine Information Clearinghouse (NMIC). This web-based source of information would promote sharing of ''best practices'' regarding law enforcement, treatment, environmental, social services, and other programs to combat the production, use, and effects of methamphetamine.

The purpose of the NMIC is to make a one-stop shop, where all the ''best practices'' in the fight against meth can be found—information from law enforcement, treatment-based organizations, social services and environmental agencies. It will be a website providing information that agencies and organizations submit, describing what has worked in their local communities. The people who have had success with addressing meth and meth-related issues will be providing this information. Additionally, there will be information and links regarding available grants for establishing and maintaining anti-meth programs.

The NMIC will serve two distinct populations—law enforcement and the broader community. The NMIC will contain a restricted access section where law enforcement will be able to post their successful strategies, training techniques, and conference notes so that other law enforcement will be able to get ideas and incorporate them in their own jurisdictions. The unrestricted portion of the website will include resources for other agencies and the public at large. For example, child protection agencies might post techniques on dealing with meth orphans, community health centers might post treatment options that provided them with some success, and environmental groups might post tips on cleaning up the toxic waste.

So, a landlord or hotel owner whose property was used as a meth lab and who wants to be able to rent out the property again, or the mother who wants to figure out if her child is a meth addict—and what to do if she is they would all be able to find useful information on the site.

One of our challenges in the fight against meth is finding those who need assistance and connecting them with those who can help—and that is exactly what this clearinghouse can do. Many people and organizations that have had some success in controlling meth are more than willing to share the techniques they found that work, if only they knew who needed the information. And, there are those who are just starting to attack the meth problem in their communities and need guidance as to how to make that start an effective one. The NMIC can help bring those groups of people together and enhance everyone's ability to fight the plague of meth.

NMIC will be housed under the auspices of the Department of Justice and

will be governed by an Advisory Council comprised of 10 members from a variety of agencies and organizations. It is this Council who will monitor the submissions to the Clearinghouse and make sure that the information found on the site is accurate, up-to-date, and useful.

The bill I am introducing today provides the basic outline of this idea, and over the next two months, I will be working closely with law enforcement and community groups to modify and improve the Clearinghouse before we move forward with this legislation next year. I look forward to that process and encourage all of my colleagues to join me in this effort to combat the meth problem.

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

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

S. 2046

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 ''National Methamphetamine Information Clearinghouse Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Council'' means the National Methamphetamine Advisory Council established under section 3(b)(1);

(2) the term ''drug endangered children'' means children whose physical, mental, or emotional health are at risk because of the production, use, or effects of methamphetamine by another person;

(3) the term ''National Methamphetamine Information Clearinghouse'' or ''NMIC'' means the information clearinghouse established under section 3(a); and

(4) the term ''qualified entity'' means a State or local government, school board, or public health, law enforcement, nonprofit, or other nongovernmental organization providing services related to methamphetamines.

SEC. 3. ESTABLISHMENT OF CLEARINGHOUSE AND ADVISORY COUNCIL.

(a) CLEARINGHOUSE.—There is established, under the supervision of the Attorney General of the United States, an information clearinghouse to be know as the National Methamphetamine Information Clearinghouse.

(b) ADVISORY COUNCIL.—

(1) IN GENERAL.—There is established an advisory council to be known as the National Methamphetamine Advisory Council.

(2) MEMBERSHIP.—The Council shall consist of 10 members appointed by the Attorney General—

(A) not fewer than 3 of whom shall be representatives of law enforcement agencies;

(B) not fewer than 4 of whom shall be representatives of nongovernmental and nonprofit organizations providing services related to methamphetamines; and

(C) 1 of whom shall be a representative of the Department of Health and Human Services.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for 3 years. Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment.

SEC. 4. NMIC REQUIREMENTS AND REVIEW.

(a) IN GENERAL.—The NMIC shall promote sharing information regarding successful law enforcement, treatment, environmental, social services, and other programs related to the production, use, or effects of methamphetamine and grants available for such programs.

(b) COMPONENTS.—The NMIC shall include—

(1) a toll-free number; and

(2) a website that—

(A) provides information on the short-term and long-term effects of methamphetamine use;

(B) provides information regarding methamphetamine treatment programs and programs for drug endangered children, including descriptions of successful programs and contact information for such programs;

(C) provides information regarding grants for methamphetamine-related programs, including contact information and links to websites;

(D) allows a qualified entity to submit items to be posted on the website regarding successful public or private programs or other useful information related the production, use, or effects of methamphetamine;

(E) includes a restricted section that may only be accessed by a law enforcement organization that contain successful strategies, training techniques, and other information that the Council determines helpful to law enforcement agency efforts to combat the production, use or effects of methamphetamine;

(F) allows public access to all information not in a restricted section; and

(G) contains any additional information the Council determines may be useful in combating the production, use, or effects of methamphetamine.

(c) REVIEW OF POSTED INFORMATION.—

(1) IN GENERAL.—Not later than 30 days after the date of submission of an item by a qualified entity, the Council shall review an item submitted for posting on the website described in subsection (b)(2)—

(A) to evaluate and determine whether the item, as submitted or as modified, meets the requirements for posting; and

(B) in consultation with the Attorney General, to determine whether the item should be posted in a restricted section of the website.

(2) DETERMINATION.—Not later than 45 days after the date of submission of an item, the Council shall—

(A) post the item on the website described in subsection (b)(2); or

(B) notify the qualified entity that submitted the item regarding the reason such item shall not be posted and modifications, if any, that the qualified entity may make to allow the item to be posted.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) for fiscal year 2006—

(A) $1,000,000 to establish the NMIC and Council; and

(B) such sums as are necessary for the operation of the NMIC and Council; and

(2) for each of fiscal years 2007 through 2010, such sums as are necessary for the operation of the NMIC and Council.

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

S. 2047. A bill to promote healthy communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, today, I am introducing the Healthy Communities Act of 2005, and I am pleased to have the support of my good friend and colleague Senator HILLARY RODHAM CLINTON.

Over the last few decades, our medical researchers and scientists have developed increasingly sophisticated and high tech methods to diagnose and treat disease. Yet, this approach has caused us to lose sight of the need for preventing diseases on the front-end, with greater investment in basic public health interventions that too often get short shrift.

Today, I would like to bring it back to the basics and talk about environmental quality. The air we breathe, the food we eat, the houses in which we live, and the parks in which our children play—all of these factors contribute to our health. Environmental health, as defined by the World Health Organization, includes both the direct, damaging effects of chemicals, radiation, and some biological agents, and the effects on health and well-being of the broad physical, psychological, social, and aesthetic environment. The legislation that I have introduced draws attention to that aspect of the environment that is the physical environment—the toxicants and pollutants that we may not notice, but are present in our everyday surroundings and taking a toll on our health.

My home State of Illinois faces a number of environmental challenges, including high levels of lead poisoning. It is estimated that over 400,000 children in this country suffer from elevated blood lead levels. Chicago has the unfortunate distinction of ranking number 1 for children with elevated blood lead levels. 6,691 children have elevated blood lead levels, which is 50 percent higher than the number of children in the second ranked city of Philadelphia. Elevated blood levels are known to cause behavioral and learning problems, slowed growth, impaired hearing and damage to the kidneys, brain and bone marrow. Adults are not exempt from lead toxicity—poisoned adults suffer pregnancy difficulties, high blood pressure, digestive problems, nerve disorders, memory and concentration problems, and muscle and joint pain. Lead poisoning is completely preventable, and although our agencies have made good progress, we can and must do more to address this issue.

Obviously lead is only one of many toxicants and pollutants with which we must contend. Different areas of the U.S. face unique challenges—States like California are grappling with the repercussions of air pollution, while Massachusetts and others in the Northeast are challenged with high levels of mercury in the water. As much as we know about these hazards, the effects of many chemicals are unknown.

Less than half of the chemicals produced in this country in quantities greater than 10,000 pounds have been tested for their potential human toxicity, with less than 10 percent studied to assess effects on development. This lack of knowledge has serious health repercussions—in children, environmental toxins are estimated to cause

up to 35 percent of asthma cases, up to 10 percent of cancer cases, and up to 20 percent of neurobehavioral disorders. Overall, an estimated 25 percent of preventable illnesses worldwide can be attributed to poor environmental quality. Diseases such as cancer, heart disease, asthma, birth defects, infertility, and obesity are all caused or exacerbated by toxicants or pollutants in the environment.

Minority Americans are significantly more likely to be affected than other Americans. Some studies have found that 3 of every 5 African- and Latino Americans live in communities with one or more toxic waste sites. Communities with existing incinerators, and those that are proposed for placement of new incinerators, have substantially higher numbers of minority residents. Minority Americans are already plagued with higher rates of death and disease, and fewer health resources in their neighborhoods. As we focus our efforts on environmental health, we must be cognizant that some groups are disproportionately affected by federal policies and decision-making, and deserve careful attention.

The Healthy Communities Act of 2005 addresses environmental health concerns in a comprehensive fashion, building upon many of the successful federal initiatives and filling in gaps in other critical areas. The bill establishes an independent advisory committee to provide recommendations across all relevant Federal agencies. It asks the CDC and the EPA to assess and report the environmental public health of the nation, and each State. The Health Action Zone Program will provide intense Federal attention and resources to clean up and address the health needs of the nation's most blighted communities. Environmental research is expanded, including biomonitoring and health tracking initiatives. Finally, the Act promotes environmental health workforce programs at the CDC and the NIH.

The Healthy Communities Act of 2005 will increase national attention on the importance of the environment, and its relationship to good health. As we work to make our future stronger for our communities, let us look to our past. In the National Environmental Policy Act (NEPA) of 1969, Congress wrote that it is the continuing responsibility of the Federal Government to assure that all Americans live in ''safe, healthful and aesthetically and culturally pleasing surroundings.'' Almost forty years later, our responsibility to the American people continues. I encourage all of my colleagues to join me and support passage of this bill.

By Mr. OBAMA:

S. 2048. A bill to direct the Consumer Product Safety Commission to classify certain children's products containing lead to be banned hazardous substances; to the Committee on Commerce, Science, and Transportation.

Mr. OBAMA. Mr. President, I rise today to introduce the Lead Free Toys Act of 2005, which directs the Consumer Product Safety Commission to intensify efforts to reduce lead exposure for children.

The unfortunate reality for many children—particularly in low-income and minority households—is the continued presence of high blood lead levels. Over 400,000 children in this country have elevated blood lead levels, with my own hometown of Chicago having the largest concentration of these children.

Lead is a highly toxic substance that can produce a range of health problems in young children, including IQ deficiencies, reading and learning disabilities, impaired hearing, reduced attention spans, hyperactivity, and damage to the kidneys, brain and bone marrow. Even low levels of blood lead in pregnant women, infants and children can lead to impaired cognitive abilities, fetal organ development and behavioral problems.

We know that lead poisoning is completely preventable. As the Nation has increased efforts to reduce environmental lead exposure, the number of children with high blood levels has steadily dropped. Restricting lead in gasoline and paint represent two major accomplishments in this regard. But much work remains to be done.

Earlier today I introduced the Healthy Communities Act of 2005, to strengthen Federal, State and local efforts to address environmental health issues in communities already affected by lead and other toxins. However, we need to take greater proactive steps to prevent contamination, and the Lead Free Toys Act of 2005 will help us do just that.

Disturbingly, lead is present in a number of toys and other frequently used objects by young children. According to research conducted by the National Center for Environmental Health, about half of tested lunch boxes have unsafe levels of lead. The highly popular Angela Anaconda lunch box was found to have 56,400 parts per million of lead, which is more than 90 times the 600 parts per million legal limit for lead in paint for children's products. Other lunch boxes showed levels of lead between two and twenty-five times the legal limit for lead paint in children's products. In most cases, the highest lead levels were found in the lining of lunch boxes, where lead could come into direct contact with food.

This problem is not limited to lunchboxes. One study found that 60 percent of more than 400 pieces of costume jewelry purchased at major department stores contain dangerous amounts of lead. From September 2003 through July 2004, there were 3 recalls of nearly 150 million pieces of toy jewelry because of toxic levels of lead.

This past August the Centers for Disease Control updated their ''Preventing Lead Poisoning in Young Children'' statement calling for the elimination of all nonessential uses of lead in children's products. Specifically, the CDC urged a more systematic approach to identifying lead-contaminated items and prohibiting their sale before children are exposed, rather than usual recall efforts after exposure has occurred.

The Consumer Product Safety Commission leads our national efforts to safeguard our children from potentially dangerous objects. However, the Commission has dragged its feet in aggressively addressing the problem of lead in toys. The Lead Free Toys Act, introduced by my colleague Congressman HENRY WAXMAN earlier this year, requires the Consumer Product Safety Commission to prescribe regulations classifying any children's product containing lead as a banned hazardous substance under the Hazardous Substances Act. It defines ''children's product containing lead'' as any consumer product marketed or used by children under age 6 that contains more than trace amounts of lead as determined by the Commission and prescribed by regulations. The Act also requires the Commission to issue standards for reduction in lead in electronic devices.

It's a national disgrace that toys that could pose a serious and significant danger to children are readily available in our department stores and markets. The Lead Free Toys Act of 2005 will help us keep our children safe and healthy, and contribute to national efforts to reduce lead exposure. I ask each of my colleagues to help support this Act.

By Mr. DOMENICI (for himself, Mr. DORGAN, and Mr. TALENT):

S. 2049. A bill to improve the security of the United States borders and for other purposes; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, I rise today with my friend from North Dakota, Senator DORGAN, and my friend from Missouri, Senator TALENT, to introduce a bill of critical importance to the security of our borders: the Border Modernization and Security Act of 2005.

Securing our borders is the first necessary step towards immigration reform, and I believe the legislation I am introducing makes an enormous leap in the right direction.

Our bill builds upon legislation we introduced in the last Congress to improve our port of entry infrastructure as well as a lot of good ideas proposed by other Senators in this Congress, and adds some provisions that I think are important to a comprehensive border security and immigration reform effort.

The Border Modernization and Security Act increases the number of Customs and Border Protection (CBP) officers and Immigration and Customs Enforcement (ICE) agents each by 1000 for each of fiscal years 2007 through 2011. These personnel are necessary to improve our enforcement at ports of entry and within the United States, and increasing the number of these employees goes hand in hand with our recent efforts to increase the number of

border patrol agents who are enforcing the law along our international borders. Along this same line, the bill allows the Department of Homeland Security (DHS) to support its border and immigration forces with National Guard personnel and volunteer retired law enforcement officers, provides for an increase in the number of DHS alien and immigration investigative personnel, and increases the number of Deputy Marshals to investigate criminal immigration matters.

Increasing the number of DHS employees alone will not solve our border problems. Unauthorized aliens also cause a significant burden on our courts. For example, for the 12-month period ending September 30, 2004, 364 felony cases per judge were filed in the New Mexico District. It is apparent how burdensome this number is for my border State's court when you consider that the national average of felony cases filed per judge is 88. To help with these high caseload levels, our bill increases the number of DHS immigration attorneys, federal defenders, Office of Immigration Litigation attorneys, assistant US Attorneys, and immigration judges.

Increased personnel is only one aspect of our effort to secure the border. Any border security effort must provide DHS personnel with necessary technologies and assets. To that end, our bill authorizes funds for the Department to acquire new technologies, construct roads, fences, and barriers, purchase air assets, vehicles, and other equipment, maintain temporary and permanent border checkpoints, and construct the appropriate facilities to support the increased number of DHS personnel being hired. Such assets are invaluable tools for our CBP and ICE employees, and we must make sure those men and women have what they need. We also provide for up to 15,000 new detention beds for unauthorized aliens in our bill.

Another area Congress must address is our land port of entry infrastructure. No American border has undergone a comprehensive infrastructure overhaul since 1986, when Senator Dennis DeConcini of Arizona and I put forth a $357 million effort to modernize the southwest border. A great deal has changed in the past nineteen years. More importantly, much has changed since September 11, 2001. Congress has passed legislation to improve security at airports and seaports, but we have not yet addressed the needs of our busiest ports, located on the United States' northern and southwestern land borders. The Border Modernization and Security Act would change that and would prevent terrorists from exploiting weaknesses at our land ports.

My bill requires the General Service Administration (GSA) to identify port of entry infrastructure and technology improvement projects that would enhance homeland security. The GSA would work with the Department of Homeland Security to prioritize and implement these projects based on needs along the border. The Secretary of Homeland Security would also have to prepare a Land Border Security Plan to assess the vulnerabilities at each port of entry located on the northern border or the southern border. This plan will require the cooperation of Federal, State and local entities involved at our borders to ensure that everyone who plays a role in border security is consulted about the plan.

The Border Modernization and Security Act would also modernize homeland security along the United States' borders by implementing technology demonstration programs to test and evaluate new port of entry and border security technologies. Because equipment and technology alone will not solve the security problems on our border, these test sites will also house facilities to provide the necessary training to personnel who must implement and use these technologies under realistic conditions.

We must also improve the enforcement of existing immigration laws. Our bill authorizes funds for the Department of Homeland Security to expand its Expedited Removal Procedures so DHS can expeditiously return non-Mexican illegal aliens who have spent less than 14 days in the US and who are apprehended within 100 miles of the international border to the alien's country of origin. We also allow DHS to create an automated biometric entry and exit data system at our land ports of entry so we can more accurately keep track of who is entering and leaving the US.

In order for the Department to more easily identify and remove unauthorized aliens who commit crimes under State law and are held in State and local prisons, we authorize the expansion of DHS' Institutional Removal Program. Because of the burden these aliens place on our State and local prisons, DHS will be responsible for reimbursing prisons that detain an alien after the alien has completed his prison sentence in order to effectuate the alien's transfer to federal custody.

Along the same line, the Border Modernization and Security Act provides additional assistance to States that are impacted by unauthorized aliens who commit crimes. I know first hand the impact such aliens have on our State and local prisons from talking to prosecutors and judges in New Mexico, so our bill reauthorizes the State Criminal Alien Assistance Program to help our States with the costs of incarcerating these aliens. Additionally, the bill allows for the reimbursement of State and local costs of processing illegal aliens through the criminal justice system and creates a new grant program for State, local, and Indian tribe law enforcement agencies who incur costs related to border security activities.

I believe that these measures are an important part of addressing this nation's homeland security needs, and I am pleased to introduce this bill today with Senators DORGAN and TALENT.

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

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

S. 2049

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 ''Border Security and Modernization Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(3) STATE.—Except as otherwise provided, the term ''State'' has the meaning given that term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(36)).

SEC. 3. CONSTRUCTION.

Nothing in this Act may be construed to require law enforcement personnel of a State or political subdivision of a State to—

(1) report the identity of a victim of, or a witness to, a criminal offense to the Secretary for immigration enforcement purposes;

(2) arrest such victim or witness for a violation of the immigration laws of the United States; or

(3) enforce the immigration laws of the United States.

TITLE I—BORDER PROTECTION

Subtitle A—Personnel and Training

SEC. 101. PERSONNEL OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for full-time active duty officers of the Bureau of Customs and Border Protection of the Department for such fiscal year.

(2) IMMIGRATION AND CUSTOMS ENFORCEMENT INSPECTORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(3) INVESTIGATIVE PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by paragraph (2), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of positions for investigative personnel within the Department to investigate alien smuggling and immigration status violations for such fiscal year.

(4) LEGAL PERSONNEL.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters for such fiscal year.

(5) WAIVER OF FTE LIMITATION.—The Secretary is authorized to waive any limitation on the number of full-time equivalent personnel employed by the Department to fulfill

the requirements of paragraph (1) and the amendment made by paragraph (2).

(b) TRAINING.—The Secretary shall provide appropriate training for the agents, officers, inspectors, and associated support staff of the Department on an ongoing basis to utilize new technologies and techniques and to ensure that the proficiency levels of such personnel are acceptable to protect the international borders of the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this section.

SEC. 102. PERSONNEL OF THE DEPARTMENT OF JUSTICE AND OTHER ATTORNEYS.

(a) LITIGATION ATTORNEYS.—During each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice for such fiscal year.

(b) UNITED STATES ATTORNEYS.—During each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of United States Attorneys to litigate immigration cases in the Federal courts for such fiscal year.

(c) UNITED STATES MARSHALS.—During each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of Deputy United States Marshals to investigate criminal immigration matters.

(d) IMMIGRATION JUDGES.—During each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of immigration judges for such fiscal year.

(e) DEFENSE ATTORNEYS.—During each of the fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations for such purpose, increase by not less than 100 the number of attorneys in the Federal Defenders Program for such fiscal year.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section, including the hiring of necessary support staff.

SEC. 103. USE OF THE NATIONAL GUARD FOR BORDER PROTECTION ACTIVITIES.

(a) IN GENERAL.—Section 112 of title 32, United States Code, is amended—

(1) by striking ''drug interdiction and counter-drug activities'' each place it appears and inserting ''drug interdiction, counter drug, and border activities''; and

(2) in subparagraphs (A) and (B) of subsection (e)(1), by striking ''drug interdiction or counter-drug activities'' each place it appears and inserting ''drug interdiction, counter-drug, or border activities''.

(b) DEFINITION OF DRUG INTERDICTION, COUNTER-DRUG, AND BORDER ACTIVITIES.—Subsection (h)(1) of such section is amended to read as follows:

''(1) The term 'drug interdiction, counter-drug, and border activities', with respect to the National Guard of a State, means the use of National Guard personnel in—

''(A) drug interdiction and counter-drug law enforcement activities, including drug demand reduction activities authorized by the law of the State and requested by the Governor of the State; or

''(B) activities conducted in cooperation with personnel of the Department of Homeland Security to secure the international borders of the United States, including constructing roads, fencing, and vehicle barriers, assisting in search and rescue operations conducted by personnel of the Department of Homeland Security, and monitoring international borders, and excluding any law enforcement activities conducted by personnel of the Department of Homeland Security.''.

SEC. 104. DEPUTY BORDER PATROL AGENT PROGRAM.

(a) AUTHORITY TO ESTABLISH.—The Secretary may establish a Deputy Border Patrol Agent Program (in this section referred to as the ''Program'') in the Office of Border Patrol.

(b) PURPOSE.—The purpose of the Program shall be to establish a volunteer force of trained, retired law enforcement officers to assist the Secretary in carrying out the mission of the Department to achieve operational control of the borders of the United States.

(c) QUALIFICATIONS.—An individual may participate as a volunteer in the Program only if such individual is a retired law enforcement officer, who is or was previously licensed by a Federal or State authority to enforce Federal, State, or local penal offenses.

(d) UTILIZATION OF VOLUNTEERS.—The Secretary may utilize an individual who participates as a volunteer in the Program to provide such border security functions that the Secretary determines are appropriate.

(e) TRAINING AND OTHER REQUIREMENTS.—The Secretary may require an individual who participates as a volunteer in the Program to participate in such training, testing, and other requirements that the Secretary determines are appropriate.

(f) SWEARING IN.—Upon completion of any training, testing, or other procedures required by the Secretary, an individual who participates in the Program shall be sworn in and assigned to the Office of Border Patrol.

(g) ASSIGNMENT OF VOLUNTEERS.—The Secretary may assign individuals participating in the Program to provide patrol services at facilities and locations along the international borders of the United States.

(h) OVERSIGHT OF AGENTS.—The Secretary, acting through the Commissioner of the Bureau of Customs and Border Protection of the Department, shall have oversight of all individuals participating in the Program. Such volunteers shall serve at the pleasure of the Secretary, acting through the Commissioner of the Bureau of Customs and Border Protection.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 105. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—The Secretary shall provide appropriate officers of the Bureau of Customs and Border Protection of the Department with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement of such Department.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all officers of the Bureau of Customs and Border Protection with access to the Forensic Document Laboratory.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

Subtitle B—Infrastructure

SEC. 111. MODERNIZATION OF BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Customs and Border Protection of the Department.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

(b) BORDER TECHNOLOGIES, ASSETS, AND CONSTRUCTION.—

(1) ACQUISITION.—The Secretary shall procure technologies necessary to support the mission of the Department to achieve operational control of the international borders of the United States. In determining what technologies to procure, the Secretary shall consult with the Secretary of Defense and the head of the National Laboratories and Technology Centers of the Department of Energy.

(2) CONSTRUCTION OF BORDER CONTROL FACILITIES.—The Secretary shall construct roads, acquire vehicle barriers, and construct fencing necessary to support such mission.

(3) ASSETS.—The Secretary shall acquire unmanned aerial vehicles, police-type vehicles, helicopters, all terrain vehicles, interoperable communications equipment, firearms, sensors, cameras, lighting and such other equipment and assets as may be necessary to support such mission.

(4) FACILITIES.—The Secretary shall construct such facilities as may be necessary to support the number of employees of the Department who are hired pursuant to any provision of this Act or of subtitle B of title V of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3733).

(5) CHECKPOINTS.—The Secretary may construct and maintain temporary or permanent checkpoints on roadways located in close proximity to the northern border or the southern border to support such mission.

(c) PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.—

(1) REQUIREMENT TO UPDATE.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United States, not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, page 67) and submit such updated study to Congress.

(2) CONSULTATION.—In preparing the updated studies required by paragraph (1), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(3) CONTENT.—Each updated study required by paragraph (1) shall—

(A) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(B) include the projects identified in the National Land Border Security Plan required by subsection (d); and

(C) prioritize each project described in subparagraph (A) or (B) based on the likelihood that the project will—

(i) fulfill immediate security requirements; and

(ii) facilitate trade across the borders of the United States.

(4) PROJECT IMPLEMENTATION.—

(A) IN GENERAL.—The Commissioner shall implement the infrastructure and technology improvement projects described in each updated study required by paragraph (1) in the order of priority assigned to each project under paragraph (3)(C).

(B) EXCEPTION.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

(d) NATIONAL LAND BORDER SECURITY PLAN.—

(1) REQUIREMENT FOR PLAN.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United States, not later than January 31 of each year, the Secretary shall prepare a National Land Border Security Plan and submit such plan to Congress.

(2) CONSULTATION.—In preparing the plan required by paragraph (1), the Secretary shall consult with the Under Secretary for Information Analysis and Infrastructure Protection and the Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border.

(3) VULNERABILITY ASSESSMENT.—

(A) IN GENERAL.—The plan required by paragraph (1) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(B) PORT SECURITY COORDINATORS.—The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(i) to assist in conducting a vulnerability assessment at such port; and

(ii) to provide other assistance with the preparation of the plan required by paragraph (1).

(e) EXPANSION OF TRADE SECURITY PROGRAMS.—

(1) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope (including personnel needs) of the Customs-Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(i) the Business Anti-Smuggling Coalition;

(ii) the Carrier Initiative Program;

(iii) the Americas Counter Smuggling Initiative;

(iv) the Free and Secure Trade Initiative; and

(v) other Industry Partnership Programs administered by the Commissioner.

(2) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system with maquiladoras to improve supply chain security.

(f) PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United States, the Secretary shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions. The Commissioner of the Bureau of Customs and Border Protection shall oversee the program in consultation and cooperation with other divisions of the Department.

(2) TECHNOLOGY AND FACILITIES.—

(A) TECHNOLOGY TESTED.—Under the demonstration program, the Secretary shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(B) FACILITIES DEVELOPED.—At a demonstration site selected pursuant to paragraph (3)(B), the Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation.

(3) DEMONSTRATION SITES.—

(A) NUMBER.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(B) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(i) have been established not more than 15 years before the date of enactment of this Act;

(ii) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(iii) have serviced an average of not more than 50,000 vehicles per month in the 12 full months preceding the date of enactment of this Act.

(4) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in paragraph (3) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(5) REPORT.—

(A) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this subsection.

(B) CONTENT.—Each report submitted pursuant to subparagraph (A) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

(g) BORDER PATROL TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—In order to carry out the mission of the Department to achieve operational control of the international borders of the United States, the Secretary shall carry out a technology demonstration program to test and evaluate new border security technologies and train personnel under realistic conditions.

(2) TECHNOLOGY AND FACILITIES.—

(A) TECHNOLOGY TESTED.—Under the demonstration program, the Secretary shall test technologies that enhance border security, including those related to communications, sensory devices, personal detection, and decision support.

(B) FACILITIES DEVELOPMENT.—At a site where border patrol agents participate in law enforcement training, the Secretary shall develop facilities to carry out the demonstration program, including providing appropriate training to law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation.

(3) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize the demonstration site described in this subsection to test technologies that enhance border security, including those related to communications, sensory devices, personal detection, and decision support.

(4) REPORT.—

(A) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at the demonstration site under the technology demonstration program established under this subsection.

(B) CONTENT.—Each report submitted pursuant to subparagraph (A) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Department.

(h) INTERNATIONAL AGREEMENTS.—Funds authorized in this Act may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following:

(1) For each of the fiscal years 2007 through 2011, $1,000,000,000 to carry out subsection (b).

(2) For each of the fiscal years 2007 through 2011, such sums as may be necessary to carry out paragraph (1) of subsection (c).

(3) For each of the fiscal years 2007 through 2011, $100,000,000 to carry out paragraph (4) of subsection (c).

(4) For each of the fiscal years 2007 through 2011, such sums as may be necessary to carry out subsection (d).

(5)(A) For fiscal year 2007, $30,000,000 to carry out paragraph (1) of subsection (e); and

(B) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out such paragraph.

(6)(A) For fiscal year 2007, $5,000,000 to carry out paragraph (2) of subsection (e); and

(B) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out such paragraph.

(7)(A) For fiscal year 2007, $50,000,000 to carry out subsection (f), and not more than $10,000,000 of such amount may be expended for technology demonstration program activities at any 1 port of entry demonstration site during such fiscal year.

(B) For each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out subsection (f), and not more

than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any such fiscal year.

(8) For each of the fiscal years 2007 through 2011, $10,000,000 to carry out subsection (g).

SEC. 112. DETENTION SPACE AND REMOVAL CAPACITY.

Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended by striking ''8,000'' and inserting ''15,000''.

SEC. 113. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FEDERAL FACILITIES IDENTIFIED FOR CLOSURE.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire additional detention facilities in the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Deputy Assistant Director of the Office of Detention and Removal Operations within the Bureau of Immigration and Customs Enforcement of the Department.

(3) USE OF FEDERAL FACILITIES IDENTIFIED FOR CLOSURE.—In acquiring detention facilities under this subsection, the Secretary shall, to the maximum extent practical, request the transfer of appropriate portions of military installations approved for closure or realignment and any other Federal facilities identified for closure.

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

SEC. 114. ALTERNATIVES TO DETENTION.

The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico to study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices and intensive supervision programs, that ensure that alien's appearance at court and compliance with removal orders.

Subtitle C—Grants for States

SEC. 121. BORDER LAW ENFORCEMENT GRANTS.

(a) LAW ENFORCEMENT AGENCY DEFINED.—In this section, the term ''law enforcement agency'' means a Tribal, State, or local law enforcement agency.

(b) AUTHORITY TO AWARD GRANTS.—The Secretary is authorized to award grants to an eligible law enforcement agency to provide assistance with costs associated with State border security efforts, including efforts to combat criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to an international border of the United States.

(c) CRITERIA.—The Secretary shall award grants under subsection (b) on a competitive basis, considering criteria including—

(1) the law enforcement agency's distance from the international border, with communities closer to the border given priority because of their proximity;

(2) population, with smaller communities given priority;

(3) the criminal caseload of the law enforcement agency, based upon the number of felony criminal cases filed per judge in the United States district court located in the district that the law enforcement agency has jurisdiction over, with priority given to those with higher caseloads;

(4) the percentage of undocumented aliens residing in the law enforcement agency's State compared to the total number of such aliens residing in all States, based on the most recent decennial census; and

(5) the percentage of undocumented alien apprehensions in the law enforcement agency's State in that fiscal year compared to the total of such apprehensions for all such States for that fiscal year.

(d) USE OF FUNDS.—Grants awarded under subsection (b) shall be used to provide additional resources for a law enforcement agency to address criminal activity occurring near an international border of the United States, including—

(1) law enforcement technologies;

(2) equipment such as police-type vehicles, all terrain vehicles, firearms, sensors, cameras, and lighting; and

(3) such other resources as are available to assist the law enforcement agency.

(e) APPLICATION.—The head of a law enforcement agency seeking to apply for a grant under this section shall submit an application to the Secretary at such time, in such manner, and with such information as the Secretary may require.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

TITLE II—IMMIGRATION PROVISIONS

SEC. 201. EXPEDITED REMOVAL BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended—

(1) in subsection (b)(1)(A)(i), by striking ''the officer'' and inserting ''a supervisory officer''; and

(2) in subsection (c), by adding at the end the following:

''(4) EXPANSION.—The Secretary of Homeland Security shall make the expedited removal procedures under this subsection available in all border patrol sectors on the southern border of the United States as soon as operationally possible.

''(5) TRAINING.—The Secretary of Homeland Security shall provide employees of the Department of Homeland Security with comprehensive training on the procedures authorized under this subsection.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2007 through 2011 to carry out the amendments made by this section.

SEC. 202. CANCELLATION OF VISAS.

Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1), by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the aliens nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the aliens nationality or foreign residence''.

SEC. 203. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) GROUNDS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who fails to comply with a lawful request for biometric data is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security may waive the application of subparagraph (C) of subsection (a)(7) for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(b) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 of the Immigration and Nationality Act (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g); and

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

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(c) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) of the Immigration and Nationality Act (8 U.S.C. 1185(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is—

''(i) entering the United States; and

''(ii) not regarded as seeking an admission into the United States pursuant to section 101(a)(13)(C).''.

(d) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMAN.—Section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) is amended by inserting ''Immigration officers are authorized to collect biometric data from any alien crewman seeking permission to land temporarily in the United States.'' after ''this title''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended in subsection (l)—

(1) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(2) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008, 2009, and 2010 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 204. REIMBURSEMENT FOR STATES.

(a) INCARCERATION COSTS.—Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry out this subsection—

''(A) $750,000,000 for fiscal year 2007;

''(B) $850,000,000 for fiscal year 2008; and

''(C) $950,000,000 for each of the fiscal years 2009 through 2011.''.

(b) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—

(1) IN GENERAL.—The Secretary shall reimburse States and units of local government for costs associated with processing illegal aliens through the criminal justice system, including—

(A) indigent defense;

(B) criminal prosecution;

(C) autopsies;

(D) translators and interpreters; and

(E) courts costs.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of the fiscal years 2007 through 2011 to carry out paragraph (1).

SEC. 205. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(i) Notwithstanding any other provision of law, the Secretary of Homeland Security,

the Attorney General, or any court may not—

''(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court,

until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.''.

SEC. 206. RELEASE OF ALIENS FROM NON-CONTIGUOUS COUNTRIES.

Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

''(2) may release the alien on bond of not less than $5,000 with security approved by, and containing conditions prescribed by, the Secretary of Homeland Security; but''.

SEC. 207. COUNTRIES THAT DO NOT ACCEPT RETURN OF NATIONALS.

Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended—

(1) by striking ''On being notified'' and inserting the following:

''(1) IN GENERAL.—Upon notification''; and

(2) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(3) by adding at the end the following:

''(2) DENIAL OF ADMISSION.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may deny admission to any citizen, subject, national or resident of that country until the country accepts the alien that was ordered removed.''.

TITLE III—PENALTIES

SEC. 301. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i), by striking ''10 years'' and inserting ''15 years'';

(B) in clause (ii), by striking ''5 years'' and inserting ''10 years''; and

(C) in clause (iii), by striking ''20 years'' and inserting ''40 years'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''one year, or both; or'' and inserting ''3 years, or both'';

(B) in subparagraph (B)—

(i) in clause (i), by adding at the end the following: ''be fined under title 18, United States Code, and imprisoned not less than 5 years nor more than 25 years;'';

(ii) in clause (ii), by striking ''or'' at the end and inserting the following: ''be fined under title 18, United States Code, and imprisoned not less than 3 years nor more than 20 years; or''; and

(iii) in clause (iii), by adding at the end the following: ''be fined under title 18, United States Code, and imprisoned not more than 15 years; or''; and

(C) by striking the matter following clause (iii) and inserting the following:

''(C) in the case of a third or subsequent offense described in subparagraph (B) and for any other violation, shall be fined under title 18, United States Code, and imprisoned not less than 5 years nor more than 15 years.'';

(3) in paragraph (3)(A), by striking ''5 years'' and inserting ''10 years''; and

(4) in paragraph (4), by striking ''10 years'' and inserting ''20 years''.

SEC. 302. INCREASED CRIMINAL PENALTIES FOR DOCUMENT FRAUD.

Section 1546 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''not more than 25 years'' and inserting ''not less than 25 years'';

(B) by inserting ''and if the terrorism offense resulted in the death of any person, shall be punished by death or imprisoned for life,'' after ''section 2331 of this title)),'';

(C) by striking ''20 years'' and inserting ''imprisoned not more than 40 years'';

(D) by striking ''10 years'' and inserting ''imprisoned not more than 20 years''; and

(E) by striking ''15 years'' and inserting ''imprisoned not more than 30 years''; and

(2) in subsection (b), by striking ''5 years'' and inserting ''10 years''.

SEC. 303. INCREASED CRIMINAL PENALTIES FOR CERTAIN CRIMES.

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 51 the following:

"CHAPTER 52—ILLEGAL ALIENS

"SEC. 1131. ENHANCED PENALTIES FOR CERTAIN CRIMES COMMITTED BY ILLEGAL ALIENS.

''(a) Any alien unlawfully present in the United States, who commits, or conspires or attempts to commit, a crime of violence or a drug trafficking offense (as defined in section 924), shall be fined under this title and sentenced to not less than 5 years in prison.

''(b) If an alien who violates subsection (a) was previously ordered removed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime, the alien shall be sentenced to not less than 15 years in prison.

''(c) A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.''.

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following:

52. Illegal aliens 1131

SEC. 304. INCREASED CRIMINAL PENALTIES FOR CRIMINAL STREET GANGS.

(a) INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

(1) by redesignating subparagraph (F) as subparagraph (J); and

(2) by inserting after subparagraph (E) the following:

''(F) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is determined by a court to be a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is inadmissible.''.

(b) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is determined by a court to be a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is deportable.''.

(c) TEMPORARY PROTECTED STATUS.—Section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)) is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(iii) the alien is determined by a court to be a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''.

TITLE IV—REMOVAL AND VIOLATION TRACKING

SEC. 401. INSTITUTIONAL REMOVAL PROGRAM.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program of the Department to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall expand the Institutional Removal Program to every State.

(3) STATE PARTICIPATION.—The appropriate officials of each State in which the Secretary is operating the Institutional Removal Program should—

(A) cooperate with Federal officials carrying out the Institutional Removal Program;

(B) expeditiously and systematically identify criminal aliens in the prison and jail populations of the State; and

(C) promptly convey the information described in subparagraph (B) to the appropriate officials carrying out the Institutional Removal Program.

(b) REPORT TO CONGRESS.—Not later than 2 years after of the date of the enactment of this Act, the Secretary shall submit a report to Congress on the participation of the States in the Institutional Removal Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 to carry out the expanded Institutional Removal Program authorized under subsection (a).

SEC. 402. AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.

(a) IN GENERAL.—Law enforcement officers of a State or political subdivision of a State are authorized to—

(1) hold an illegal alien for a period of up to 14 days after the alien has completed the alien's State or local prison sentence in order to effectuate the transfer of the alien to Federal custody when the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State or local prison sentence to be detained by an appropriate prison until personnel from the Bureau of Immigration and Customs Enforcement can take the alien into Federal custody.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall reimburse a State or a political subdivision of a State for all reasonable expenses incurred by the State or the political subdivision for the detention of an alien as described in subsection (a).

(2) COST COMPUTATION.—The amount of reimbursement provided for costs incurred carrying out subsection (a) shall be determined pursuant to a formula determined by the Secretary.

(c) TECHNOLOGY USAGE.—Technology such as videoconferencing shall be used to the maximum extent possible in order to make the Institutional Removal Program available in remote locations. Mobile access to Federal databases of aliens and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to reimburse a

State or political subdivision of a State for the detention of an illegal alien pursuant to subsection (b).

SEC. 403. USE OF THE NATIONAL CRIME INFORMATION CENTER DATABASE TO TRACK VIOLATIONS OF IMMIGRATION LAW.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have related to—

(A) any alien against whom a final order of removal has been issued;

(B) any alien who is subject to a voluntary departure agreement that has become invalid under section 240B(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1229c); and

(C) any alien whose visa has been revoked.

(2) REQUIREMENT TO PROVIDE AND USE INFORMATION.—The information described in paragraph (1) shall be provided to the National Crime Information Center, and the Center shall enter the information into the Immigration Violators File of the National Crime Information Center database if the name and date of birth are available for the individual, regardless of whether the alien received notice of a final order of removal or the alien has already been removed.

(3) REMOVAL OF INFORMATION.—Should an individual be granted cancellation of removal under section 240A of the Immigration and Nationality Act (8 U.S.C. 1229b), or granted permission to legally enter the United States pursuant to the Immigration and Nationality Act after a voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), information entered into the National Crime Information Center in accordance with paragraph (1) of this section shall be promptly removed.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether the alien has received notice of the violation or the alien has already been removed; and''.

Mr. DORGAN. Mr. President, I am pleased to join Senator DOMENICI in introducing the Border Security and Modernization Act of 2005.

Senator DOMENICI and I represent border States, but the bill we are introducing today is not one of merely regional importance. Border security is an issue that affects our country as a whole. We cannot have homeland security without strong and effective border security.

The Administration has signaled that it wants to have a vigorous debate on border security and immigration issue early next year. Our bill does not attempt to change immigration law, but it squarely addresses the border security issue.

I began working on border security long before the attacks of September 11, 2001. The Northern border is over 4,000 miles long. In the past, almost all of our resources in this country were targeted at the Southern border. It used to be that we had ports of entry at the Northern border where, at night, the only barrier was an orange rubber cone in the middle of the road. The polite people crossing at night actually stopped and removed the cone before they came across the border. Those who were not so polite would run over it at 60 miles an hour.

In 2001, before the September 11 attacks, I proposed something called the Northern Border Initiative. That bill added hundreds of Customs officers to the Northern border, and it became law. I also worked to replace the orange cones with hardened gates. But we clearly have to do much more.

The legislation we are introducing today, which Senator DOMENICI has described in detail, would devote significant new resources to our border security. Among other things, this legislation would authorize the hiring of an additional 1,000 Customs and Border Protection inspectors and Immigration and Customs Enforcement officers a year for the next five years. It would authorize the Department of Homeland Security to work with States to use National Guard and a volunteer force of retired law enforcement officers as resources to help monitor the borders. And it would have the Federal Government reimburse State governments for the cost of detaining undocumented aliens while decisions are made regarding possible deportation.

This bipartisan proposal is not about immigration. It's about border security. We need to do a better job of securing our borders, and we need to do so on an urgent basis. We hope our colleagues will join us, on a bipartisan basis, in supporting this legislation.

By Ms. SNOWE (for herself and Ms. CANTWELL):

S. 2050. A bill to establish a commission on inland waters policy; to the Committee on Commerce, Science, and Transportation.

I rise today to introduce legislation that creates a national commission on island waters policy to support the long-term sustainability of our water resources. A 2001 National Academy of Sciences report found that U.S. Federal policies and research lack the coordination necessary to respond to increasing future demands. The overarching goal of this legislation is to recommend actions that will better coordinate and improve the Federal Government's water management policies, similar to the U.S. Commission on Ocean Policy, PL 106–256.

My legislation is supported by the American Society of Limnology and Oceanography, ASLO, and the Council of Scientific Society Presidents, CSSP, representing 1.4 million scientists and science educators. I especially want to thank Dr. Peter Jumars of the School of Marine Sciences at University of Maine at Orono and Darling Marine Center and immediate past president of ASLO, for all of his extensive knowledge and assistance that helped craft the legislation.

The bill creates a commission to study the Nation's policies for inland waters—a category that would include all lakes, streams, rivers, groundwaters, estuaries, and fresh- and salt water wetlands. The stewardship of these resources is essential to human health, the ecosystem, the economy, agriculture, energy production, and the transportation sector.

The National Academy of Sciences, NAS, issued a report in 2001 describing that water resources of the United States will be subjected to more intense and a broader array of pressures in the 21st century. It found that U.S. Federal policies and research lack the coordination necessary to respond to increasing future demands. An inland waters policy commission should be viewed as an attempt to make sure our Nation's clean water laws are achieving what Congress mandated. Water policies have been very contentious in many parts of the Nation and have oftentimes pitted people and their livelihoods against preservation concerns. Only by developing greater water research and coordinating a comprehensive national policy will the conflict between anthropogenic needs and water preservation be overcome.

Mr. Chairman, in April of this year, the GAO published a report with findings that the administration is not addressing the study of water resources, agriculture, energy, biological diversity and other areas in relation to climate change as mandated under the Global Change Research Act. None of those topics has been addressed in 21 studies that the Bush administration plans to publish by September 2007, the GAO report found, even though fairly robust climate models are now making predictions about changes in rainfall globally and nationally as the climate changes. Water policy currently has no intelligent mechanism for using this information. The GAO report points out that a comprehensive study of the Nation's water resources is needed.

The bill authorizes an appropriation of $8.5 million until expended. By comparison, the U.S. Commission on Ocean Policy appropriation was set at a total of up to $6 million for fiscal years 2001 and 2002.

I hope my colleagues will take a close look at this legislation and see the great value in supporting the long-term sustainability of our Nation's water resources.

I thank the Chair.

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

S. 2051. A bill to extend eligibility for certain Federal benefits to citizens of the Freely Associated States; to the Committee on Finance.

Mr. AKAKA. Mr. President, I rise today to introduce legislation with my senior colleague from Hawaii, Senator DAN INOUYE, to provide certain Federal

public benefits for citizens of the Freely Associated State, FAS, who are residing in the United States. The bill would provide eligibility for nonemergency Medicaid, Food Stamps, Temporary Assistance to Needy Families, TANF, and Supplemental Security Income, SSI, to FAS citizens residing in the United States.

Citizens from the FAS are from the Republic of the Marshall Islands, RMI, Federated States of Micronesia, FSM, and the Republic of Palau, which are jurisdictions that have a unique political relationship with the United States. The Compact of Free Association established these nations as sovereign states responsible for their own foreign policies. However, the FAS remain dependent upon the United States for military protection and economic assistance.

Under the compact, the United States has the right to reject the strategic use of, or military access to, the FAS by other countries, which is often referred to as the ''right of strategic denial.'' In addition, the U.S. may block FAS government policies that it deems inconsistent with its duty to defend the FAS, which is referred to as the ''defense veto.'' The compact also states that the United States has exclusive military base rights in the FAS.

In exchange for these prerogatives, the United States is required to support the FAS economically, with the goal of producing self-sufficiency, and FAS citizens are allowed free entry into the United States as nonimmigrants for the purposes of education, medical treatment, and employment. Many FAS citizens reside in the State of Hawaii. Since 1997, when Hawaii began reporting its impact costs, the State has identified more than $140 million in costs associated with FAS citizens. In 2002, the State of Hawaii expended more than $32 million in assistance to FAS citizens. P.L. 108–188, the Compact of Free Association Amendments Act of 2003, provides $30 million in annual funding for compact impact assistance to be shared between the State of Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, CNMI, and American Samoa. While this funding is a positive step forward, it does not begin to reimburse the affected jurisdictions for the costs associated with FAS citizens.

This legislation would provide assistance to states and territories that shoulder the majority of the costs associated with the compact. The Federal Government must provide appropriate resources to help States meet the needs of the FAS citizens—an obligation based on a Federal commitment. It is unconscionable for a State or territory to shoulder the entire financial burden of providing necessary educational, medical, and social services to individuals who are residing in that State or territory when the obligation is that of the Federal Government. For that reason, we are seeking to provide reimbursement of these costs. It is time for the Federal Government to take up some of the financial responsibility that until now has been carried by the State of Hawaii, CNMI, Guam, and American Samoa by restoring public benefits to FAS citizens.

This bill would restore eligibility of FAS citizens for nonemergency Medicaid. FAS citizens lost many of their public benefits as a result of the Personal Responsibility and Work Opportunity, PRWORA, Act of 1996, including Medicaid coverage. FAS citizens were previously eligible for Medicaid as aliens permanently residing under color of law in the United States.

After the enactment of welfare reform, the State of Hawaii could no longer claim Federal matching funds for services rendered to FAS citizens. Yet the State of Hawaii, Guam, American Samoa, and the CNMI have continued to meet the health care needs of FAS citizens. The State of Hawaii has used its resources to provide Medicaid services to FAS citizens.

In 2003 alone, the State spent approximately $9.77 million to provide Medicaid services without receiving any federal matching funds. This represents a dramatic increase from $6.75 million in State fiscal year 2002. Furthermore, the trend in the need for health care services among FAS citizens continues to rise. During fiscal year 2004, the number of individuals served in the State of Hawaii's Medicaid program grew from 3,291 to 4,818 people based on the average monthly enrollment. This is an increase of 46 percent.

This bill would also provide eligibility for FAS citizens residing in the United States to participate in the Temporary Assistance for Needy Families and Supplemental Security Income programs. According to Hawaii's attorney general, financial assistance in the form of the Temporary Assistance to Other Needy Families, TAONF, Program, a State program, provided $5.1 million to FAS citizens in State fiscal year 2003. This continues an upward trend from $4.5 million in State fiscal year 2002. This total includes funds that go to the General Assistance Program, which supports individuals and couples with little or no income and who have a temporary, incapacitating medical condition; the aged, blind, and disabled program for FAS citizens with little or no income who are not eligible for federally-funded Supplemental Security Income; and the State's TAONF Program that assists other needy families who are not eligible for federal-funding under the Temporary Assistance to Needy Families program. The financial assistance that the State of Hawaii provides to FAS citizens in the form of TAONF is a great support to those families attempting to achieve economic stability, but it has a significant financial impact on the State's budget.

The bill would also provide eligibility for the Food Stamp Program. Mr. President, the Food Stamp Program serves as the first line of defense against hunger. It is the cornerstone of the Federal food assistance program and provides crucial support to needy households and those making the transition from welfare to work. We have partially addressed the complicated issue of alien eligibility for public benefits such as food stamps, but again, I must say it is just partial. Not only should all legal immigrants receive these benefits, but so should citizens of the FAS. Exclusion of FAS citizens from Federal, State, or local public benefits or programs is an unintended and misguided consequence of the welfare reform law. We allow certain legal immigrants eligibility in the program. Yet FAS citizens, who are not considered immigrants but who are required to up for the Selective Service if they are residing in the United States are ineligible to receiving food stamps. This bill corrects this inequity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. I also ask unanimous consent that a letter of support I received last week from Director Lillian Koller of the State of Hawaii, Department of Human Services be printed in the RECORD.

I look forward to working with my colleagues to enact this measure which is of critical importance to my State of Hawaii, which has borne the costs of these benefits for FAS citizens living in Hawaii for the past 19 years.

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

S. 2051

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

SECTION 1. EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.

(a) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

''(M) EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the specified Federal programs described in paragraph (3), paragraph (1) shall not apply to any individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with—

''(i) section 141 of the Compact of Free Association between the Government of the United States and the Government of the Federated States of Micronesia, approved by Congress in the Compact of Free Association Amendments Act of 2003;

''(ii) section 141 of the Compact of Free Association between the Government of the United States and the Government of the Republic of the Marshall Islands, approved by Congress in the Compact of Free Association Amendments Act of 2003; or

''(iii) section 141 of the Compact of Free Association between the Government of the United States and the Government of Palau, approved by Congress in Public Law 99–658 (100 Stat. 3672).''.

(b) MEDICAID AND TANF EXCEPTIONS.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the end the following:

''(G) MEDICAID AND TANF EXCEPTIONS FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the programs defined in subparagraphs (A) and (C) of paragraph (3) (relating to temporary assistance for needy families and medicaid), paragraph (1) shall not apply to any individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with a Compact of Free Association referred to in subsection (a)(2)(M).''.

(c) QUALIFIED ALIEN.—Section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)) is amended—

(1) in paragraph (6), by striking ''or'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(8) an individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with a Compact of Free Association referred to in section 402(a)(2)(M).''.

(d) CONFORMING AMENDMENT.—Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended—

(1) in subsection (f), in the matter preceding paragraph (1), by striking ''subsection (g)'' and inserting ''subsections (g) and (h)''; and

(2) by adding at the end the following:

''(h) The limitations of subsections (f) and (g) shall not apply with respect to medical assistance provided to an individual described in section 431(b)(8) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.''.

(e) EFFECTIVE DATE.—The amendments made by this Act take effect on the date of enactment of this Act and apply to benefits and assistance provided on or after that date.

STATE OF HAWAII,
DEPARTMENT OF HUMAN SERVICES,
Honolulu, HI, November 9, 2005.

Sen. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA, I am writing in support of your legislation to reinstate eligibility for Compact migrants from the Freely Associated States for various Federal programs, including Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, and Medicaid. As you know, ''Compact migrants'' refers to those who have relocated to Hawaii from the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. As you know, a high percentage of the Compact migrant population are poorly educated and live in poverty, and are thus part of the additional demand on the already strained social support systems of the State.

The Department of Human Services is the lead agency that administers social safety net programs for individuals and families in Hawaii. The amount of State resources that is being expended to care for Compact migrants has been steadily increasing as the number of migrants continues to grow. The costs to the State cannot be measured in the numbers of migrants alone. What is not reflected in the numbers of migrants alone, is that many of these migrants come to Hawaii with serious medical conditions that require costly intensive and extensive services. In 2004, the Department of Human Services alone spent over $26.6 million to provide services to over 10,800 migrants in our financial assistance, medical assistance, vocational rehabilitation, and youth services programs.

Allowing Compact migrants to be served with Federal funds under the TANF, SSI, Food Stamps, and Medicaid programs would tremendously assist the State of Hawaii. I appreciate your leadership in this area and look forward to continuing to work with you on your legislative efforts to assist Compact migrants in Hawaii.

Sincerely,

LILLIAN B. KOLLER, Esq.
Director.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 318—DESIGNATING NOVEMBER 27, 2005, AS ''DRIVE SAFER SUNDAY''

Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 318

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas everyone on the roads and highways needs to drive more safely to reduce deaths and injuries resulting from motor vehicle accidents;

Whereas the death of almost 43,000 people a year in more than 6 million highway crashes in America has been called an epidemic by Transportation Secretary Norman Mineta;

Whereas according to the National Highway Transportation Safety Administration, wearing a seat belt saved 15,434 lives in 2004; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year: Now, therefore, be it

Resolved, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be careful about safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely during the heaviest traffic day of the year, and to publicize the importance of the day using Citizen's band (CB) radios and in truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive particularly safely on the Sunday after Thanksgiving; and

(E) everyone to use the Sunday after Thanksgiving as an opportunity to educate themselves about highway safety; and

(2) designates November 27, 2005, as ''Drive Safer Sunday''.

SENATE RESOLUTION 319—COMMENDING RELIEF EFFORTS IN RESPONSE TO THE EARTHQUAKE IN SOUTH ASIA AND URGING A COMMITMENT BY THE UNITED STATES AND THE INTERNATIONAL COMMUNITY TO HELP REBUILD CRITICAL INFRASTRUCTURE IN THE AFFECTED AREAS

Ms. MIKULSKI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 319

Whereas on October 8, 2005, a magnitude 7.6 earthquake struck Pakistan, India, and Afghanistan;

Whereas the epicenter of the earthquake was located near Muzaffarabad, the capital of Pakistani-administered Kashmir, and approximately 60 miles north-northeast of Islamabad, with aftershocks and landslides continuing to affect the area;

Whereas the most affected areas are the North West Frontier Province, Northern Punjab, Pakistani-administered Kashmir, and Indian-administered Kashmir;

Whereas more than 75,000 people have died, nearly 70,000 are injured, and approximately 2,900,000 people are homeless as a result of the earthquake, and, according to the Executive Director of the United Nations Children's Fund (UNICEF), 17,000 of the dead are children;

Whereas the United States has pledged a total of $156,000,000 to provide assistance in the affected countries, with $50,000,000 to be used for humanitarian relief, $50,000,000 to be used for reconstruction, and $56,000,000 to be used to support Department of Defense relief operations;

Whereas the total amount of humanitarian assistance committed to Pakistan by the United States Agency for International Development is more than $40,000,000;

Whereas the Department of Defense has deployed approximately 875 members of the Armed Forces and 31 helicopters to aid in the earthquake relief efforts;

Whereas since October 8, 2005, United States helicopters have flown more than 1,000 missions, evacuated approximately 3,400 people, and delivered nearly 5,600,000 pounds of supplies;

Whereas the delivery of humanitarian assistance to the affected areas is difficult due to the mountainous terrain, cold weather, and damaged or collapsed infrastructure;

Whereas Secretary of State Condoleezza Rice, during her October 12, 2005, visit to Pakistan, said the United States would support the efforts of the Government of Pakistan over the long-term to provide assistance to the victims of the earthquake and rebuild areas of the country devastated by the earthquake;

Whereas the cost of rebuilding the affected areas could be in excess of $1,000,000,000; and

Whereas the recovery and reconstruction of the areas devastated by the earthquake will require the concerted leadership of the United States working with the governments of the affected countries and the international community: Now, therefore, be it

Resolved, That the Senate—

(1) commends the members of the United States Armed Forces and civilian employees of the Department of State and the United States Agency for International Development for taking swift action to assist the victims of the earthquake in South Asia that occurred on October 8, 2005;

(2) commends the international relief effort that includes the work of individual countries, numerous international organizations, and various relief and nongovernmental entities;

(3) commends the Governments of Pakistan and India for their cooperation in the common cause of saving lives and providing humanitarian relief to people on both sides of the Line of Control;

(4) encourages further cooperation between Pakistan and India on relief operations and efforts to fortify and expand peace and stability in the region as they cope with the impact of the earthquake during the winter of 2005 and the spring of 2006 and seek to rehabilitate the lives of those affected;

(5) urges the United States and the world community to reaffirm their commitment to

additional generous support for relief and long-term reconstruction efforts in areas affected by the earthquake; and

(6) urges continued attention by international donors and relief agencies to the needs of vulnerable populations in the stricken countries, particularly the thousands of children who have been left parentless and homeless by the disaster.

Ms. MIKULSKI. Mr. President, today I am submitting a resolution commending relief efforts in response to the earthquake in South Asia and urging a commitment by the United States and the international community to help rebuild critical infrastructure in the affected areas.

On October 8, 2005, a devastating magnitude 7.6 earthquake hit remote mountainous regions of northern Afghanistan, Pakistan and India. More than 75,000 people have died, nearly 70,000 have been injured and 2.8 million remain homeless. On a bipartisan basis, the President and members of Congress joined the world community in expressing our sympathy and pledging our assistance to help those suffering in the face of this terrible disaster.

But expressions of sympathy are not enough. The United States must set an example and lead the world in the humanitarian effort of recovery and rebuilding. That's why I supported the initial pledge of $156 million in humanitarian aid from the United States.

The Department of Defense, the State Department and the U.S. Agency for International Development (USAID) have taken the lead in making good on that pledge. USAID has provided more than $50.1 million in assistance to Pakistan and more than $600,000 to India. The Defense Department has so far spent about $56 million on relief efforts, including sending more than 1,000 troops into Pakistan to provide urgent medical care, delivering much-needed supplies and clearing roads and opening routes for ground transportation so more help can reach those most in need.

The American private sector has also pitched in. U.S. charities have raised more than $21 million to support earthquake relief efforts. Non-government organizations like Catholic Relief Services, Mercy Corps and Save the Children all have a presence in Pakistan and are providing aid and relief. At President Bush's request, five major American corporations are encouraging additional private donations. General Electric, Pfizer, Citigroup, Xerox and UPS are coordinating a nationwide fund raising effort through the South Asia Earthquake Relief Fund. To date, more than $46 million has been donated by American corporations.

As Americans, we can all be proud of these efforts to help the people of South Asia survive, recover and rebuild. I applaud President Bush and his administration for acting quickly to provide relief and support. But I know that, together, we can do better.

That's why I support the immediate reprogramming by USAID of assistance funds for Pakistan in the FY 2006 Foreign Operations Act to help meet the immediate, emergency need for medical care and shelter. The nearly 3 million Pakistanis left homeless by the earthquake are already facing snow and freezing rain. Conservative estimates suggest another 80,000 people could die from exposure in the next few months without a massive effort to provide thousands of heated tents. Those people can not afford to wait for the next supplemental appropriations bill—we must act now.

The United States should also engage with the international community to boost relief and recovery efforts. The United Nations has already responded, convening a donors' conference to organize international relief efforts. Economic institutions like the World Bank and the Paris Club can assist long-term recovery efforts by re-examining their debt policy toward the affected countries. And members of NATO and the European Union must step-up their support for relief and recovery. NATO in particular has unique assets that can make a difference today for people on the ground in South Asia.

I also believe the United States should make a long-term investment in rebuilding the areas devastated by the earthquake. We have strong partnerships with the nations of South Asia, and we have strong affection for their people. We must commit to work with our friends for as long as it takes to help them rebuild their infrastructure, with a particular emphasis on boosting medical resources for a health care system now overwhelmed by caring for the weak and injured.

The people and governments of Pakistan, India and Afghanistan must know that the United States will be an unwavering partner in their recovery and reconstruction. Our U.S. military and the employees of the State Department and USAID are working hard to extend support to our friends in this terrible time of need. We thank them for their service and pledge that we, too, will do our part.

SENATE CONCURRENT RESOLUTION 65—RECOGNIZING THE BENEFITS AND IMPORTANCE OF FEDERALLY-QUALIFIED HEALTH CENTERS AND THEIR MEDICAID PROSPECTIVE PAYMENT SYSTEM

Mr. BURR (for himself, Mr. OBAMA, Mr. BINGAMAN, Mr. BOND, Mr. KERRY, Mr. SMITH, Mr. SALAZAR, Mr. SCHUMER, Mr. DURBIN, Ms. COLLINS, and Ms. SNOWE) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 65

Whereas community, migrant, public housing, and homeless health centers form the backbone of the health care safety net of the United States, providing health care to nearly 6,000,000 of the 53,000,000 people enrolled in the Medicaid Program nationwide;

Whereas health center patients are more likely than the general population to be enrolled in Medicaid, with 36 percent of all health center patients enrolled in Medicaid compared to 12 percent nationally;

Whereas in 1989, Congress established the services of the Federally-qualified health center (FQHC) program as a guaranteed benefit under Medicaid to protect the valuable resources intended to assist health centers in caring for the uninsured;

Whereas health centers have doubled the number of uninsured people served since 1989, a growth rate more than twice that of the uninsured population of the United States;

Whereas health centers provided 17 percent of all Medicaid and State Health Insurance Program office visits in 2001;

Whereas Medicaid on average contributes 36 percent of a health center's budget, with the remainder provided by Federal grants, State and local governments, Medicare, private contributions, private insurance, and patient fees;

Whereas the cost of treating health center Medicaid patients is 30 to 34 percent less than the cost of treating those that receive care elsewhere, and similarly, 26 to 40 percent lower for prescription drug costs, 35 percent lower for diabetics, and 20 percent lower for asthmatics;

Whereas health center Medicaid patients are 22 percent less likely to be hospitalized for conditions that were potentially avoidable than those obtaining care elsewhere;

Whereas a bipartisan majority of Congress in 2000 established a prospective payment system (PPS) to ensure that Federally-qualified health centers receive sufficient Medicaid funding, thereby striking a balance between protecting the Federal investment in health centers and providing State flexibility in designing the payment system for these centers;

Whereas the prospective payment system has allowed States to appropriately predict and budget the cost of health center Medicaid expenditures;

Whereas the prospective payment system has allowed health centers to provide and expand primary care services to more people in need, while promoting efficient operation of and ensuring adequate Medicaid reimbursement for these centers;

Whereas without the assurance of sufficient Medicaid funding under the prospective payment system, health centers would be forced to cross-subsidize Medicaid underpayments with Federal grant dollars intended to care for the uninsured;

Whereas if the PPS were eliminated or changed, entire communities could be left without any access to primary and preventive health care services, thus undoing decades of investment by Congress in providing a health care safety net;

Whereas health centers provide cost-effective, high-quality health care to the poor of the Nation and the medically underserved, including the working poor, the uninsured, and many high-risk and vulnerable populations; and

Whereas health centers act as a vital safety net in the health delivery system of the Nation, meeting escalating health needs, and reducing health disparities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of Congress that the Medicaid prospective payment system for the Federally-qualified health center program is critical to ensuring that both Medicaid recipients and the uninsured population of the Nation have access to quality affordable primary and preventive care services; and

(2) Congress recognizes the critical role of health centers as an essential source of health care for millions of Medicaid recipients and uninsured Americans and supports continuation of the prospective payment system in helping to maintain this system of health care.

Mr. OBAMA. Mr. President, today, Senator BURR and I are introducing a resolution that reaffirms the importance of the Medicaid prospective payment system for federally qualified health centers.

Federally qualified health centers—community, migrant, public housing, and homeless health centers—form the backbone of the Nation's health care safety net. FQHC's provide cost-effective, high-quality health care to the Nation's poor and medically underserved, including the working poor, the uninsured, and many high-risk and vulnerable populations.

Federally qualified health centers serve nearly 1 of 5 low-income children. Two-thirds of health center patients are members of racial and ethnic minority groups. And over 675,000 homeless persons receive care at health centers every year.

FQHC's play a particularly critical role in serving patients enrolled in Medicaid. Health centers provide care to nearly 6 million of the 53 million people enrolled in the Medicaid Program nationwide. Thirty-six percent of all FQHC patients are Medicaid beneficiaries compared to 12 percent nationally. Notably, the cost of treating Medicaid patients at FQHCs is about one-third less than the cost for those receiving care elsewhere, with drug costs alone about 25 percent lower.

In 2000, a bipartisan majority of the Congress established a prospective payment system, or PPS, to ensure that FQHC's receive fair Medicaid reimbursement. This system strikes a balance between protecting Federal investment in such health centers and allowing State flexibility in designing the payment system for these centers. The PPS allows health centers to provide and expand primary care services to more people in need, promotes efficient operation of FQHC's, and ensures they receive adequate Medicaid reimbursement.

Today, PPS has allowed health centers to provide quality health care to nearly 15 million people nationally, while also delivering significant cost savings to the Medicaid Program. Congress should recognize the critical role of such health centers as the primary source of care for millions of Medicaid recipients and uninsured Americans and support continuation of the prospective payment system.

SENATE CONCURRENT RESOLUTION 66—AFFIRMING THAT THE INTENT OF CONGRESS IN PASSING THE NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997 WAS TO ALLOW HUNTING AND FISHING ON PUBLIC LAND WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM AND DECLARING THAT THE PURPOSE OF RESERVING CERTAIN LAND AS PUBLIC LAND IS TO MAKE THE LAND AVAILABLE TO THE PUBLIC FOR REASONABLE USES

Mr. VITTER submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 66

Whereas hunting and fishing have a long and distinguished history in the United States;

Whereas hunting and fishing remain an important part of the lifestyle and culture of people from many different areas of the country and from all walks of life;

Whereas sportsmen and sportswomen have worked for decades to ensure that public land and other land that is used for hunting and fishing is cared for, protected, and preserved;

Whereas the land that makes up the National Wildlife Refuge System has been widely used for hunting, fishing, and other sporting purposes;

Whereas in 1997, Congress passed the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105–57; 111 Stat. 1252), which clearly and directly stated that hunting and fishing, as wildlife-dependent recreational activities, could be considered compatible uses of public land, including land within the National Wildlife Refuge System; and

Whereas the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105–57; 111 Stat. 1252) passed by a vote of 419–1, demonstrating the nonpartisan nature of the legislation and the tremendous amount of support the legislation enjoyed: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) in passing the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105–57; 111 Stat. 1252), Congress demonstrated its clear intent to allow hunting and fishing on the public land within the National Wildlife Refuge System;

(2) the intent of Congress has not changed in any way since the date of enactment of that Act, and any assumption to the contrary is misguided and misinterprets the clear intent of Congress; and

(3) the general purpose of reserving certain land as public land, including the land within the National Wildlife Refuge System, is to make the land available to the public for reasonable uses, including hunting, fishing, other wildlife-dependent sports, and other outdoor purposes.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2598. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2599. Mr. CONRAD (for himself, Mr. DORGAN, and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2600. Mr. SHELBY proposed an amendment to the bill S. 467, to extend the applicability of the Terrorism Risk Insurance Act of 2002.

SA 2601. Mr. NELSON of Florida (for himself, Mr. DORGAN, Mr. LEAHY, Mr. SCHUMER, Mr. DAYTON, Ms. STABENOW, Mr. KOHL, Mrs. MURRAY, Mr. OBAMA, Mrs. CLINTON, Ms. LANDRIEU, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

SA 2602. Mr. CONRAD proposed an amendment to the bill S. 2020, supra.

SA 2603. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2604. Mrs. CLINTON (for herself and Mr. OBAMA) submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2605. Mr. OBAMA (for himself, Mr. COBURN, Mr. LAUTENBERG, Ms. SNOWE, Mr. JOHNSON, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2606. Mr. KERRY (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2607. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2608. Ms. MURKOWSKI (for herself, Mr. JOHNSON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2609. Mrs. FEINSTEIN (for herself, Mr. SUNUNU, Mr. GREGG, Mr. WYDEN, Ms. CANTWELL, Mr. FEINGOLD, Mr. BURR, Mr. MCCAIN, Mr. KERRY, Ms. COLLINS, and Mrs. CLINTON) proposed an amendment to the bill S. 2020, supra.

SA 2610. Mrs. FEINSTEIN (for herself and Mr. KERRY) proposed an amendment to the bill S. 2020, supra.

SA 2611. Mr. SCHUMER (for himself, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. FEINGOLD, Mrs. CLINTON, Mr. KERRY, Mr. LIEBERMAN, Mr. SALAZAR, Mrs. BOXER, Ms. STABENOW, Ms. MIKULSKI, Mr. KOHL, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2612. Ms. CANTWELL (for herself, Mr. BAYH, Mr. LIEBERMAN, Mr. SCHUMER, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. SALAZAR, Mr. KOHL, Mrs. MURRAY, Ms. STABENOW, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2020, supra

SA 2613. Mr. KENNEDY (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. DURBIN, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2614. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2615. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2616. Mr. KERRY (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2617. Mr. SANTORUM submitted an amendment intended to be proposed by him

to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2618. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2619. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2620. Ms. SNOWE (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2621. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2622. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2623. Mr. DURBIN (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2624. Mr. LEAHY (for himself, Mr. BENNETT, Mr. DOMENICI, Mr. SCHUMER, Mr. KENNEDY, Mr. BINGAMAN, Mr. LIEBERMAN, Mr. JOHNSON, Mr. WARNER, Mr. SANTORUM, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2625. Mr. NELSON of Nebraska (for himself, Mr. DEWINE, and Ms. COLLINS) proposed an amendment to the bill S. 2020, supra.

SA 2626. Mr. REED (for himself, Mr. KENNEDY, Mr. SCHUMER, Mr. KOHL, Mr. ROCKEFELLER, Mr. KERRY, Mr. CARPER, Mr. LEAHY, Mr. DAYTON, Mr. LIEBERMAN, and Ms. STABENOW) proposed an amendment to the bill S. 2020, supra.

SA 2627. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2628. Mr. LEVIN (for himself, Mr. COLEMAN, and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2629. Mr. DAYTON (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2630. Mr. SCHUMER (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2631. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2632. Mr. LOTT (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2633. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2634. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2020, supra.

SA 2635. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2020, supra.

SA 2636. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2637. Mr. COLEMAN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2638. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2639. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2640. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2641. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2642. Mr. BINGAMAN (for himself, Mr. KERRY, and Ms SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2643. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2644. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2645. Mr. COLEMAN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2646. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2647. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 2020, supra.

SA 2648. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2649. Mr. MARTINEZ (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2650. Mr. FEINGOLD (for himself, Mr. CONRAD, Mr. CHAFEE, Mr. OBAMA, and Mr. SALAZAR) proposed an amendment to the bill S. 2020, supra.

SA 2651. Mr. SUNUNU proposed an amendment to the bill S. 2020, supra.

SA 2652. Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. OBAMA, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by her to the bill S. 2020, supra.

SA 2653. Mr. BAUCUS (for Mr. REID (for himself, Mr. KERRY, Mr. LAUTENBERG, Ms. SNOWE, Mr. SALAZAR, Mr. BINGAMAN, Mr. JEFFORDS, Mr. BAYH, Mrs. CLINTON, Mr. HARKIN, Mrs. FEINSTEIN, and Ms. COLLINS)) proposed an amendment to the bill S. 2020, supra.

SA 2654. Mr. GRASSLEY proposed an amendment to the bill S. 2020, supra.

SA 2655. Mr. CRAIG (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2656. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2657. Mr. ROCKEFELLER (for himself, Mr. HATCH, Mr. BOND, Ms. MIKULSKI, Mr. LOTT, Ms. SNOWE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2658. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2659. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2660. Mr. DODD (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2661. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2662. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2663. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2664. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2665. Mr. HARKIN (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, supra.

SA 2666. Mr. PRYOR (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2667. Ms. SNOWE (for herself, Mr. BINGAMAN, Ms. COLLINS, and Mr. REED) proposed an amendment to the bill S. 2020, supra.

SA 2668. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2669. Ms. LANDRIEU (for herself and Mr. VITTER) proposed an amendment to the bill S. 2020, supra.

SA 2670. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 2020, supra.

SA 2671. Mr. FRIST (for Mr. ENZI) proposed an amendment to the bill S. 1418, to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

TEXT OF AMENDMENTS

SA 2598. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ____. COMPUTATION OF LIMITS ON IRA AND ROTH IRA CONTRIBUTIONS.

(a) CERTAIN WAGE REPLACEMENT INCOME TREATED AS COMPENSATION.—

(1) WAGE REPLACEMENT INCOME.—Section 219(f) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF CERTAIN WAGE REPLACEMENT INCOME AS COMPENSATION.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), applicable wage replacement income not otherwise treated as compensation shall be treated as compensation for purposes of this section.

''(B) APPLICABLE WAGE REPLACEMENT INCOME.—For purposes of this paragraph, the term 'applicable wage replacement income' means any amount received by an individual—

''(i) as the result of the individual having become disabled,

''(ii) as unemployment compensation (as defined in section 85(b)),

''(iii) under workmen's compensation acts, or

''(iv) which constitutes wage replacement income under regulations prescribed by the Secretary.''

(2) CERTAIN EXCLUDABLE AMOUNTS MAY BE TAKEN INTO ACCOUNT FOR PURPOSES OF ROTH IRAS.—Section 408A(c)(2) (relating to contribution limit) is amended by adding at the end the following new flush sentence:

''In determining the maximum amount under subparagraph (A), subsections (b)(1)(B) and (c) of section 219 shall be applied by taking into account compensation described in section 219(f)(8) without regard to whether it is includible in gross income.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2004.

(b) COMPUTATION OF MAXIMUM IRA DEDUCTION FOR ROTH IRAS USING COMPENSATION FROM 2 PRECEDING TAXABLE YEARS.—

(1) IN GENERAL.—Section 408A(c) (relating to treatment of contributions) is amended by adding at the end the following new paragraph:

''(8) COMPENSATION FROM PRECEDING 2 YEARS MAY BE TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—A taxpayer may elect for purposes of paragraph (2) to take into account any unused compensation from the 2 taxable years immediately preceding the taxable year.

''(B) UNUSED COMPENSATION.—For purposes of this paragraph, the term 'unused compensation' means with respect to an individual for any taxable year the compensation includible in the individual's gross income for the taxable year reduced by the sum of—

''(i) the amount allowed as a deduction under 219(a) to such individual for such taxable year,

''(ii) the amount of any designated nondeductible contribution (as defined in section 408(o)) on behalf of such individual for such taxable year,

''(iii) the amount of any contribution on behalf of such individual to a Roth IRA under this section for such taxable year, and

''(iv) the amount of compensation includible in such individual's gross income for such taxable year taken into account under section 219(c) in determining the limitation under section 219 or paragraph (2) for the individual's spouse.

''(C) APPLICATION TO SPECIAL RULE FOR MARRIED INDIVIDUALS.—Under rules prescribed by the Secretary, in applying section 219(c) for any taxable year for purposes of applying paragraph (2)(A), unused compensation of an individual or an individual's spouse for the 2 taxable years immediately preceding the taxable year may be taken into account.''

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2004, but unused compensation for taxable years beginning before January 1, 2005, may be taken into account for taxable years beginning after December 31, 2004.

SA 2599. Mr. CONRAD (for himself, Mr. DORGAN, and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ____. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(A) IN GENERAL.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SA 2600. Mr. SHELBY proposed an amendment to the bill S. 467, to extend the applicability of the Terrorism Risk Insurance Act of 2002; as follows:

Modify section 3(c)(2) of the bill to read as follows:

(2) CONFORMING AMENDMENT.—Section 102(12)(A) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended by striking ''surety insurance'' and inserting ''directors and officers liability insurance''.

SA 2601. Mr. NELSON of Florida (for himself, Mr. DORGAN, Mr. LEAHY, Mr. SCHUMER, Mr. DAYTON, Ms. STABENOW, Mr. KOHL, Mrs. MURRAY, Mr. OBAMA, Mrs. CLINTON, Ms. LANDRIEU, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, insert the following:

SEC. ____. PROTECTION FOR MEDICARE BENEFICIARIES WHO ENROLL IN THE PRESCRIPTION DRUG BENEFIT DURING 2006.

(a) EXTENDED PERIOD OF OPEN ENROLLMENT DURING ALL OF 2006 WITHOUT LATE ENROLLMENT PENALTY.—Section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)(B)) is amended—

(1) in clause (iii), by striking ''May 15, 2006'' and inserting ''December 31, 2006''; and

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

''An individual making an election during the period beginning on November 15, 2006, and ending on December 15, 2006, shall specify whether the election is to be effective with respect to 2006 or with respect to 2007 (or both).''.

(b) ONE-TIME CHANGE OF PLAN ENROLLMENT FOR MEDICARE PRESCRIPTION DRUG BENEFIT DURING ALL OF 2006.—

(1) IN GENERAL.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (2)(B)—

(i) in the heading, by striking ''FOR FIRST 6 MONTHS'';

(ii) in clause (i)—

(I) by striking ''the first 6 months of 2006'' and inserting ''2006''; and

(II) by striking ''the first 6 months during 2006'' and inserting ''2006''; and

(iii) in clause (ii), by inserting ''(other than during 2006)'' after ''paragraph (3)''; and

(B) in paragraph (4), by striking ''2006'' and inserting ''2007'' each place it appears.

(2) CONFORMING AMENDMENT.—Section 1860D–1(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking ''subparagraphs (B) and (C) of paragraph (2)'' and inserting ''paragraph (2)(C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

SA 2602. Mr. CONRAD proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fiscal Responsibility Act of 2005''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TAX BENEFITS FOR AREAS AFFECTED BY HURRICANES KATRINA, RITA, AND WILMA

Subtitle A—Gulf Recovery Zone Benefits

Sec. 101. Gulf Recovery Zone benefits.
Sec. 102. Expansion of Hope Scholarship and Lifetime Learning Credit for students in the Gulf Recovery Zone.
Sec. 103. Extension of special rules for mortgage revenue bonds.

Subtitle B—Tax Benefits Related to Hurricanes Rita and Wilma

Sec. 111. Extension of certain emergency tax relief for Hurricane Katrina to Hurricanes Rita and Wilma.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Sec. 201. Extension and increase in minimum tax relief to individuals.
Sec. 202. Allowance of nonrefundable personal credits against regular and minimum tax liability.
Sec. 203. Election to deduct State and local sales taxes in lieu of State and local income taxes.
Sec. 204. Tuition deduction.
Sec. 205. Extension and modification of research credit.
Sec. 206. Extension and modifications to work opportunity credit and welfare-to-work credit.
Sec. 207. Qualified zone academy bonds.
Sec. 208. Deduction for certain expenses of school teachers.
Sec. 209. Tax incentives for investment in the District of Columbia.
Sec. 210. Indian employment tax credit.
Sec. 211. Accelerated depreciation for business property on Indian reservation.
Sec. 212. Extension and expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.
Sec. 213. Expensing of brownfields remediation costs.
Sec. 214. Extension of full credit for qualified electric vehicles.
Sec. 215. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements.
Sec. 216. Application of EGTRRA sunset to this title.

TITLE III—REVENUE PROVISIONS

Subtitle A—Provisions Relating to Tax Shelters

Sec. 301. Clarification of economic substance doctrine.
Sec. 302. Penalty for understatements attributable to transactions lacking economic substance, etc.

Sec. 303. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.
Sec. 304. Modifications of effective dates of leasing provisions of the American Jobs Creation Act of 2004.
Sec. 305. Revaluation of LIFO inventories of large integrated oil companies.
Sec. 306. Modification of effective date of exception from suspension rules for certain listed and reportable transactions.
Sec. 307. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.
Sec. 308. Penalty for aiding and abetting the understatement of tax liability.

Subtitle B—Provisions to Close Corporate and Individual Loopholes

Sec. 311. Tax treatment of inverted entities.
Sec. 312. Grant of Treasury regulatory authority to address foreign tax credit transactions involving inappropriate separation of foreign taxes from related foreign income.
Sec. 313. Treatment of contingent payment convertible debt instruments.
Sec. 314. Application of earnings stripping rules to partners which are corporations.
Sec. 315. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 316. Disallowance of deduction for punitive damages.
Sec. 317. Limitation of employer deduction for certain entertainment expenses.
Sec. 318. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 319. Modification of exclusion for citizens living abroad.
Sec. 320. Limitation on annual amounts which may be deferred under nonqualified deferred compensation arrangements.
Sec. 321. Increase in age of minor children whose unearned income is taxed as if parent's income.

Subtitle C—Oil and Gas Provisions

Sec. 331. Extension of superfund taxes.
Sec. 332. Modifications of foreign tax credit rules applicable to dual capacity taxpayers.
Sec. 333. Rules relating to foreign oil and gas income.
Sec. 334. Modification of credit for producing fuel from a nonconventional source.
Sec. 335. Elimination of amortization of geological and geophysical expenditures for major integrated oil companies.

Subtitle D—Tax Administration Provisions

Sec. 341. Imposition of withholding on certain payments made by government entities.
Sec. 342. Increase in certain criminal penalties.
Sec. 343. Repeal of suspension of interest and certain penalties where Secretary fails to contact taxpayer.
Sec. 344. Increase in penalty for bad checks and money orders.
Sec. 345. Frivolous tax submissions.
Sec. 346. Partial payments required with submission of offers-in-compromise.
Sec. 347. Waiver of user fee for installment agreements using automated withdrawals.
Sec. 348. Termination of installment agreements.

Subtitle E—Additional Provisions

Sec. 351. Modification of individual estimated tax safe harbor.
Sec. 352. Loan and redemption requirements on pooled financing requirements.
Sec. 353. Reporting of interest on tax-exempt bonds.

TITLE I—TAX BENEFITS FOR AREAS AFFECTED BY HURRICANES KATRINA, RITA, AND WILMA

Subtitle A—Gulf Recovery Zone Benefits

SEC. 101. GULF RECOVERY ZONE BENEFITS.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Z—Hurricane Relief Benefits

''Sec. 1400N. Definitions.
''Sec. 1400O. Tax benefits for Gulf Recovery Zone.

"SEC. 1400N. DEFINITIONS.

''For purposes of this subchapter—

''(1) GULF RECOVERY ZONE.—The term 'Gulf Recovery Zone' means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

''(2) HURRICANE KATRINA DISASTER AREA.—The term 'Hurricane Katrina disaster area' means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of such Act by reason of Hurricane Katrina.

''(3) RITA ZONE.—The term 'Rita Zone' means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Rita.

''(4) HURRICANE RITA DISASTER AREA.—The term 'Hurricane Rita disaster area' means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of such Act by reason of Hurricane Rita.

''(5) WILMA ZONE.—The term 'Wilma Zone' means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Wilma.

''(6) HURRICANE WILMA DISASTER AREA.—The term 'Hurricane Wilma disaster area' means an area with respect to which a major disaster has been declared by the President before October 25, 2005, under section 401 of such Act by reason of Hurricane Wilma.

"SEC. 1400O. TAX BENEFITS FOR GULF RECOVERY ZONE.

''(a) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER AUGUST 27, 2005.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified Gulf Recovery Zone property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

''(B) the adjusted basis of the qualified Gulf Recovery Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED GULF RECOVERY ZONE PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified Gulf Recovery Zone property' means property—

''(i)(I) which is described in section 168(k)(2)(A)(i), or

''(II) which is nonresidential real property or residential rental property,

''(ii) substantially all of the use of which is in the Gulf Recovery Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

''(iii) the original use of which in the Gulf Recovery Zone commences with the taxpayer after August 27, 2005,

''(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after August 27, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and

''(v) which is placed in service by the taxpayer on or before the termination date.

The term 'termination date' means December 31, 2007 (December 31, 2008, in the case of nonresidential real property and residential rental property).

''(B) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified Gulf Recovery Zone property' shall not include any property described in section 168(k)(2)(D)(i).

''(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

''(iii) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

''(iv) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D)(iii) shall apply.

''(C) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(E) shall apply, except that—

''(i) clause (i) thereof shall be applied by substituting 'after August 27, 2005, and before the termination date (as defined in section 1400O(a)(2))' for 'after September 10, 2001, and before January 1, 2005',

''(ii) clauses (ii), (iii), and (iv) thereof shall be applied by substituting 'August 27, 2005' for 'September 10, 2001' each place it appears, and

''(iii) clause (iv) thereof shall be applied by substituting 'qualified Gulf Recovery Zone property' for 'qualified property'.

''(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

''(3) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Recovery Zone property which ceases to be qualified Gulf Recovery Zone property.

''(b) INCREASE IN EXPENSING UNDER SECTION 179.—

''(1) IN GENERAL.—For purposes of section 179—

''(A) the $100,000 amount in section 179(b)(1) for the taxable year shall be increased by the lesser of—

''(i) $100,000, or

''(ii) the cost of section 179 property (as defined in section 179(d)) which is qualified Gulf Recovery Zone property placed in service during the taxable year, and

''(B) the $400,000 amount in section 179(b)(2) for the taxable year shall be increased by the lesser of—

''(i) $600,000, or

''(ii) the cost of section 179 property (as so defined) which is qualified Gulf Recovery Zone property placed in service during the taxable year.

''(2) QUALIFIED GULF RECOVERY ZONE PROPERTY.—For purposes of this subsection, the

term 'qualified Gulf Recovery Zone property' has the meaning given such term by subsection (a)(2).

''(3) COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.—For purposes of sections 1397A and 1400J, qualified Gulf Recovery Zone property shall not be treated as qualified zone property or qualified renewal property for any taxable year, unless the taxpayer elects not to have this subsection apply to all such qualified Gulf Recovery Zone property placed in service by the taxpayer during the taxable year.

''(4) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Recovery Zone property which ceases to be Gulf Recovery Zone property.

''(c) TAX-EXEMPT BOND FINANCING.—

''(1) IN GENERAL.—For purposes of this title, any qualified Gulf Recovery Zone Bond shall be treated as a qualified bond.

''(2) QUALIFIED GULF RECOVERY ZONE BOND.—For purposes of this subsection, the term 'qualified Gulf Recovery Zone Bond' means any bond issued as part of an issue if—

''(A) except as provided in paragraph (4), such bond meets the applicable requirements of part IV of subchapter B of this chapter,

''(B) such bond is issued by the State of Alabama, Louisiana, or Mississippi (or any political subdivision thereof),

''(C) the Governor of such State designates such bond for purposes of this section, and

''(D) such bond is issued after the date of the enactment of this section and before January 1, 2011.

''(3) LIMITATION ON AGGREGATE AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed the product of $2,500 multiplied by the portion of the State population which is in the Gulf Recovery Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

''(4) SPECIAL RULES.—In applying this title to any qualified Gulf Recovery Zone Bond, the following modifications shall apply:

''(A) Section 143 (relating to mortgage revenue bonds: qualified mortgage bond and qualified veterans' mortgage bond) shall be applied—

''(i) by treating any residence in the Gulf Recovery Zone as a targeted area residence,

''(ii) by applying subsection (f)(3) without regard to subparagraph (A) thereof, and

''(iii) by substituting '$150,000' for '$15,000' in subsection (k)(4) thereof.

''(B) Section 146 (relating to volume cap) shall not apply.

''(C) Section 57(a)(5) shall not apply.

''(5) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

''(d) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

''(1) IN GENERAL.—With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(B)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the Gulf Recovery Zone (or property which is functionally related and subordinate to facilities located within the Gulf Recovery Zone), one additional advanced refunding after the date of the enactment of this section and before January 1, 2007, shall be allowed under the applicable rules of section 149(d) if—

''(A) the chief executive officer of the issuer of the bond designates the advance refunding bond for purposes of this subsection, and

''(B) the requirements of paragraph (3) are met.

''(2) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on August 27, 2005, and is—

''(A) a State or local bond (as defined in section 103(c)(1)) other than a private activity bond (as defined in section 141(a)) issued by the State of Alabama, Louisiana, or Mississippi (or any political subdivision thereof), or

''(B) a qualified 501(c)(3) bond (as defined in section 145(a)) issued by or on behalf of any such State or political subdivision.

''(3) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (2) if—

''(A) no advance refundings of such bond would be allowed under any provision of law after August 27, 2005,

''(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

''(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

''(e) LOW-INCOME HOUSING CREDIT.—

''(1) INCREASE IN STATE HOUSING CREDIT CEILING.—

''(A) IN GENERAL.—In the case of the State of Alabama, Louisiana, or Mississippi—

''(i) the amount otherwise determined under subclause (I) of section 42(h)(3)(C)(ii) for each calendar year beginning after 2005 and before 2010 shall be increased by an amount equal to 3 times the dollar amount otherwise specified for such calendar year under such subclause multiplied by the State population located in the Gulf Recovery Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005), and

''(ii) the unused State housing credit ceiling for such State for any calendar year under section 42(h)(3)(C)(i) shall be determined without regard to the amount of the increase determined under clause (i).

''(B) ELECTIVE CARRYFORWARD OF UNUSED INCREASED CEILING.—

''(i) IN GENERAL.—If the amount determined under section 42(h)(3)(C)(ii)(I), as increased under subparagraph (A)(i), for any calendar year for any State described in subparagraph (A) exceeds the aggregate housing credit dollar amount allocated during such calendar year by such State, such State may elect to treat as a carryforward to the following calendar year an amount equal to lesser of—

''(I) the amount of such excess, or

''(II) the amount by which the amount determined under section 42(h)(3)(C)(ii)(I) for such calendar year was increased under subparagraph (A)(i)).

''(ii) USE OF CARRYFORWARD.—If any State elects a carryforward under clause (i), any housing credit dollar amount allocated by such State during the calendar year following the calendar year in which the carryforward arose shall not be considered so allocated for purposes of section 42(h)(3)(C) and section 42(h)(3)(D) to the extent such housing credit dollar amount does not exceed the amount of the carryforward elected.

''(2) DIFFICULT DEVELOPMENT AREA.—

''(A) IN GENERAL.—For purposes of section 42—

''(i) in the case of property placed in service during 2006, 2007, or 2008, the Gulf Recovery Zone—

''(I) shall be treated as a difficult development area designated under subclause (I) of section 42(d)(5)(C)(iii), and

''(II) shall not be taken into account for purposes of applying the limitation under subclause (II) of such section, and

''(ii) subsection (b)(2)(B) thereof shall be applied with respect to any such property placed in service in the Gulf Recovery Zone by substituting '91 percent' and '39 percent' for '70 percent' and '30 percent', respectively.

''(B) APPLICATION.—Subparagraph (A) shall apply only to—

''(i) housing credit dollar amounts allocated during the period beginning on January 1, 2006, and ending on December 31, 2008, and

''(ii) buildings placed in service during such period to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

''(f) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RESIDENTIAL RENTAL PROJECT REQUIREMENTS.—For purposes of determining if any residential rental project meets the requirements of section 142(d)(1) and if any certification with respect to such project meets the requirements under section 142(d)(7), the operator of the project may rely on the representations of any individual applying for tenancy in such project that such individual's income will not exceed the applicable income limits of section 142(d)(1) upon commencement of the individual's tenancy if such tenancy begins during the 6-month period beginning on and after the date such individual was displaced by reason of Hurricane Katrina.

''(g) APPLICATION OF NEW MARKETS TAX CREDIT TO INVESTMENTS IN COMMUNITY DEVELOPMENT ENTITIES SERVING GULF RECOVERY ZONE.—For purposes of section 45D—

''(1) a qualified community development entity shall be eligible for an allocation under subsection (f)(2) thereof of the increase in the new markets tax credit limitation described in paragraph (2) only if a significant mission of such entity is the recovery and redevelopment of the Gulf Recovery Zone,

''(2) the new markets tax credit limitation otherwise determined under subsection (f)(1) thereof shall be increased by an amount equal to—

''(A) $300,000,000 for 2005 and 2006, to be allocated among qualified community development entities to make qualified low-income community investments within the Gulf Recovery Zone, and

''(B) $400,000,000 for 2007, to be so allocated, and

''(3) subsection (f)(3) thereof shall be applied separately with respect to the amount of the increase under paragraph (2).

''(h) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO GULF RECOVERY ZONE LOSSES.—

''(1) IN GENERAL.—If a portion of any net operating loss of the taxpayer for any taxable year is a qualified Gulf Recovery Zone loss, the following rules shall apply:

''(A) EXTENSION OF CARRYBACK PERIOD.—Section 172(b)(1) shall be applied with respect to such portion—

''(i) by substituting '5 taxable years' for '2 taxable years' in subparagraph (A)(i), and

''(ii) by not taking such portion into account in determining any eligible loss of the taxpayer under subparagraph (F) for the taxable year.

''(B) SUSPENSION OF 90 PERCENT AMT LIMITATION.—Section 56(d)(1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of any net operating loss attributable to such portion.

''(2) QUALIFIED GULF RECOVERY ZONE LOSS.—For purposes of paragraph (1), the term 'qualified Gulf Recovery Zone loss' means the lesser of—

''(A) the amount of the net operating loss for the taxable year, or

''(B) the aggregate amount of the following deductions for such taxable year:

''(i) Any deduction for any qualified Gulf Recovery Zone casualty loss.

''(ii) Any deduction for moving expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

''(I) whose principal place of abode was located in the Gulf Recovery Zone before August 28, 2005,

''(II) who was unable to remain in such abode as the result of Hurricane Katrina, and

''(III) whose principal place of employment with the taxpayer after such expense is located in the Gulf Recovery Zone.

For purposes of this clause, the term 'moving expenses' has the meaning given such term by section 217(b), except that the taxpayer's former residence and new residence may be the same residence if the initial vacating of the residence was as the result of Hurricane Katrina.

''(iii) Any deduction for expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to temporarily house any employee of the taxpayer whose principal place of employment is in the Gulf Recovery Zone.

''(iv) Any deduction for depreciation (or amortization in lieu of depreciation) allowable under this chapter with respect to any qualified Gulf Recovery Zone property (as defined in subsection (a)(2)) for the taxable year such property is placed in service.

''(v) Any deduction for repair expenses (including expenses for removal of debris) allowable under this chapter paid or incurred after August 27, 2005, and before January 1, 2008, with respect to any damage attributable to Hurricane Katrina and in connection with property which is located in the Gulf Recovery Zone.

''(3) QUALIFIED GULF RECOVERY ZONE CASUALTY LOSS.—

''(A) IN GENERAL.—For purposes of paragraph (2)(B)(i), the term 'qualified Gulf Recovery Zone casualty loss' means any uncompensated section 1231 loss (as defined in section 1231(a)(3)(B)) of property located in the Gulf Recovery Zone if—

''(i) such loss is allowed as a deduction under section 165 for the taxable year, and

''(ii) such loss is attributable to Hurricane Katrina.

''(B) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of qualified Gulf Recovery Zone casualty loss which would (but for this subparagraph) be taken into account under subparagraph (A) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of property located in the Gulf Recovery Zone.

''(C) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (j) and section 165(i) shall not apply to any qualified Gulf Recovery Zone casualty loss to the extent such loss is taken into account under this subsection.

''(4) SPECIAL RULES.—For purposes of paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 172(i) shall apply with respect to such portion.

''(i) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—

''(1) IN GENERAL.—Upon the election of the taxpayer, in the case of any eligible public utility property loss—

''(A) section 165(i) shall be applied by substituting 'the fifth taxable year immediately preceding' for 'the taxable year immediately preceding',

''(B) an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the application of subparagraph (A) may be made under section 6411, and

''(C) section 6611 shall not apply to any overpayment attributable to such loss.

''(2) ELIGIBLE PUBLIC UTILITY PROPERTY LOSS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible public utility property loss' means any loss with respect to public utility property located in the Gulf Recovery Zone and attributable to Hurricane Katrina.

''(B) PUBLIC UTILITY PROPERTY.—The term 'public utility property' has the meaning given such term by section 168(i)(10) without regard to the matter following subparagraph (D) thereof.

''(3) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this section by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

''(j) SPECIAL RULE FOR GULF RECOVERY ZONE PUBLIC UTILITY CASUALTY LOSSES.—

''(1) IN GENERAL.—The amount described in section 172(f)(1)(A) for any taxable year shall be increased by the amount of the Gulf Recovery Zone public utility casualty loss for such year.

''(2) GULF RECOVERY ZONE PUBLIC UTILITY CASUALTY LOSS.—For purposes of this subsection, the term 'Gulf Recovery Zone public utility casualty loss' means any casualty loss of public utility property (as defined in section 168(i)(10)) located in the Gulf Recovery Zone if—

''(A) such loss is allowed as a deduction under section 165 for the taxable year,

''(B) such loss is attributable to Hurricane Katrina, and

''(C) the taxpayer elects the application of this subsection with respect to such loss.

''(3) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of Gulf Recovery Zone public utility casualty loss which would (but for this paragraph) be taken into account under paragraph (1) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of public utility property (as so defined) located in the Gulf Recovery Zone.

''(4) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (h) and section 165(i) shall not apply to any Gulf Recovery Zone public utility casualty loss to the extent such loss is taken into account under paragraph (1).

''(5) ELECTION.—Any election under paragraph (2)(C) shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

''(k) SPECIAL RULES FOR SMALL TIMBER PRODUCERS.—

''(1) INCREASED EXPENSING FOR QUALIFIED TIMBER PROPERTY.—In the case of qualified timber property any portion of which is located in the Gulf Recovery Zone, in that portion of the Rita Zone which is not part of the Gulf Recovery Zone, or in the Wilma Zone, the limitation under subparagraph (B) of section 194(b)(1) shall be increased by the lesser of—

''(A) the limitation which would (but for this subsection) apply under such subparagraph, or

''(B) the amount of reforestation expenditures (as defined in section 194(c)(3)) paid or incurred by the taxpayer with respect to such qualified timber property during the specified portion of the taxable year.

''(2) 5 YEAR NOL CARRYBACK OF CERTAIN TIMBER LOSSES.—For purposes of determining farming loss under section 172(i), income and deductions which are allocable to the specified portion of the taxable year and which are attributable to qualified timber property any portion of which is located in the Gulf Recovery Zone, in that portion of the Rita Zone which is not part of the Gulf Recovery Zone, or in the Wilma Zone shall be treated as attributable to farming businesses.

''(3) RULES NOT APPLICABLE TO CERTAIN ENTITIES.—Paragraphs (1) and (2) shall not apply to any taxpayer which—

''(A) is a corporation the stock of which is publicly traded on an established securities market, or

''(B) is a real estate investment trust.

''(4) RULES NOT APPLICABLE TO LARGE TIMBER PRODUCERS.—Paragraphs (1) and (2) shall not apply with respect to any qualified timber property unless—

''(A) such property was held by the taxpayer—

''(i) on August 28, 2005, in the case of qualified timber property any portion of which is located in the Gulf Recovery Zone,

''(ii) on September 23, 2005, in the case of qualified timber property (other than property described in subclause (I)) any portion of which is located in that portion of the Rita Zone which is not part of the Gulf Recovery Zone, or

''(iii) on October 23, 2005, in the case of qualified timber property (other than property described in subclause (I) or (II)) any portion of which is located in the Wilma Zone, and

''(B) such taxpayer held not more than 500 acres of qualified timber property on such date.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) SPECIFIED PORTION.—The term 'specified portion' means—

''(i) in the case of qualified timber property located in the Gulf Recovery Zone, that portion of the taxable year which is on or after August 28, 2005, and before January 1, 2007,

''(ii) in the case of qualified timber property located in the Rita Zone and no part of which is located in the Gulf Recovery Zone, that portion of the taxable year which is on or after September 23, 2005, and before January 1, 2007, and

''(iii) in the case of qualified timber property located in the Wilma Zone, that portion of the taxable year which is on or after October 23, 2005, and before January 1, 2007.

''(B) QUALIFIED TIMBER PROPERTY.—The term 'qualified timber property' has the meaning given such term in section 194(c)(1).

''(l) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—

''(1) IN GENERAL.—A taxpayer may elect to treat 50 percent of any qualified Gulf Recovery Zone clean-up cost as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such cost is paid or incurred.

''(2) GULF RECOVERY ZONE CLEAN-UP COST.—For purposes of this subsection, the term 'Gulf Recovery Zone clean-up cost' means any amount paid or incurred during the period beginning on August 28, 2005, and ending

on December 31, 2007, for the removal of debris from, or the demolition of structures on, real property which is located in the Gulf Recovery Zone and which is—

''(A) held by the taxpayer for use in a trade or business or for the production of income, or

''(B) property described in section 1221(a)(1) in the hands of the taxpayer.

For purposes of the preceding sentence, amounts paid or incurred shall be taken into account only to the extent that such amount would (but for paragraph (1)) be chargeable to capital account.

''(m) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—With respect to any qualified environmental remediation expenditure (as defined in section 198(b)) paid or incurred on or after August 28, 2005, in connection with a qualified contaminated site located in the Gulf Recovery Zone, section 198 (relating to expensing of environmental remediation costs) shall be applied—

''(1) by substituting 'December 31, 2007' for 'December 31, 2006' in subsection (h) thereof, and

''(2) except as provided in section 198(d)(2), by treating petroleum products (as defined in section 4612(a)(3)) as a hazardous substance.

''(n) GULF RECOVERY ZONE.—For purposes of this section, the term 'Gulf Recovery Zone' means an area—

''(1) with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act as a result of Hurricane Katrina, and

''(2) which is determined by the President to warrant individual assistance, or individual and public assistance, from the Federal Government under such Act.''

(b) CLERICAL AMENDMENTS.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''SUBCHAPTER Z—HURRICANE RELIEF BENEFITS.''.

SEC. 102. EXPANSION OF HOPE SCHOLARSHIP AND LIFETIME LEARNING CREDIT FOR STUDENTS IN THE GULF RECOVERY ZONE.

In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2) of the Internal Revenue Code of 1986) located in the Gulf Recovery Zone (as defined in section 1400N(1) of such Code) for any taxable year beginning during 2005 or 2006—

(1) in applying section 25A of the Internal Revenue Code of 1986, the term ''qualified tuition and related expenses'' shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3) of such Code),

(2) each of the dollar amounts in effect under of subparagraphs (A) and (B) of section 25A(b)(1) of such Code shall be twice the amount otherwise in effect before the application of this subsection, and

(3) section 25A(c)(1) of such Code shall be applied by substituting ''40 percent'' for ''20 percent''.

SEC. 103. EXTENSION OF SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

Section 404(d) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2010''.

Subtitle B—Tax Benefits Related to Hurricanes Rita and Wilma

SEC. 111. EXTENSION OF CERTAIN EMERGENCY TAX RELIEF FOR HURRICANE KATRINA TO HURRICANES RITA AND WILMA.

(a) IN GENERAL.—Subchapter Z of chapter 1, as added by this Act, is amended by adding at the end the following new sections:

''SEC. 1400P. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

''(a) IN GENERAL.—In the case of financing provided with respect to residences in the Gulf Recovery Zone, the Rita Zone, or the Wilma Zone, section 143 shall be applied—

''(1) by treating any residence in the Gulf Recovery Zone, the Rita Zone, or the Wilma Zone as a targeted area residence,

''(2) by applying subsection (f)(3) without regard to subparagraph (A) thereof, and

''(3) by substituting '$150,000' for '$15,000' in subsection (k)(4) thereof.

''(b) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2010.

''SEC. 1400Q. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

''(a) TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.—

''(1) IN GENERAL.—Section 72(t) shall not apply to any qualified hurricane distribution.

''(2) AGGREGATE DOLLAR LIMITATION.—

''(A) IN GENERAL.—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

''(i) $100,000, over

''(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

''(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000.

''(C) CONTROLLED GROUP.—For purposes of subparagraph (B), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

''(3) AMOUNT DISTRIBUTED MAY BE REPAID.—

''(A) IN GENERAL.—Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

''(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

''(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2), the term 'qualified hurricane distribution' means—

''(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina,

''(ii) any distribution (which is not described in clause (i)) from an eligible retirement plan made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita, and

''(iii) any distribution (which is not described in clause (i) or (ii)) from an eligible retirement plan made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

''(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' shall have the meaning given such term by section 402(c)(8)(B).

''(5) INCOME INCLUSION SPREAD OVER 3-YEAR PERIOD.—

''(A) IN GENERAL.—In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.

''(6) SPECIAL RULES.—

''(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405, qualified hurricane distributions shall not be treated as eligible rollover distributions.

''(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes this title, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).

''(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

''(1) RECONTRIBUTIONS.—

''(A) IN GENERAL.—Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

''(B) TREATMENT OF REPAYMENTS.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any qualified Katrina distribution, any qualified Rita distribution, and any qualified Wilma distribution.

''(B) QUALIFIED KATRINA DISTRIBUTION.—The term 'qualified Katrina distribution' means any distribution—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before August 29, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

''(C) QUALIFIED RITA DISTRIBUTION.—The term 'qualified Rita distribution' means any distribution (other than a qualified Katrina distribution)—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before September 24, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but which was not so purchased or constructed on account of Hurricane Rita.

''(D) QUALIFIED WILMA DISTRIBUTION.—The term 'qualified Wilma distribution' means any distribution (other than a qualified Katrina distribution or a qualified Rita distribution)—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before October 24, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but which was not so purchased or constructed on account of Hurricane Wilma.

''(3) APPLICABLE PERIOD.—For purposes of this subsection, the term 'applicable period' means—

''(A) with respect to any qualified Katrina distribution, the period beginning on August 25, 2005, and ending on February 28, 2006,

''(B) with respect to any qualified Rita distribution, the period beginning on September 23, 2005, and ending on February 28, 2006, and

''(C) with respect to any qualified Wilma distribution, the period beginning on October 23, 2005, and ending on February 28, 2006.

''(c) LOANS FROM QUALIFIED PLANS.—

''(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4)) to a qualified individual made during the applicable period—

''(A) clause (i) of section 72(p)(2)(A) shall be applied by substituting '$100,000' for '$50,000', and

''(B) clause (ii) of such section shall be applied by substituting 'the present value of the nonforfeitable accrued benefit of the employee under the plan' for 'one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan'.

''(2) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4))—

''(A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2006, such due date shall be delayed for 1 year,

''(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

''(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2), the period described in subparagraph (A) shall be disregarded.

''(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified individual' means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

''(B) QUALIFIED HURRICANE KATRINA INDIVIDUAL.—The term 'qualified Hurricane Katrina individual' means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

''(C) QUALIFIED HURRICANE RITA INDIVIDUAL.—The term 'qualified Hurricane Rita individual' means an individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita.

''(D) QUALIFIED HURRICANE WILMA INDIVIDUAL.—The term 'qualified Hurricane Wilma individual' means an individual (other than a qualified Hurricane Katrina individual or a qualified Hurricane Rita individual) whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

''(4) APPLICABLE PERIOD; QUALIFIED BEGINNING DATE.—For purposes of this subsection—

''(A) HURRICANE KATRINA.—In the case of any qualified Hurricane Katrina individual—

''(i) the applicable period is the period beginning on September 24, 2005, and ending on December 31, 2006, and

''(ii) the qualified beginning date is August 25, 2005.

''(B) HURRICANE RITA.—In the case of any qualified Hurricane Rita individual—

''(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

''(ii) the qualified beginning date is September 23, 2005.

''(C) HURRICANE WILMA.—In the case of any qualified Hurricane Wilma individual—

''(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

''(ii) the qualified beginning date is October 23, 2005.

''SEC. 1400R. EMPLOYMENT RELIEF.

''(a) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Katrina employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on August 28, 2005, in the Gulf Recovery Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the Gulf Recovery Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 with respect to such employee for such period.

''(b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE RITA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Rita employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on September 23, 2005, in the Rita Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Rita.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on September 23, 2005, with such eligible employer was in the Rita Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after September 23, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Rita, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

''(c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE WILMA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Wilma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on October 23, 2005, in the Wilma Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Wilma.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on October 23, 2005, with such eligible employer was in the Wilma Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 23, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Wilma, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

''SEC. 1400S. ADDITIONAL TAX RELIEF PROVISIONS.

''(a) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

''(1) IN GENERAL.—Except as otherwise provided in paragraph (2), section 170(b) shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 to other contributions.

''(2) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170—

''(A) INDIVIDUALS.—In the case of an individual—

''(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (F) of section 170(b)(1)) over the amount of all other charitable contributions allowed under section 170(b)(1).

''(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1)) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

''(B) CORPORATIONS.—In the case of a corporation—

''(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b)) over the amount of all other charitable contributions allowed under such paragraph.

''(ii) CARRYOVER.—Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

''(3) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68.

''(4) QUALIFIED CONTRIBUTIONS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified contribution' means any charitable contribution (as defined in section 170(c)) if—

''(i) such contribution is paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) (other than an organization described in section 509(a)(3)),

''(ii) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and

''(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

''(B) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

''(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

''(b) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Paragraphs (1) and (2)(A) of section 165(h) shall not apply to losses described in section 165(c)(3)—

''(1) which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina,

''(2) which arise in the Hurricane Rita disaster area on or after September 23, 2005, and which are attributable to Hurricane Rita, or

''(3) which arise in the Hurricane Wilma disaster area on or after October 23, 2005, and which are attributable to Hurricane Wilma.

In the case of any other losses, section 165(h)(2)(A) shall be applied without regard to the losses referred to in the preceding sentence.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting a comma, and by adding at the end the following new paragraphs:

''(27) the Hurricane Katrina employee retention credit determined under section 1400R(a),

''(28) the Hurricane Rita employee retention credit determined under section 1400R(b), and

''(29) the Hurricane Wilma employee retention credit determined under section 1400R(c).''.

(2) The table of sections for subchapter Z of chapter 1 is amended by adding at the end the following new items:

''Sec. 1400P. Special rules for mortgage revenue bonds.
''Sec. 1400Q. Special rules for use of retirement funds.
''Sec. 140RQ. Employment relief.
''Sec. 1400S. Additional tax relief provisions.''.

(3) The following provisions of the Katrina Emergency Tax Relief Act of 2005 are hereby repealed:

(A) Title I.

(B) Sections 202, 301, and 402.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

SEC. 201. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

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

SEC. 202. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''2005'' in the heading and inserting ''2006'', and

(2) by striking ''or 2005'' and inserting ''2005, or 2006''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006.—For purposes of any taxable year beginning during 2006, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006.—For purposes of any taxable year beginning during 2006, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(3) Section 904(h) is amended by striking ''or 2005'' and inserting ''2005, or 2006''.

(4) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2006.

SEC. 203. ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.

Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2007''.

SEC. 204. TUITION DEDUCTION.

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005'' and inserting ''2006''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking ''2004 AND 2005'' and inserting ''AFTER 2003''.

SEC. 205. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2006''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2006''.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(A) by striking ''2.65 percent'' and inserting ''3 percent'',

(B) by striking ''3.2 percent'' and inserting ''4 percent'', and

(C) by striking ''3.75 percent'' and inserting ''5 percent''.

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

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

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

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41 is amended—

(A) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(B) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(C) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(D) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6)(A) and inserting ''RESEARCH'' .

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 206. EXTENSION AND MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Section 51(c)(4)(B) is amended by striking ''2005'' and inserting ''2006''.

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking ''25'' and inserting ''40''.

(d) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.''

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(e) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''

(3) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of

subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

SEC. 207. QUALIFIED ZONE ACADEMY BONDS.

Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, and 2006''.

SEC. 208. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, or 2006''.

SEC. 209. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2006''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2006''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2007''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2011'', and

(ii) by striking ''2010'' in the heading and inserting ''2011''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2011''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2011''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2007''.

SEC. 210. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) is amended by striking ''2005'' and inserting ''2006''.

SEC. 211. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) is amended by striking ''2005'' and inserting ''2006''.

SEC. 212. EXTENSION AND EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.

(a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting ''or assembled'' after ''constructed''.

(2) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting ''or assembling'' after ''construction''.

(b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

(2) SPECIAL RULE EXTENDED.—Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2006''.

(3) CONFORMING AMENDMENTS.—Subparagraph (D) of section 170(e)(6) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

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

SEC. 213. EXPENSING OF BROWNFIELDS REMEDIATION COSTS.

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2006''.

(b) EXPANSION.—

(1) IN GENERAL.—Section 198(d)(1) (defining hazardous substance) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any petroleum product (as defined in section 4612(a)(3)).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred after December 31, 2005.

SEC. 214. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

SEC. 215. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.

Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2007''.

SEC. 216. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE III—REVENUE PROVISIONS

Subtitle A—Provisions Relating to Tax Shelters

SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or

supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 302. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e)

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e)''.

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 303. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

SEC. 304. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 305. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(2) uses the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 306. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

SEC. 307. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

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

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 308. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle B—Provisions to Close Corporate and Individual Loopholes

SEC. 311. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 312. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 313. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

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

SEC. 314. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 315. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 316. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

SEC. 317. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 318. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2005, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18 1/2, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

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

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after the date of the enactment of this subsection.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes

United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 319. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

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

SEC. 320. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 409A (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(1) LIMITATION.—If the aggregate amount of compensation which—

''(A) is deferred for any taxable year with respect to a participant under 1 or more nonqualified deferred compensation plans maintained by the same employer, and

''(B) is not otherwise includible in gross income of the participant for the taxable year, exceeds the applicable dollar amount for the taxable year, then such excess shall be included in the participant's gross income for the taxable year.

''(2) INCLUSION OF EARNINGS.—If—

''(A) an amount is includible under paragraph (1) in the gross income of a participant for any taxable year, and

''(B) any portion of any assets set aside in a trust or other arrangement under a nonqualified deferred compensation plan are properly allocable to such amount,

then any increase in value in, or earnings with respect to, such portion for the taxable year or any succeeding taxable year shall be included in gross income of the participant for such taxable year or succeeding taxable year.

''(3) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(i) the average annual compensation which—

''(I) was payable during the base period to the participant by the employer described in paragraph (1)(A), and

''(II) was includible in the participant's gross income for taxable years in the base period, or

''(ii) $1,000,000.

''(B) BASE PERIOD.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the taxable year in which the election described in subsection (a)(4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, except that if the election is made after the beginning of the computation year, such period shall be the 5-taxable year period ending with the taxable year preceding the computation year. For purposes of this subparagraph, the term 'computation year' means any taxable year of the participant for which the limitation under paragraph (1) is being determined.''.

(b) CONFORMING AMENDMENTS.—Sections 6041(g)(1) and 6051(a)(13) are each amended by striking ''409A(d)'' and inserting ''409A(e)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that taxable years beginning on or before such date shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(c)(2) of the Internal Revenue Code of 1986 (as added by such amendments).

SEC. 321. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking ''age 14'' and inserting ''age 18''.

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

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

Subtitle C—Oil and Gas Provisions

SEC. 331. EXTENSION OF SUPERFUND TAXES.

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

SEC. 332. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 333. RULES RELATING TO FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

SEC. 334. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT .—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 335. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

Subtitle D—Tax Administration Provisions

SEC. 341. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold form such payment a tax in an amount equal to 3 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2005.

SEC. 342. INCREASE IN CERTAIN CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 343. REPEAL OF SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of tax filed after December 31, 2005.

SEC. 344. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 345. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

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

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 346. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

SEC. 347. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 348. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

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

Subtitle E—Additional Provisions

SEC. 351. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

''2006 111
2007 or thereafter ..... 110''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 352. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 353. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

SA 2603. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ____. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

(a) IN GENERAL.—Section 7701 (relating to definitions) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 2005.

SA 2604. Mrs. CLINTON (for herself and Mr. OBAMA) submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ____. HOME LEAD HAZARD REDUCTION ACTIVITY TAX CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30D. HOME LEAD HAZARD REDUCTION ACTIVITY.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the lead hazard reduction activity cost paid or incurred by the taxpayer during the taxable year for each eligible dwelling unit.

''(b) LIMITATION.—The amount of the credit allowed under subsection (a) for any eligible dwelling unit for any taxable year shall not exceed—

''(1) either—

''(A) $3,000 in the case of lead hazard reduction activity cost including lead abatement measures described in clauses (i), (ii), (iv) and (v) of subsection (c)(1)(A), or

''(B) $1,000 in the case of lead hazard reduction activity cost including interim lead control measures described in clauses (i), (iii), (iv), and (v) of subsection (c)(1)(A), reduced by

''(2) the aggregate lead hazard reduction activity cost taken into account under subsection (a) with respect to such unit for all preceding taxable years.

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

''(1) LEAD HAZARD REDUCTION ACTIVITY COST.—

''(A) IN GENERAL.—The term 'lead hazard reduction activity cost' means, with respect to any eligible dwelling unit—

''(i) the cost for a certified risk assessor to conduct an assessment to determine the presence of a lead-based paint hazard,

''(ii) the cost for performing lead abatement measures by a certified lead abatement supervisor, including the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces, windows, or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil,

''(iii) the cost for performing interim lead control measures to reduce exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards, and the establishment and operation of management and resident education programs, but only if such measures are evaluated and completed by a certified lead abatement supervisor using accepted methods, are conducted by a qualified contractor, and have an expected useful life of more than 10 years,

''(iv) the cost for a certified lead abatement supervisor, those working under the supervision of such supervisor, or a qualified contractor to perform all preparation, cleanup, disposal, and clearance testing activities associated with the lead abatement measures or interim lead control measures, and

''(v) costs incurred by or on behalf of any occupant of such dwelling unit for any relocation which is necessary to achieve occupant protection (as defined under section 35.1345 of title 24, Code of Federal Regulations).

''(B) LIMITATION.—The term 'lead hazard reduction activity cost' does not include any cost to the extent such cost is funded by any grant, contract, or otherwise by another person (or any governmental agency).

''(2) ELIGIBLE DWELLING UNIT.—

''(A) IN GENERAL.—The term 'eligible dwelling unit' means, with respect to any taxable year, any dwelling unit—

''(i) placed in service before 1960,

''(ii) located in the United States,

''(iii) in which resides, for a total period of not less than 50 percent of the taxable year, at least 1 child who has not attained the age of 6 years or 1 woman of child-bearing age, and

''(iv) each of the residents of which during such taxable year has an adjusted gross income of less than 185 percent of the poverty line (as determined for such taxable year in accordance with criteria established by the Director of the Office of Management and Budget).

''(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

''(3) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' has the meaning given such term by section 745.61 of title 40, Code of Federal Regulations.

''(4) CERTIFIED LEAD ABATEMENT SUPERVISOR.—The term 'certified lead abatement supervisor' means an individual certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(5) CERTIFIED INSPECTOR.—The term 'certified inspector' means an inspector certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(6) CERTIFIED RISK ASSESSOR.—The term 'certified risk assessor' means a risk assessor certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(7) QUALIFIED CONTRACTOR.—The term 'qualified contractor' means any contractor who has successfully completed a training course on lead safe work practices which has been approved by the Department of Housing and Urban Development and the Environmental Protection Agency.

''(8) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE.—No credit shall be allowed under subsection (a) with respect to any eligible dwelling unit for any taxable year unless—

''(A) after lead hazard reduction activity is complete, a certified inspector or certified

risk assessor provides written documentation to the taxpayer that includes—

''(i) evidence that—

''(I) the eligible dwelling unit passes the clearance examinations required by the Department of Housing and Urban Development under part 35 of title 40, Code of Federal Regulations,

''(II) the eligible dwelling unit does not contain lead dust hazards (as defined by section 745.227(e)(8)(viii) of such title 40), or

''(III) the eligible dwelling unit meets lead hazard evaluation criteria established under an authorized State or local program, and

''(ii) documentation showing that the lead hazard reduction activity meets the requirements of this section, and

''(B) the taxpayer files with the appropriate State agency and attaches to the tax return for the taxable year—

''(i) the documentation described in subparagraph (A),

''(ii) documentation of the lead hazard reduction activity costs paid or incurred during the taxable year with respect to the eligible dwelling unit, and

''(iii) a statement certifying that the dwelling unit qualifies as an eligible dwelling unit for such taxable year.

''(9) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (d)).

''(10) NO DOUBLE BENEFIT.—Any deduction allowable for costs taken into account in computing the amount of the credit for lead-based paint abatement shall be reduced by the amount of such credit attributable to such costs.

''(d) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27, 29, 30, 30A, 30B, and 30C for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' in paragraph (36), by striking the period and inserting '', and'' in paragraph (37), and by inserting at the end the following new paragraph:

''(38) in the case of an eligible dwelling unit with respect to which a credit for any lead hazard reduction activity cost was allowed under section 30D, to the extent provided in section 30D(c)(9).''.

(2) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Home lead hazard reduction activity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to lead hazard reduction activity costs incurred after December 31, 2005, in taxable years ending after that date.

SEC. ___. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

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

SA 2605. Mr. OBAMA (for himself, Mr. COBURN, Mr. LAUTENBERG, Ms. SNOWE, Mr. JOHNSON, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE ON USE OF NO-BID CONTRACTING BY FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) FINDINGS.—The Senate finds that—

(1) on September 8, 2005, the Federal Emergency Management Agency announced that it had awarded 4 contracts for emergency housing relief following Hurricane Katrina to The Shaw Group of Baton Rouge, Louisiana, Fluor Corporation of Aliso Viejo, California, Bechtel National of San Francisco, California, and CH2M Hill of Denver, Colorado;

(2) these contracts were awarded with no competition from other capable firms, and up to $100,000,000 in taxpayer funds were authorized for each of these contracts;

(3) in the midst of concerns about abusive and irresponsible spending of taxpayer funds, the Federal Emergency Management Agency pledged to re-bid these noncompetitive contracts, with Acting Under Secretary of Emergency Preparedness and Response, R. David Paulison, stating before the Committee on Homeland Security and Government Affairs of the Senate that ''[a]ll of these no-bid contracts, we are going to go back and re-bid'';

(4) the Federal Emergency Management Agency has yet to reopen these 4 contracts to competitive bidding, and declared on November 11, 2005, that these contracts would not be reopened for bidding until February 2006;

(5) by February 2006, the majority of the contracts will have been completed and the majority of taxpayer funds will have been spent;

(6) large and politically-connected firms continue to benefit from no-bid and limited-competition contracts, and contracts are not being awarded to capable, local companies;

(7) according to an analysis in the Washington Post, companies outside the States most affected by Hurricane Katrina have received more than 90 percent of the Federal contracts for recovery and reconstruction;

(8) the monitoring of Federal contracting practices remains difficult, with a report by the San Jose Mercury News stating ''The

database of contracts is incomplete. Information released by Federal agencies is spotty and sporadic. And disclosure of many no-bid contracts isn't required by law''; and

(9)(A) there is currently no Chief Financial Officer charged with monitoring the flow of all funds to the affected areas; and

(B) the task of financial management is spread across disparate Federal departments and agencies with inadequate oversight of taxpayer funds.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Emergency Management Agency should—

(1) immediately rebid noncompetitive contracts entered into following Hurricane Katrina, consistent with the commitment of the Agency made on October 6, 2005, before millions of taxpayer dollars are wasted on irresponsible and inefficient spending;

(2)(A) immediately implement the planned competitive contracting strategy of the Agency for recovery work in all current and future reconstruction efforts; and

(B) in carrying out that strategy, should prioritize local and small disadvantaged businesses in the contracting and subcontracting process; and

(3) immediately after the awarding of a contract, publicly disclose the amount and competitive or noncompetitive nature of the contract.

SA 2606. Mr. KERRY (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. _____. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

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

SEC. _____. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

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

SEC. _____. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

''2006	121.1
2007 or thereafter	110''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SA 2607. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REPEAL OF STATE AND LOCAL TAX EXEMPTION FOR FANNIE MAE AND FREDDIE MAC.

(a) FANNIE MAE.—Section 309(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(c)) is amended to read as follows:

''(c) [Repealed.]''.

(b) FREDDIE MAC.—Section 303(e) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(e)) is amended to read as follows:

''(e) [Repealed.]''.

SA 2608. Ms. MURKOWSKI (for herself, Mr. JOHNSON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. ____. CHARITABLE CONTRIBUTIONS OF FOOD INVENTORY TO INDIAN TRIBES.

(a) IN GENERAL.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to special rule for contributions of inventory and other property) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) SPECIAL RULE FOR FOOD CONTRIBUTIONS TO INDIAN TRIBES.—

''(i) IN GENERAL.—For purposes of this paragraph, in the case of a charitable contribution of food which is apparently wholesome food (as defined in subparagraph (C)(iii)), an Indian tribe (as defined in section 7871(c)(3)(E)(ii)) shall be treated as an organization eligible to be a donee under subparagraph (A).

''(ii) USE OF PROPERTY.—For purposes of subparagraph (A)(i), if the use of the property donated is related to the exercise of an essential governmental function of the Indian tribal government (within the meaning of section 7871), such use shall be treated as related to the purpose or function constituting the basis for the organization's exemption.''.

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

SA 2609. Mrs. FEINSTEIN (for herself, Mr. SUNUNU, Mr. GREGG, Mr. WYDEN, Ms. CANTWELL, Mr. FEINGOLD, Mr. BURR, Mr. MCCAIN, Mr. KERRY, Ms. COLLINS, and Mrs. CLINTON) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to

section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, add the following:

SEC. ___. REPEAL OF CERTAIN TAX BENEFITS RELATING TO OIL AND GAS WELLS INTANGIBLE DRILLING AND DEVELOPMENT COSTS.

(a) IN GENERAL.—Section 263(c) (relating to intangible drilling and development costs) is amended by adding at the end the following new sentence: ''This subsection shall not apply with respect to wells (other than wells drilled for any geothermal deposit (as so defined)) of any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year in any taxable year beginning after December 31, 2005.''.

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

SA 2610. Mrs. FEINSTEIN (for herself and Mr. KERRY) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the bill, insert the following:

SEC. ___. REINSTATEMENT FOR MILLIONAIRES OF 39.6 PERCENT INCOME TAX RATE, PRE-MAY 2003 CAPITAL GAIN AND DIVIDEND RATES, AND DEDUCTION LIMITATIONS UNTIL BUDGET DEFICIT ELIMINATED.

(a) REPEAL OF TOP INCOME TAX RATE REDUCTIONS.—

(1) IN GENERAL.—Section 1(i) (relating to rate reductions) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) EXCEPTION FOR TAXPAYERS WITH TAXABLE INCOME OF $1,000,000, OR MORE.—Notwithstanding paragraph (2), in the case of taxable years beginning in a calender year after 2005, the last item in the fourth column of the table under paragraph (2) shall be applied by substituting '39.6%' for '35.0%' with respect to taxable income in excess of $1,000,000 ($500,000 in the case of taxpayers to whom subsection (d) applies).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2005.

(3) APPLICATION OF EGTRRA SUNSET.—The amendment made by this subsection shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

(b) RESTORATION OF PRE-MAY 2003 TAX RATES ON CAPITAL GAINS AND DIVIDENDS FOR INDIVIDUALS IN TOP RATE BRACKET.—

(1) IN GENERAL.—Section 1(h) is amended by adding at the end the following new paragraph:

''(12) INCREASED RATES FOR INDIVIDUALS IN THE TOP RATE BRACKET.—

''(A) DIVIDENDS.—In no event shall the qualified dividend income of a taxpayer for any taxable year exceed the excess (if any) of—

''(i) the minimum dollar amount to which the 39.6 rate applies under subsection (i) for the taxable year, over

''(ii) taxable income, reduced by adjusted net capital gain (determined without regard to this paragraph).

''(B) CAPITAL GAINS.—If a taxpayer has a net capital gain for any taxable year, the taxpayer's tax shall be increased by an amount equal to 5 percent of the lesser of—

''(i) the taxpayer's adjusted net capital gain, determined after application of subparagraph (A) and by only taking into account gain or loss properly allocable to the portion of the taxable year after December 31, 2005, or

''(ii) taxable income in excess of the minimum dollar amount to which the 39.6 rate applies under subsection (i) for the taxable year.''

(2) APPLICATION TO MINIMUM TAX.—Section 55(b)(3) is amended by adding at the end the following new sentence: ''The rules of section 1(h)(12) shall apply for purposes of this paragraph.''

(3) EFFECTIVE DATES.—

(A) CAPITAL GAINS.—Section 1(h)(12)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after December 31, 2005.

(B) DIVIDEND RATES.—Section 1(h)(12)(A) of such Code (as added by paragraph (1)) shall apply to dividends received after December 31, 2005.

(4) APPLICATION OF JGTRRA SUNSET.—The amendment made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

(c) REPEAL OF THE SCHEDULED PHASE OUT AND TERMINATION OF THE LIMITATIONS ON PERSONAL EXEMPTIONS AND ITEMIZED DEDUCTIONS.—

(1) REPEAL.—

(A) PERSONAL EXEMPTIONS.—Section 1(d)(3) is amended by adding at the end the following:

''(6) REDUCTION OF PHASE OUT AND TERMINATION NOT TO APPLY.—Subparagraphs (E) and (F) shall not apply to a taxpayer whose adjusted gross income for the taxable year exceeds $1,000,000 ($500,000 in the case of a married individual filing a separate return).''

(B) ITEMIZED DEDUCTIONS.—Section 68 is amended by adding at the end the following:

''(h) REDUCTION OF PHASE OUT AND TERMINATION NOT TO APPLY.—Subsections (f) and (g) shall not apply to a taxpayer whose adjusted gross income for the taxable year exceeds $1,000,000 ($500,000 in the case of a married individual filing a separate return).''

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

(3) APPLICATION OF EGTRRA SUNSET.—The amendments made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

(d) SUNSET OF AMENDMENTS IF BUDGET DEFICIT ELIMINATED.—

(1) IN GENERAL.—The amendments made by this section shall not apply to taxable years beginning after the first calendar year for which the certification described in paragraph (2)(B) is made.

(2) ESTIMATES AND CERTIFICATION.—

(A) IN GENERAL.—Not later than October 15 of each calendar year beginning after 2005, the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury, shall estimate—

(i) the Federal budget deficit for the fiscal year ending in the calendar year, and

(ii) the Federal budget deficit for the fiscal year beginning in the calendar year (determined as if the amendments made by this section were not in effect for taxable years beginning in the following calendar year).

(B) CERTIFICATION.—The Director of the Office of Management and Budget shall certify to the President of the United States and to the Congress the first calendar year for which the Director estimates under subparagraph (A) that there will be no Federal budget deficit for both of the fiscal years for which the estimate was made.

SA 2611. Mr. SCHUMER (for himself, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. FEINGOLD, Mrs. CLINTON, Mr. KERRY, Mr. LIEBERMAN, Mr. SALAZAR, Mrs. BOXER, Ms. STABENOW, Ms. MIKULSKI, Mr. KOHL, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE FEDERAL TAX DEDUCTION FOR STATE AND LOCAL TAXES.

(a) FINDINGS.—The Senate finds the following:

(1) No American should be unnecessarily or excessively burdened with additional taxes.

(2) The Federal income tax has grown more complicated and unmanageable over time, imposing burdensome administrative and compliance costs on American taxpayers.

(3) On January 7, 2005, President George W. Bush created the President's Advisory Panel on Federal Tax Reform (the ''Panel'') via Executive Order 13369.

(4) The Panel was tasked with providing several options for Federal tax reform that would simplify Federal tax laws, retain progressivity, and promote long-run economic growth and job creation.

(5) In its final report, released publicly on November 1, 2005, the Panel recommended the complete repeal of the Federal deduction for State and local taxes, as a central component of both the ''Simplified Income Tax Plan'' and the ''Growth and Investment Tax Plan''.

(6) State and local taxes have been deductible from the Federal income tax since the inception of the Federal income tax in 1913.

(7) Eliminating the deduction for State and local taxes would create a new form of double taxation at a time where efforts are being made to reduce other forms of double taxation, since repeal would require millions of taxpayers to pay Federal taxes on income that is also taxed at the State or local level.

(8) Congress has recently taken steps to expand, rather than cut back, the State and local tax deduction, by reinstating a deduction for State sales taxes for some taxpayers (previously repealed as part of the Tax Reform Act of 1986), as part of the American Jobs Creation Act of 2004.

(9) There is some concern, as noted by the nonpartisan Urban-Brookings Tax Policy Center, that eliminating the deduction could ''lower support for public services and lead to a 'race to the bottom' in terms of State and local expenditures as States compete to have the lowest taxes in order to attract higher-income households''.

(10) The deduction for State and local taxes is not just a concern for a small minority of taxpayers in the largest States, as 22 States saw more than ⅓ of their taxpayers take the deduction in 2003, the latest year for which data is available (Maryland, New Jersey, Connecticut, Colorado, Oregon, Minnesota, Massachusetts, Virginia, Utah, California, Georgia, New York, Wisconsin, Arizona, Rhode Island, Michigan, Delaware, North Carolina, Illinois, New Hampshire, Nevada, and Idaho (ranked in order of the percentage of taxpayers affected)).

(11) In tax year 2003, 43,538,000 taxpayers in the United States took advantage of the Federal deduction for State and local taxes, deducting a total of $315,690,000,000, thereby

saving taxpayers in the United States approximately $88,390,000,000 in Federal income taxes, assuming an average marginal rate of 28 percent for taxpayers who itemize.

(12) In tax year 2003, the top 25 States ranked by the number of taxpayers affected represented 77 percent of the taxpayers affected nationally, and took 85 percent of the total deductions for State and local taxes, as described in the following subparagraphs:

(A) In California, 5,807,000 taxpayers deducted a total of $54,920,000,000, saving California taxpayers approximately $15,380,000,000 in Federal income taxes.

(B) In New York, 3,228,000 taxpayers deducted a total of $37,600,000,000, saving New York taxpayers approximately $10,530,000,000 in Federal income taxes.

(C) In Illinois, 1,994,000 taxpayers deducted a total of $13,720,000,000, saving Illinois taxpayers approximately $3,840,000,000 in Federal income taxes.

(D) In Ohio, 1,809,000 taxpayers deducted a total of $12,720,000,000, saving Ohio taxpayers approximately $3,560,000,000 in Federal income taxes.

(E) In New Jersey, 1,791,000 taxpayers deducted a total of $18,750,000,000, saving New Jersey taxpayers approximately $5,250,000,000 in Federal income taxes.

(F) In Pennsylvania, 1,765,000 taxpayers deducted a total of $12,400,000,000, saving Pennsylvania taxpayers approximately $3,470,000,000 in Federal income taxes.

(G) In Michigan, 1,627,000 taxpayers deducted a total of $10,350,000,000, saving Michigan taxpayers approximately $2,900,000,000 in Federal income taxes.

(H) In Georgia, 1,416,000 taxpayers deducted a total of $8,720,000,000, saving Georgia taxpayers approximately $2,440,000,000 in Federal income taxes.

(I) In Virginia, 1,355,000 taxpayers deducted a total of $9,630,000,000, saving Virginia taxpayers approximately $2,700,000,000 in Federal income taxes.

(J) In North Carolina, 1,304,000 taxpayers deducted a total of $8,720,000,000, saving North Carolina taxpayers approximately $2,440,000,000 in Federal income taxes.

(K) In Maryland, 1,260,000 taxpayers deducted a total of $10,410,000,000, saving Maryland taxpayers approximately $2,920,000,000 in Federal income taxes.

(L) In Massachusetts, 1,216,000 taxpayers deducted a total of $10,840,000,000, saving Massachusetts taxpayers approximately $3,040,000,000 in Federal income taxes.

(M) In Minnesota, 969,000 taxpayers deducted a total of $7,060,000,000, saving Minnesota taxpayers approximately $1,980,000,000 in Federal income taxes.

(N) In Wisconsin, 961,000 taxpayers deducted a total of $8,000,000,000, saving Wisconsin taxpayers approximately $2,240,000,000 in Federal income taxes.

(O) In Colorado, 856,000 taxpayers deducted a total of $4,570,000,000, saving Colorado taxpayers approximately $1,280,000,000 in Federal income taxes.

(P) In Arizona, 841,000 taxpayers deducted a total of $4,110,000,000, saving Arizona taxpayers approximately $1,150,000,000 in Federal income taxes.

(Q) In Indiana, 832,000 taxpayers deducted a total of $4,530,000,000, saving Indiana taxpayers approximately $1,270,000,000 in Federal income taxes.

(R) In Missouri, 772,000 taxpayers deducted a total of $4,890,000,000, saving Missouri taxpayers approximately $1,370,000,000 in Federal income taxes.

(S) In Connecticut, 713,000 taxpayers deducted a total of $7,970,000,000, saving Connecticut taxpayers approximately $2,230,000,000 in Federal income taxes.

(T) In Oregon, 641,000 taxpayers deducted a total of $5,100,000,000, saving Oregon taxpayers approximately $1,430,000,000 in Federal income taxes.

(U) In South Carolina, 574,000 taxpayers deducted a total of $3,390,000,000, saving South Carolina taxpayers approximately $949,000,000 in Federal income taxes.

(V) In Alabama, 538,000 taxpayers deducted a total of $2,090,000,000, saving Alabama taxpayers approximately $586,000,000 in Federal income taxes.

(W) In Kentucky, 515,000 taxpayers deducted a total of $3,300,000,000, saving Kentucky taxpayers approximately $925,000,000 in Federal income taxes.

(X) In Oklahoma, 434,000 taxpayers deducted a total of $2,320,000,000, saving Oklahoma taxpayers approximately $650,000,000 in Federal income taxes.

(Y) In Iowa, 397,000 taxpayers deducted a total of $2,510,000,000, saving Iowa taxpayers approximately $702,000,000 in Federal income taxes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should not repeal or substantially alter the longstanding Federal tax deduction for State and local taxes.

SA 2612. Ms. CANTWELL (form herself, Mr. BAYH, Mr. LIEBERMAN, Mr. SCHUMER, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. SALAZAR, Mr. KOHL, Mrs. MURRAY, Ms. STABENOW, and Mrs. FEINSTEIN) submitted an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the bill, insert the following:

TITLE I—ENERGY EMERGENCY CONSUMER PROTECTION

SEC. ____. UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE RELATED TO GASOLINE AND PETROLEUM DISTILLATES.

(a) SALES TO CONSUMERS AT UNCONSCIONABLE PRICE.—

(1) IN GENERAL.—During any energy emergency declared by the President under section 3, it is unlawful for any person to sell crude oil, gasoline, or petroleum distillates in, or for use in, the area to which that declaration applies at a price that—

(A) is unconscionably excessive; or

(B) indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

(2) FACTORS CONSIDERED.—In determining whether a violation of paragraph (1) has occurred, there shall be taken into account, among other factors, whether—

(A) the amount charged represents a gross disparity between the price of the crude oil, gasoline, or petroleum distillate sold and the price at which it was offered for sale in the usual course of the seller's business immediately prior to the energy emergency; or

(B) the amount charged grossly exceeds the price at which the same or similar crude oil, gasoline, or petroleum distillate was readily obtainable by other purchasers in the area to which the declaration applies.

(3) MITIGATING FACTORS.—In determining whether a violation of paragraph (1) has occurred, there also shall be taken into account, among other factors, the price that would reasonably equate supply and demand in a competitive and freely functioning market and whether the price at which the crude oil, gasoline, or petroleum distillate was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

(b) FALSE PRICING INFORMATION.—It is unlawful for any person to report information related to the wholesale price of crude oil, gasoline, or petroleum distillates to the Federal Trade Commission if—

(1) that person knew, or reasonably should have known, the information to be false or misleading;

(2) the information was required by law to be reported; and

(3) the person intended the false or misleading data to affect data compiled by that department or agency for statistical or analytical purposes with respect to the market for crude oil, gasoline, or petroleum distillates.

(c) MARKET MANIPULATION.—It is unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of crude oil, gasoline, or petroleum distillates at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.

SEC. ____. DECLARATION OF ENERGY EMERGENCY.

(a) IN GENERAL.—If the President finds that the health, safety, welfare, or economic well-being of the citizens of the United States is at risk because of a shortage or imminent shortage of adequate supplies of crude oil, gasoline, or petroleum distillates due to a disruption in the national distribution system for crude oil, gasoline, or petroleum distillates (including such a shortage related to a major disaster (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122))), or significant pricing anomalies in national energy markets for crude oil, gasoline, or petroleum distillates, the President may declare that a Federal energy emergency exists.

(b) SCOPE AND DURATION.—The declaration shall apply to the Nation, a geographical region, or 1 or more States, as determined by the President, but may not be in effect for a period of more than 45 days.

(c) EXTENSIONS.—The President may—

(1) extend a declaration under subsection (a) for a period of not more than 45 days; and

(2) extend such a declaration more than once.

SEC. ____. ENFORCEMENT UNDER FEDERAL TRADE COMMISSION ACT.

(a) ENFORCEMENT BY COMMISSION.—This Act shall be enforced by the Federal Trade Commission. In enforcing section 2(a) of this Act, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, and petroleum distillates in excess of $500,000,000 per year but shall not exclude enforcement actions against companies with total United States wholesale sales of $500,000,000 or less per year.

(b) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—The violation of any provision of this Act shall be treated as an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

SEC. ____. ENFORCEMENT AT RETAIL LEVEL BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 2(a) of this Act, or to impose the civil penalties authorized by section 6 for violations of section 2(a), whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a person engaged in retail sales of gasoline or petroleum distillates to consumers for purposes other than

resale that violates this Act or a regulation under this Act.

(b) NOTICE.—The State shall serve written notice to the Commission of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action or an administrative action for violation of this Act, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this Act alleged in the complaint.

(g) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of such State.

SEC. ___. PENALTIES.

(a) CIVIL PENALTY.—

(1) IN GENERAL.—In addition to any penalty applicable under the Federal Trade Commission Act—

(A) any person who violates section 2(b) or 2(c) of this Act is punishable by a civil penalty of not more than $1,000,000; and

(B) any person who violates section 2(a) of this Act is punishable by a civil penalty of not more than $3,000,000.

(2) METHOD OF ASSESSMENT.—The penalties provided by paragraph (1) shall be assessed in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the Commission shall take into consideration the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(b) CRIMINAL PENALTY.—Violation of section 2(a) of this Act is punishable by a fine of not more than $1,000,000, imprisonment for not more than 5 years, or both.

SEC. ___. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF COMMISSION.—Nothing in this Act shall be construed to limit or affect in any way the Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) STATE LAW.—Nothing in this Act preempts any State law.

SA 2613. Mr. KENNEDY (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. DURBIN, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXPANSION OF HOPE SCHOLARSHIP CREDIT.

(a) CREDIT ALLOWED FOR BOOKS AND ROOM AND BOARD.—

(1) IN GENERAL.—

(A) Subsection (b) of section 25A is amended by striking ''qualified tuition and related expenses'' each place it occurs and inserting ''qualified higher education expenses''.

(B) Subsection (f) of section 25A is amended by adding at the end the following new paragraph:

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' has the meaning given such term under section 529(e)(3).''.

(2) CONFORMING AMENDMENTS.—Subsections (e) and (g) of section 25A are amended by inserting ''qualified higher education expenses or'' before ''qualified'' each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. ___. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SA 2614. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

SA 2615. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. ___. REPEAL OF EXPENSING OF INTANGIBLE DRILLING AND DEVELOPMENT COSTS FOR OIL AND GAS WELLS.

(a) IN GENERAL.—Section 263(c) (relating to intangible drilling and development costs) is amended by adding at the end the following new sentence: ''This subsection shall not apply with respect to wells (other than wells drilled for any geothermal deposit (as so defined)) of any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year in any taxable year beginning after December 31, 2005.''.

(b) CONFORMING AMENDMENTS.—Paragraphs (2) and (3) of section 291(b) are each amended by striking ''section 263(c), 616(a),'' and inserting ''section 616(a)''.

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

SA 2616. Mr. KERRY (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. ___. ACCELERATION OF MARRIAGE PENALTY RELIEF WITH RESPECT TO THE EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 32(b)(2) (relating to joint returns) is amended—

(1) in clause (ii) by striking '', 2006, and 2007'', and

(2) in clause (iii) by striking ''2007'' and inserting ''2005''.

(b) INFLATION AMOUNT.—Section 32(j)(1)(B)(ii) is amended by striking ''calendar year 2007'' and inserting ''calendar year 2005''.

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

SEC. ___. EXTENSION OF ELECTION TO INCLUDE COMBAT PAY IN EARNED INCOME.

(a) IN GENERAL.—Subclause (II) of section 32(c)(2)(B)(vi) (relating to earned income) is amended by striking ''January 1, 2006'' and inserting ''January 1, 2008''.

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

SEC. _____. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by adding at the end the following new paragraph:

''(5) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SA 2617. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ___. CLASSIFICATION OF AUTOMATIC FIRE SPRINKLER SYSTEMS.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) (relating to 5-year property) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and '', and by adding at the end the following:

''(vii) any automatic fire sprinkler system placed in service after the date of the enactment of this clause in a building structure which was placed in service before such date of enactment.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (B)(iii) the following:

''(B)(vii) ..... 7''.

(c) DEFINITION OF AUTOMATIC FIRE SPRINKLER SYSTEM.—Subsection (i) of section 168 is amended by adding at the end the following:

''(18) AUTOMATED FIRE SPRINKLER SYSTEM.—The term 'automated fire sprinkler system' means those sprinkler systems classified under one or more of the following publications of the National Fire Protection Association—

''(A) NFPA 13, Installation of Sprinkler Systems,

''(B) NFPA 13 D, Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes, and

''(C) NFPA 13 R, Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SA 2618. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

Subtitle B—Savings for Working Families

SEC. 411. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term ''eligible individual'' means, with respect to any taxable year, an individual who—

(i) has attained the age of 18 but not the age of 61 as of the last day of such taxable year,

(ii) is a citizen or lawful permanent resident (within the meaning of section 7701(b)(6) of the Internal Revenue Code of 1986) of the United States as of the last day of such taxable year,

(iii) was not a student (as defined in section 151(c)(4) of such Code) for the immediately preceding taxable year,

(iv) is not an individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year of the other taxpayer ending during the immediately preceding taxable year of the individual,

(v) is not a taxpayer described in subsection (c), (d), or (e) of section 6402 of such Code for the immediately preceding taxable year,

(vi) is not a taxpayer described in section 1(d) of such Code for the immediately preceding taxable year, and

(vii) is a taxpayer the modified adjusted gross income of whom for the immediately preceding taxable year does not exceed—

(I) $20,000, in the case of a taxpayer described in section 1(c) of such Code,

(II) $30,000, in the case of a taxpayer described in section 1(b) of such Code, and

(III) $40,000, in the case of a taxpayer described in section 1(a) of such Code.

(B) INFLATION ADJUSTMENT.—

(i) IN GENERAL.—In the case of any taxable year beginning after 2005, each dollar amount referred to in subparagraph (A)(vii) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section (1)(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, by substituting ''2004'' for ''1992''.

(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A)(v), the term ''modified adjusted gross income'' means adjusted gross income—

(i) determined without regard to sections 86, 893, 911, 931, and 933 of the Internal Revenue Code of 1986, and

(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term ''Individual Development Account'' means an account established for an eligible individual as part of a qualified individual development account program, but only if the written governing instrument creating the account meets the following requirements:

(A) The owner of the account is the individual for whom the account was established.

(B) No contribution will be accepted unless it is in cash, and, except in the case of any qualified rollover, contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual.

(C) The trustee of the account is a qualified financial institution.

(D) The assets of the account will not be commingled with other property except in a common trust fund or common investment fund.

(E) Except as provided in section 415(b), any amount in the account may be paid out only for the purpose of paying the qualified expenses of the account owner.

(3) PARALLEL ACCOUNT.—The term ''parallel account'' means a separate, parallel individual or pooled account for all matching funds and earnings dedicated to an Individual Development Account owner as part of a qualified individual development account program, the trustee of which is a qualified financial institution.

(4) QUALIFIED FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''qualified financial institution'' means any person authorized to be a trustee of any individual retirement account under section 408(a)(2) of the Internal Revenue Code of 1986.

(B) RULE OF CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed as preventing a person described in subparagraph (A) from collaborating with 1 or more qualified nonprofit organizations or Indian tribes to carry out an individual development account program established under section 412.

(ii) QUALIFIED NONPROFIT ORGANIZATION.—The term ''qualified nonprofit organization'' means—

(I) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code,

(II) any community development financial institution certified by the Community Development Financial Institution Fund,

(III) any credit union chartered under Federal or State law, or

(IV) any public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(iii) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe as defined in section 4(12) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12), and includes any tribally designated housing entity (as defined in section 4(21) of such Act (25 U.S.C. 4103(21)), tribal subsidiary, subdivision, or other wholly owned tribal entity.

(5) QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM.—The term ''qualified individual development account program'' means a program established upon approval of the Secretary under section 412 after December 31, 2006, under which—

(A) Individual Development Accounts and parallel accounts are held in trust by a qualified financial institution, and

(B) additional activities determined by the Secretary, in consultation with the Secretary of Health and Human Services, as necessary to responsibly develop and administer accounts, including recruiting, providing financial education and other training to Account owners, and regular program monitoring, are carried out by the qualified financial institution.

(6) QUALIFIED EXPENSE DISTRIBUTION.—

(A) IN GENERAL.—The term ''qualified expense distribution'' means any amount paid (including through electronic payments) or distributed out of an Individual Development Account or a parallel account established for an eligible individual if such amount—

(i) is used exclusively to pay the qualified expenses of the Individual Development Account owner or such owner's spouse or dependents,

(ii) is paid by the qualified financial institution—

(I) except as otherwise provided in this clause, directly to the unrelated third party to whom the amount is due,

(II) in the case of any qualified rollover, directly to another Individual Development Account and parallel account, or

(III) in the case of a qualified final distribution, directly to the spouse, dependent, or other named beneficiary of the deceased Account owner, and

(iii) is paid after the Account owner has completed a financial education course if required under section 413(b).

(B) QUALIFIED EXPENSES.—

(i) IN GENERAL.—The term ''qualified expenses'' means any of the following expenses approved by the qualified financial institution:

(I) Qualified higher education expenses.

(II) Qualified first-time homebuyer costs.

(III) Qualified business capitalization or expansion costs.

(IV) Qualified rollovers.

(V) Qualified final distribution.

(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—

(I) IN GENERAL.—The term ''qualified higher education expenses'' has the meaning given such term by section 529(e)(3) of the Internal Revenue Code of 1986, determined by treating the Account owner, the owner's spouse, or one or more of the owner's dependents as a designated beneficiary, and reduced as provided in section 25A(g)(2) of such Code.

(II) COORDINATION WITH OTHER BENEFITS.—The amount of expenses which may be taken into account for purposes of section 135, 529, or 530 of such Code for any taxable year shall be reduced by the amount of any qualified higher education expenses taken into account as qualified expense distributions during such taxable year.

(iii) QUALIFIED FIRST-TIME HOMEBUYER COSTS.—The term ''qualified first-time homebuyer costs'' means qualified acquisition costs (as defined in section 72(t)(8)(C) of the Internal Revenue Code of 1986) with respect to a principal residence (within the meaning of section 121 of such Code) for a qualified first-time homebuyer (as defined in section 72(t)(8)(D)(i) of such Code).

(iv) QUALIFIED BUSINESS CAPITALIZATION OR EXPANSION COSTS.—

(I) IN GENERAL.—The term ''qualified business capitalization or expansion costs'' means qualified expenditures for the capitalization or expansion of a qualified business pursuant to a qualified business plan.

(II) QUALIFIED EXPENDITURES.—The term ''qualified expenditures'' means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant, and equipment, inventory expenses, and attorney and accounting fees.

(III) QUALIFIED BUSINESS.—The term ''qualified business'' means any business that does not contravene any law.

(IV) QUALIFIED BUSINESS PLAN.—The term ''qualified business plan'' means a business plan which has been approved by the qualified financial institution and which meets such requirements as the Secretary may specify.

(v) QUALIFIED ROLLOVERS.—The term ''qualified rollover'' means the complete distribution of the amounts in an Individual Development Account and parallel account to another Individual Development Account and parallel account established in another qualified financial institution for the benefit of the Account owner.

(vi) QUALIFIED FINAL DISTRIBUTION.—The term ''qualified final distribution'' means, in the case of a deceased Account owner, the complete distribution of the amounts in the Individual Development Account and parallel account directly to the spouse, any dependent, or other named beneficiary of the deceased.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

SEC. 412. STRUCTURE AND ADMINISTRATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.—Any qualified financial institution may apply to the Secretary for approval to establish 1 or more qualified individual development account programs which meet the requirements of this subtitle.

(b) BASIC PROGRAM STRUCTURE.—

(1) IN GENERAL.—All qualified individual development account programs shall consist of the following 2 components for each participant:

(A) An Individual Development Account to which an eligible individual may contribute cash in accordance with section 413.

(B) A parallel account to which all matching funds shall be deposited in accordance with section 414.

(2) TAILORED IDA PROGRAMS.—A qualified financial institution may tailor its qualified individual development account program to allow matching funds to be spent on 1 or more of the categories of qualified expenses.

(c) COORDINATION WITH PUBLIC HOUSING AGENCY INDIVIDUAL SAVINGS ACCOUNTS.—Section 3(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(e)(2)) is amended by inserting ''or in any Individual Development Account established under subtitle B of title IV of the Tax Relief Act of 2005'' after ''subsection''.

(d) TAX TREATMENT OF PARALLEL ACCOUNTS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7529. TAX INCENTIVES FOR INDIVIDUAL DEVELOPMENT PARALLEL ACCOUNTS.

''For purposes of this title—

''(1) any account described in section 412(b)(1)(B) of the Tax Relief Act of 2005 shall be exempt from taxation,

''(2) except as provided in section 45G, no item of income, expense, basis, gain, or loss with respect to such an account may be taken into account, and

''(3) any amount withdrawn from such an account shall not be includible in gross income.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Tax incentives for individual development parallel accounts.''.

(e) COORDINATION OF CERTAIN EXPENSES.—Section 25A(g)(2) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) a qualified expense distribution with respect to qualified higher education expenses from an Individual Development Account or a parallel account under section 415(a) of the Tax Relief Act of 2005.''.

SEC. 413. PROCEDURES FOR OPENING AND MAINTAINING AN INDIVIDUAL DEVELOPMENT ACCOUNT AND QUALIFYING FOR MATCHING FUNDS.

(a) OPENING AN ACCOUNT.—An eligible individual may open an Individual Development Account with a qualified financial institution upon certification that such individual has never maintained any other Individual Development Account (other than an Individual Development Account to be terminated by a qualified rollover).

(b) REQUIRED COMPLETION OF FINANCIAL EDUCATION COURSE.—

(1) IN GENERAL.—Before becoming eligible to withdraw funds to pay for qualified expenses, owners of Individual Development Accounts must complete 1 or more financial education courses specified in the qualified individual development account program.

(2) STANDARD AND APPLICABILITY OF COURSE.—The Secretary, in consultation with representatives of qualified individual development account programs and financial educators, shall, not later than January 1, 2006, establish minimum quality standards for the contents of financial education courses and providers of such courses described in paragraph (1) and a protocol to exempt individuals from the requirement under paragraph (1) in the case of hardship, lack of need, the attainment of age 65, or a qualified final distribution.

(c) PROOF OF STATUS AS AN ELIGIBLE INDIVIDUAL.—Federal income tax forms for the immediately preceding taxable year and any other evidence of eligibility which may be required by a qualified financial institution shall be presented to such institution at the time of the establishment of the Individual Development Account and in any taxable year in which contributions are made to the Account to qualify for matching funds under section 414(b)(1)(A).

(d) SPECIAL RULE IN THE CASE OF MARRIED INDIVIDUALS.—For purposes of this subtitle, if, with respect to any taxable year, 2 married individuals file a Federal joint income tax return, then not more than 1 of such individuals may be treated as an eligible individual with respect to the succeeding taxable year.

SEC. 414. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) PARALLEL ACCOUNTS.—The qualified financial institution shall deposit all matching funds for each Individual Development Account into a parallel account at a qualified financial institution.

(b) REGULAR DEPOSITS OF MATCHING FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), the qualified financial institution shall deposit into the parallel account with respect to each eligible individual the following amounts:

(A) A dollar-for-dollar match for the first $500 contributed by the eligible individual into an Individual Development Account with respect to any taxable year of such individual.

(B) Any matching funds provided by State, local, or private sources in accordance with the matching ratio set by those sources.

(2) TIMING OF DEPOSITS.—A deposit of the amounts described in paragraph (1) shall be made into a parallel account—

(A) in the case of amounts described in paragraph (1)(A), not later than 30 days after the end of the calendar quarter during which the contribution described in such paragraph was made, and

(B) in the case of amounts described in paragraph (1)(B), not later than 2 business days after such amounts were provided.

(3) CROSS REFERENCE.—For allowance of tax credit for Individual Development Account subsidies, including matching funds, see section 45N of the Internal Revenue Code of 1986, as added by section 419(a).

(c) DEPOSIT OF MATCHING FUNDS INTO INDIVIDUAL DEVELOPMENT ACCOUNT OF INDIVIDUAL WHO HAS ATTAINED AGE 65.—In the case of an Individual Development Account owner who attains the age of 65, the qualified financial institution shall deposit the funds in the parallel account with respect to such individual into the Individual Development Account of such individual on the later of—

(1) the day which is the 1-year anniversary of the deposit of such funds in the parallel account, or

(2) the first business day of the taxable year of such individual following the taxable year in which such individual attained age 65.

(d) UNIFORM ACCOUNTING REGULATIONS.—To ensure proper recordkeeping and determination of the tax credit under section 45N of the Internal Revenue Code of 1986, as added

by section 419(a), the Secretary shall prescribe regulations with respect to accounting for matching funds in the parallel accounts.

(e) REGULAR REPORTING OF ACCOUNTS.—Any qualified financial institution shall report the balances in any Individual Development Account and parallel account of an individual on not less than an annual basis to such individual.

SEC. 415. WITHDRAWAL PROCEDURES.

(a) WITHDRAWALS FOR QUALIFIED EXPENSES.—

(1) IN GENERAL.—An Individual Development Account owner may withdraw funds in order to pay qualified expense distributions from such individual's—

(A) Individual Development Account, but only from funds which have been on deposit in such Account for at least 1 year, and

(B) parallel account, but only—

(i) from matching funds which have been on deposit in such parallel account for at least 1 year,

(ii) from earnings in such parallel account, after all matching funds described in clause (i) have been withdrawn, and

(iii) to the extent such withdrawal does not result in a remaining balance in such parallel account which is less than the remaining balance in the Individual Development Account after such withdrawal.

(2) PROCEDURE.—Upon receipt of a withdrawal request which meets the requirements of paragraph (1), the qualified financial institution shall directly transfer the funds electronically to the distributees described in section 411(6)(A)(ii). If a distributee is not equipped to receive funds electronically, the qualified financial institution may issue such funds by paper check to the distributee.

(b) WITHDRAWALS FOR NONQUALIFIED EXPENSES.—An Individual Development Account owner may withdraw any amount of funds from the Individual Development Account for purposes other than to pay qualified expense distributions, but if, after such withdrawal, the amount in the parallel account of such owner (excluding earnings on matching funds) exceeds the amount remaining in such Individual Development Account, then such owner shall forfeit from the parallel account the lesser of such excess or the amount withdrawn.

(c) WITHDRAWALS FROM ACCOUNTS OF NONELIGIBLE INDIVIDUALS.—If the individual for whose benefit an Individual Development Account is established ceases to be an eligible individual, such account shall remain an Individual Development Account, but such individual shall not be eligible for any further matching funds under section 414(b)(1)(A) for contributions which are made to the Account during any taxable year when such individual is not an eligible individual.

(d) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year of the individual for whose benefit an Individual Development Account is established, that individual uses the Account, the individual's parallel account, or any portion thereof as security for a loan, the portion so used shall be treated as a withdrawal of such portion from the Individual Development Account for purposes other than to pay qualified expenses.

SEC. 416. CERTIFICATION AND TERMINATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) CERTIFICATION PROCEDURES.—Upon establishing a qualified individual development account program under section 412, a qualified financial institution shall certify to the Secretary at such time and in such manner as may be prescribed by the Secretary and accompanied by any documentation required by the Secretary, that—

(1) the accounts described in subparagraphs (A) and (B) of section 412(b)(1) are operating pursuant to all the provisions of this Act, and

(2) the qualified financial institution agrees to implement an information system necessary to monitor the cost and outcomes of the qualified individual development account program.

(b) AUTHORITY TO TERMINATE QUALIFIED IDA PROGRAM.—If the Secretary determines that a qualified financial institution under this Act is not operating a qualified individual development account program in accordance with the requirements of this Act (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such institution's authority to conduct the program. If the Secretary is unable to identify a qualified financial institution to assume the authority to conduct such program, then any funds in a parallel account established for the benefit of any individual under such program shall be deposited into the Individual Development Account of such individual as of the first day of such termination.

SEC. 417. REPORTING, MONITORING, AND EVALUATION.

(a) RESPONSIBILITIES OF QUALIFIED FINANCIAL INSTITUTIONS.—Each qualified financial institution that operates a qualified individual development account program under section 412 shall report annually to the Secretary within 90 days after the end of each calendar year on—

(1) the number of individuals making contributions into Individual Development Accounts and the amounts contributed,

(2) the amounts contributed into Individual Development Accounts by eligible individuals and the amounts deposited into parallel accounts for matching funds,

(3) the amounts withdrawn from Individual Development Accounts and parallel accounts, and the purposes for which such amounts were withdrawn,

(4) the balances remaining in Individual Development Accounts and parallel accounts, and

(5) such other information needed to help the Secretary monitor the effectiveness of the qualified individual development account program (provided in a non-individually-identifiable manner).

(b) RESPONSIBILITIES OF THE SECRETARY.—

(1) MONITORING PROTOCOL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and implement a protocol and process to monitor the cost and outcomes of the qualified individual development account programs established under section 412.

(2) ANNUAL REPORTS.—For each year after 2007, the Secretary shall submit a progress report to Congress on the status of such qualified individual development account programs. Such report shall, to the extent data are available, include from a representative sample of qualified individual development account programs information on—

(A) the characteristics of participants, including age, gender, race or ethnicity, marital status, number of children, employment status, and monthly income,

(B) deposits, withdrawals, balances, uses of Individual Development Accounts, and participant characteristics,

(C) the characteristics of qualified individual development account programs, including match rate, economic education requirements, permissible uses of accounts, staffing of programs in full time employees, and the total costs of programs, and

(D) process information on program implementation and administration, especially on problems encountered and how problems were solved.

(3) USE OF ACCOUNTS IN RURAL AREAS ENCOURAGED.—The Secretary shall develop methods to encourage the use of Individual Development Accounts in rural areas.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary $1,000,000 for fiscal year 2007 and for each fiscal year through 2014, for the purposes of implementing this subtitle, including the reporting, monitoring, and evaluation required under section 417, to remain available until expended.

(b) GRANTS.—There is authorized to be appropriated to the Secretary $20,000,000—

(1) to make grants to qualified nonprofit organizations and Indian tribes to help defray the administrative costs associated with the operation of individual development account programs, including the required financial education courses, and

(2) to provide technical assistance to qualified nonprofit organizations and Indian tribes in meeting such program requirements.

SEC. 419. MATCHING FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS PROVIDED THROUGH A TAX CREDIT FOR QUALIFIED FINANCIAL INSTITUTIONS.

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

"SEC. 45N. INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT CREDIT.

''(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the individual development account investment credit determined under this section with respect to any eligible entity for any taxable year is an amount equal to the individual development account investment provided by such eligible entity during the taxable year under an individual development account program established under section 412 of the Tax Relief Act of 2005.

''(b) APPLICABLE TAX.—For the purposes of this section, the term 'applicable tax' means the excess (if any) of—

''(1) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (Q) of section 26(b)(2)), over

''(2) the credits allowable under subpart B (other than this section) and subpart D of this part.

''(c) INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT.—For purposes of this section, the term 'individual development account investment' means, with respect to an individual development account program in any taxable year, an amount equal to the sum of—

''(1) the aggregate amount of dollar-for-dollar matches under such program under section 414(b)(1)(A) of the Tax Relief Act of 2005 for such taxable year, plus

''(2) $50 with respect to each Individual Development Account maintained—

''(A) as of the end of such taxable year, but only if such taxable year is within the 7-taxable-year period beginning with the taxable year in which such Account is opened, and

''(B) with a balance of not less than $100 (other than the taxable year in which such Account is opened).

''(d) ELIGIBLE ENTITY.—For purposes of this section, except as provided in regulations, the term 'eligible entity' means a qualified financial institution.

''(e) OTHER DEFINITIONS.—For purposes of this section, any term used in this section and also in subtitle B of part IV of the Tax Relief Act of 2005 shall have the meaning given such term in such subtitle.

''(f) DENIAL OF DOUBLE BENEFIT.—

''(1) IN GENERAL.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which—

''(A) is taken into account under subsection (c)(1)(A) in determining the credit under this section, or

''(B) is attributable to the maintenance of an Individual Development Account.

''(2) DETERMINATION OF AMOUNT.—Solely for purposes of paragraph (1)(B), the amount attributable to the maintenance of an Individual Development Account shall be deemed to be the dollar amount of the credit allowed under subsection (c)(1)(B) for each taxable year such Individual Development Account is maintained.

''(g) CREDIT MAY BE TRANSFERRED.—

''(1) IN GENERAL.—An eligible entity may transfer any credit allowable to the eligible entity under subsection (a) to any person other than to another eligible entity which is exempt from tax under this title. The determination as to whether a credit is allowable shall be made without regard to the tax-exempt status of the eligible entity.

''(2) CONSENT REQUIRED FOR REVOCATION.—Any transfer under paragraph (1) may be revoked only with the consent of the Secretary.

''(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including

''(1) such regulations as necessary to insure that any credit described in subsection (g)(1) is claimed once and not retransferred by a transferee, and

''(2) regulations providing for a recapture of the credit allowed under this section (notwithstanding any termination date described in subsection (i)) in cases where there is a forfeiture under section 415(b) of the Tax Relief Act of 2005 in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.

''(i) APPLICATION OF SECTION.—

''(1) IN GENERAL.—This section shall apply to any expenditure made in any taxable year ending after December 31, 2006, and beginning on or before January 1, 2014, with respect to any Individual Development Account which—

''(A) is opened before January 1, 2012, and

''(B) as determined by the Secretary, when added to all of the previously opened Individual Development Accounts, does not cause the total number of such Accounts to exceed 900,000.

Notwithstanding the preceding sentence, this section shall apply to amounts which are described in subsection (c)(1) and which are timely deposited into a parallel account during the 30-day period following the end of the last taxable year beginning on or before January 1, 2014.

''(2) DETERMINATION OF LIMITATION.—The limitation on the number of Individual Development Accounts under paragraph (1)(B) shall be allocated by the Secretary among eligible individuals as such individuals open such Accounts under qualified individual development account programs, except that, in the case of 300,000 Accounts, such limitation shall be equally allocated among the States.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following new paragraph:

''(27) the individual development account investment credit determined under section 45J(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45N. Individual development account investment credit.''.

(d) REPORT REGARDING ACCOUNT MAINTENANCE FEES.—The Secretary of the Treasury shall study the adequacy of the amount specified in section 45N(c)(2) of the Internal Revenue Code of 1986 (as added by this section). Not later than December 31, 2010, the Secretary of the Treasury shall report the findings of the study described in the preceding sentence to Congress.

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

SEC. 420. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in any Individual Development Account of such individual and any matching deposit made on behalf of such individual (including earnings thereon) in any parallel account shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such Individual Development Account.

SA 2619. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. ___. MODIFICATION OF BOND RULE.

(a) IN GENERAL.—In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

(b) INCREASE IN MINIMUM PENALTY FOR BAD CHECKS AND MONEY ORDERS.—

(1) IN GENERAL.—Section 6657 (related to bad checks), as amended by section 535, is amended—

(A) by striking ''$1,250'' and inserting ''$2,000'', and

(B) by striking ''$25'' and inserting ''$40''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to checks or money orders received after the date of the enactment of this Act.

SA 2620. Ms. SNOWE (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. INTEREST DETERMINATIONS ON STUDENT LOANS.

(a) IN GENERAL.—Section 221 (relating to interest on education loans) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF INTEREST PAID.—In the case of a qualified education loan made after December 31, 2004, for purposes of this section and notwithstanding any other provision of this title—

''(1) IN GENERAL.—

''(A) TREATMENT AS INTEREST.—Any payment on such loan shall be treated as a payment of interest to the extent of the balance, immediately before such payment, in the accumulated interest account with respect to such loan.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any payment of collection costs, late fees, and penalties.

''(2) ACCUMULATED INTEREST ACCOUNT.—

''(A) IN GENERAL.—The term 'accumulated interest account' means an account which is adjusted in accordance with this paragraph.

''(B) INCREASES.—The balance in the accumulated interest account shall be increased for any period by the sum of—

''(i) the loan origination fees incurred by the borrower in such period,

''(ii) the amount of stated interest on the loan for such period, and

''(iii) the amount of any fee imposed under section 428(b)(1)(H) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H)).

''(C) DECREASES.—The balance in the accumulated interest account shall be decreased (but not below zero) by payments made on the loan to the extent treated as interest under this section.

''(3) LOAN ORIGINATION FEES.—

''(A) FEDERAL PROGRAMS.—The term 'loan origination fee' includes any fee imposed under any of the following provisions of the Higher Education Act of 1965:

''(i) Section 438(c) (20 U.S.C. 1087–1(c)).

''(ii) Section 455(c) (20 U.S.C. 1087e(c)).

''(B) FEES FOR SERVICES OR PROPERTY EXCLUDED.—Except as provided under subparagraph (A), the term 'loan origination fee' does not include any fee which is a fee for services or property.

''(4) STATED INTEREST.—The term 'stated interest' means, with respect to any period, the amount of interest determined for the period based on the stated rate of interest applicable to the period (whether or not the interest is required to be paid in such period).

''(5) ANTI-ABUSE RULE.—The Secretary may prescribe rules to prevent the acceleration or deceleration of additions to the accumulated interest account where the loan origination fees or stated interest do not properly reflect the substance of the loan.''.

(b) INFORMATION RETURNS.—

(1) INTEREST AND LOAN ORIGINATION FEE DEFINED.—Subsection (e) of section 6050S (relating to the general rule for form and manner of returns) is amended by inserting before the period at the end the following: '', and the term 'interest' has the same meaning as when used in section 221''.

(2) PRE-2005 LOANS.—The regulations under section 6050S of the Internal Revenue Code of 1986 which are applicable to loans made before September 1, 2004, shall also apply to loans made on or after such date which are made before January 1, 2005.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SA 2621. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) CASH ACCOUNTING PERMITTED.—

(1) IN GENERAL.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

''(g) CERTAIN SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection, a taxpayer is an eligible taxpayer with respect to any taxable year if—

''(A) for all prior taxable years beginning after December 31, 2004, the taxpayer (or any predecessor) met the gross receipts test of section 448(c), and

''(B) the taxpayer is not subject to section 447 or 448.''.

(2) EXPANSION OF GROSS RECEIPTS TEST.—

(A) IN GENERAL.—Paragraph (3) of section 448(b) (relating to entities with gross receipts of not more than $5,000,000) is amended by striking ''$5,000,000'' in the text and in the heading and inserting ''$10,000,000''.

(B) CONFORMING AMENDMENTS.—Section 448(c) is amended—

(i) by striking ''$5,000,000'' each place it appears in the text and in the heading of paragraph (1) and inserting ''$10,000,000'', and

(ii) by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2005, the dollar amount contained in subsection (b)(3) and paragraph (1) of this subsection shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof. If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—

(1) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

''(1) IN GENERAL.—A qualified taxpayer shall not be required to use inventories under this section for a taxable year.

''(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If a qualified taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2004, such property shall be treated as a material or supply which is not incidental.

''(3) QUALIFIED TAXPAYER.—For purposes of this subsection, the term 'qualified taxpayer' means—

''(A) any eligible taxpayer (as defined in section 446(g)(2)), and

''(B) any taxpayer described in section 448(b)(3).''.

(2) CONFORMING AMENDMENTS.—

(A) Subpart D of part II of subchapter E of chapter 1 is amended by striking section 474.

(B) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking the item relating to section 474.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SEC. ___. INCLUSION OF HEAVY VEHICLES IN LIMITATION ON DEPRECIATION OF CERTAIN LUXURY AUTOMOBILES.

(a) IN GENERAL.—Section 280F(d)(5)(A) (defining passenger automobile) is amended—

(1) by striking clause (ii) and inserting the following new clause:

''(ii)(I) which is rated at 6,000 pounds unloaded gross vehicle weight or less, or

''(II) which is rated at more than 6,000 pounds but not more than 14,000 pounds gross vehicle weight.'',

(2) by striking ''clause (ii)'' in the second sentence and inserting ''clause (ii)(I)''.

(b) CONFORMING AMENDMENT.—Section 179(b) (relating to limitations) is amended by striking paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SA 2622. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. HYDROELECTRIC DEVELOPMENT INCENTIVES.

(a) IN GENERAL.—Project numbers 1051, 10440, 11393, 11077, 11588, and 12379 of the Federal Energy Regulatory Commission shall be eligible for the maximum favorable treatment afforded under any Federal legislation or any amendments made by such legislation which promotes hydroelectric development that is enacted during the 10-year period that begins on the date that is 5 years prior to the date of enactment of this Act.

(b) DEEMED QUALIFIED ENERGY RESOURCES.—All power produced by the project numbers specified in subsection (a) shall be deemed to be qualified energy resources for purposes of qualifying for any energy production credit or similar benefit enacted for hydroelectric development within the 10-year period described in subsection (a).

(c) TRIPLE INTEREST AND PENALTIES FOR UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.—Section 532 of this Act is amended—

(1) in the section heading, by striking ''**DOUBLING**'' and inserting ''**TRIPLING**''; and

(2) in subsection (a)(1)(B), by striking ''twice'' and inserting ''3 times''.

SA 2623. Mr. DURBIN (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, insert the following:

SEC. ___. REDUCED TAXES FOR PATRIOT EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

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

''(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 2005, and before January 1, 2011, with respect to which a taxpayer is certified by the Secretary as a Patriot employer, the Patriot employer credit determined under this section for purposes of section 38 shall be equal to 1 percent of the taxable income of the taxpayer which is properly allocable to all trades or businesses with respect to which the taxpayer is certified as a Patriot employer for the taxable year.

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

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

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

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

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

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

''(C) provides either a defined benefit plan or a defined contribution plan which fully matches at least 5 percent of each employee's contributions to the plan, and

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

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

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

''(B) provides either a defined benefit plan or a defined contribution plan which fully matches at least 5 percent of each employee's contributions to the plan.''.

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

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

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

SEC. ___. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. ___. RULES RELATING TO FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

SEC. ___. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SA 2624. Mr. LEAHY (for himself, Mr. BENNETT, Mr. DOMENICI, Mr. SCHUMER, Mr. KENNEDY, Mr. BINGAMAN, Mr. LIEBERMAN, Mr. JOHNSON, Mr. WARNER, Mr. SANTORUM, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of subtitle A of title III, insert the following:

SEC. ___. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by section 316(a), is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

''(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

''(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act in taxable years ending after such date.

SA 2625. Mr. NELSON of Nebraska (for himself, Mr. DEWINE, and Ms. COLLINS) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, insert the following:

SEC. ___. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

SA 2626. Mr. REED (for himself, Mr. KENNEDY, Mr. SCHUMER, Mr. KOHL, Mr. ROCKEFELLER, Mr. KERRY, Mr. CARPER, Mr. LEAHY, Mr. DAYTON, Mr. LIEBERMAN, and Ms. STABENOW) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV add the following:

SEC. 410. TEMPORARY WINDFALL PROFITS TAX.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

''CHAPTER 56—TEMPORARY WINDFALL PROFITS ON CRUDE OIL

''Sec. 5896. Imposition of tax.
''Sec. 5897. Windfall profit; etc.
''Sec. 5898. Special rules and definitions.

''SEC. 5896. IMPOSITION OF TAX.

''(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby imposed on any applicable taxpayer an excise tax in an amount equal to the applicable percentage of the windfall profit of such taxpayer for any taxable year beginning in 2005.

''(b) APPLICABLE TAXPAYER.—For purposes of this chapter, the term 'applicable taxpayer' means, with respect to operations in the United States—

''(1) any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year.

''(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined by the Secretary such that the resulting increase in

revenues in the Treasury equals $2,920,000,000.

"SEC. 5897. WINDFALL PROFIT; ETC.

''(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the adjusted taxable income of the applicable taxpayer for the taxable year over the reasonably inflated average profit for such taxable year.

''(b) ADJUSTED TAXABLE INCOME.—For purposes of this chapter, with respect to any applicable taxpayer, the adjusted taxable income for any taxable year is equal to the taxable income for such taxable year (within the meaning of section 63 and determined without regard to this subsection)—

''(1) increased by any interest expense deduction, charitable contribution deduction, and any net operating loss deduction carried forward from any prior taxable year, and

''(2) reduced by any interest income, dividend income, and net operating losses to the extent such losses exceed taxable income for the taxable year.

In the case of any applicable taxpayer which is a foreign corporation, the adjusted taxable income shall be determined with respect to such income which is effectively connected with the conduct of a trade or business in the United States.

''(c) REASONABLY INFLATED AVERAGE PROFIT.—For purposes of this chapter, with respect to any applicable taxpayer, the reasonably inflated average profit for any taxable year is an amount equal to the average of the adjusted taxable income of such taxpayer for taxable years beginning during the 2000-2004 taxable year period (determined without regard to the taxable year with the highest adjusted taxable income in such period) plus 10 percent of such average.

"SEC. 5898. SPECIAL RULES AND DEFINITIONS .

''(a) WITHHOLDING AND DEPOSIT OF TAX.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896.

''(b) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information as the Secretary may by regulations prescribe.

''(c) RETURN OF WINDFALL PROFIT TAX.—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

''(d) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

''(e) BUSINESSES UNDER COMMON CONTROL.—For purposes of this chapter, all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''CHAPTER 56. Temporary Windfall Profits on Crude Oil.''.

(c) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The windfall profit tax imposed by section 5896.''.

(d) LOW INCOME HOME ENERGY ASSISTANCE TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. LOW-INCOME HOME ENERGY ASSISTANCE TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Low-Income Home Energy Assistance Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Low-Income Home Energy Assistance Trust Fund amounts equivalent to the increased revenues received in the Treasury as the result of the amendment made by section 410(a) of the Tax Relief Act of 2005.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Low Income Home Energy Assistance Trust Fund not to exceed $2,920,000,000 shall be available for fiscal year 2006, as provided by appropriation Acts, to carry out the program under the Low-Income Home Energy Assistance Act of 1981 through the distribution of funds to all the States in accordance with section 2604 of that Act (42 U.S.C. 8623) (other than subsection (e) of such section), but only if not less than $1,880,000,000 has been appropriated for such program for such fiscal year.''.

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 9511. Low-Income Home Energy Assistance Trust Fund.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning in 2005.

(2) SUBSECTION (d).—The amendments made by subsection (d) shall take effect on the date of the enactment of this Act.

SA 2627. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ____. CLARIFICATION OF WORKING CAPITAL FOR REASONABLY ANTICIPATED NEEDS OF A BUSINESS FOR PURPOSES OF ACCUMULATED EARNINGS TAX.

(a) IN GENERAL.—Section 537(b) (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) WORKING CAPITAL.—The reasonably anticipated needs of a business for any taxable year shall include working capital for the business in an amount which is not less than the sum of the costs of goods, operating expenses, taxes, and interest expense which the business incurred during the preceding taxable year. Any amounts incurred as part of a plan a principal purposes of which is to increase the limitation under this subsection shall not be taken into account.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 3005, and before January 1, 2011.

SA 2628. Mr. LEVIN (for himself, Mr. COLEMAN, and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of subtitle A of title V, add the following:

SEC. 504. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

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

SEC. 505. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by striking ''preparation or presentation of'' and inserting ''tax liability reflected in'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the

person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 506. PREVENTING TAX SHELTER ACTIVITIES BY FINANCIAL INSTITUTIONS.

(a) EXAMINATIONS.—

(1) DEVELOPMENT OF EXAMINATION TECHNIQUES.—Each of the Federal banking agencies and the Commission shall, in consultation with the Internal Revenue Service, develop examination techniques to detect potential violations of section 6700 or 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(2) FREQUENCY.—Not less frequently than once in each 2-year period, each of the Federal banking agencies and the Commission shall implement the examination techniques developed under paragraph (1) with respect to each of the depository institutions, brokers, dealers, or investment advisers subject to their enforcement authority. Such examination shall, to the extent possible, be combined with any examination by such agency otherwise required or authorized by Federal law.

(b) REPORT TO INTERNAL REVENUE SERVICE.—In any case in which an examination conducted under this section with respect to a financial institution or other entity reveals a potential violation, such agency shall promptly notify the Internal Revenue Service of such potential violation for investigation and enforcement by the Internal Revenue Service in accordance with applicable provisions of law.

(c) REPORT TO CONGRESS.—The Federal banking agencies and the Commission shall submit a joint written report to Congress in 2007 and 2010 on their progress in preventing violations of sections 6700 and 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms ''broker'', ''dealer'', and ''investment adviser'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term ''Commission'' means the Securities and Exchange Commission;

(3) the term ''depository institution'' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(4) the term ''Federal banking agencies'' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(5) the term ''Secretary'' means the Secretary of the Treasury.

SEC. 507. INFORMATION SHARING FOR ENFORCEMENT PURPOSES.

(a) PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

''(7) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATED TO PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—

''(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission, an appropriate Federal banking agency as defined under section 1813(q) of title 12, United States Code, or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requestor to evaluate, determine, penalize, or deter conduct by a financial institution, issuer, or public accounting firm, or associated person, in connection with a potential or actual violation of section 6700 (promotion of abusive tax shelters), 6701 (aiding and abetting understatement of tax liability), or activities related to promoting or facilitating inappropriate tax avoidance or tax evasion. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

''(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

''(i) the nature of the investigation, examination, or proceeding,

''(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

''(iii) the name or names of the financial institution, issuer, or public accounting firm to which such return information relates,

''(iv) the taxable period or periods to which such return information relates, and

''(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.

''(C) FINANCIAL INSTITUTION.—For the purposes of this paragraph, the term 'financial institution' means a depository institution, foreign bank, insured institution, industrial loan company, broker, dealer, investment company, investment advisor, or other entity subject to regulation or oversight by the United States Securities and Exchange Commission or an appropriate Federal banking agency.''.

(b) FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—Section 6103(i) (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—

''(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requester to evaluate the accuracy of a financial statement or report or to determine whether to require a restatement, penalize, or deter conduct by an issuer, investment company, or public accounting firm, or associated person, in connection with a potential or actual violation of auditing standards or prohibitions against false or misleading statements or omissions in financial statements or reports. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

''(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

''(i) the nature of the investigation, examination, or proceeding,

''(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

''(iii) the name or names of the issuer, investment company, or public accounting firm to which such return information relates,

''(iv) the taxable period or periods to which such return information relates, and

''(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

SEC. 508. DISCLOSING PAYMENTS TO PERSONS IN UNCOOPERATIVE TAX HAVENS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038C the following new section:

''SEC. 6038D. DETERRING UNCOOPERATIVE TAX HAVENS THROUGH LISTING AND REPORTING REQUIREMENTS.

''(a) IN GENERAL.—Each United States person who transfers money or other property directly or indirectly to any uncooperative tax haven, to any financial institution licensed by or operating in any uncooperative tax haven, or to any person who is a resident of any uncooperative tax haven shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulation prescribe, such information with respect to such transfer as the Secretary may require.

''(b) EXCEPTIONS.—Subsection (a) shall not apply to a transfer by a United States person if the amount of money (and the fair market value of property) transferred is less than $10,000. Related transfers shall be treated as 1 transfer for purposes of this subsection.

''(c) UNCOOPERATIVE TAX HAVEN.—For purposes of this section—

''(1) IN GENERAL.—The term 'uncooperative tax haven' means any foreign jurisdiction which is identified on a list maintained by the Secretary under paragraph (2) as being a jurisdiction—

''(A) which imposes no or nominal taxation either generally or on specified classes of income, and

''(B) has corporate, business, bank, or tax secrecy or confidentiality rules and practices, or has ineffective information exchange practices which, in the judgment of the Secretary, effectively limit or restrict the ability of the United States to obtain information relevant to the enforcement of this title.

''(2) MAINTENANCE OF LIST.—Not later than November 1 of each calendar year, the Secretary shall issue a list of foreign jurisdictions which the Secretary determines qualify

as uncooperative tax havens under paragraph (1).

''(3) INEFFECTIVE INFORMATION EXCHANGE PRACTICES.—For purposes of paragraph (1), a jurisdiction shall be deemed to have ineffective information exchange practices if the Secretary determines that during any taxable year ending in the 12-month period preceding the issuance of the list under paragraph (2)—

''(A) the exchange of information between the United States and such jurisdiction was inadequate to prevent evasion or avoidance of United States income tax by United States persons or to enable the United States effectively to enforce this title, or

''(B) such jurisdiction was identified by an intergovernmental group or organization of which the United States is a member as uncooperative with international tax enforcement or information exchange and the United States concurs in the determination.

''(d) PENALTY FOR FAILURE TO FILE INFORMATION.—If a United States person fails to furnish the information required by subsection (a) with respect to any transfer within the time prescribed therefor (including extensions), such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 20 percent of the amount of such transfer.

''(e) SIMPLIFIED REPORTING.—The Secretary may by regulations provide for simplified reporting under this section for United States persons making large volumes of similar payments.

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

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6038C the following new item:

''Sec. 6038D. Deterring uncooperative tax havens through listing and reporting requirements.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date which is 180 days after the date of the enactment of this Act.

SEC. 509. DETERRING UNCOOPERATIVE TAX HAVENS BY RESTRICTING ALLOWABLE TAX BENEFITS.

(a) LIMITATION ON DEFERRAL.—

(1) IN GENERAL.—Subsection (a) of section 952 (defining subpart F income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by inserting after paragraph (5) the following new paragraph:

''(6) an amount equal to the applicable fraction (as defined in subsection (e)) of the income of such corporation other than income which—

''(A) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph or paragraph (3)(A)(i)), or

''(B) is described in subsection (b).''.

(2) APPLICABLE FRACTION.—Section 952 is amended by adding at the end the following new subsection:

''(e) IDENTIFIED TAX HAVEN INCOME WHICH IS SUBPART F INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'applicable fraction' means the fraction—

''(A) the numerator of which is the aggregate identified tax haven income for the taxable year, and

''(B) the denominator of which is the aggregate income for the taxable year which is from sources outside the United States.

''(2) IDENTIFIED TAX HAVEN INCOME.—For purposes of paragraph (1), the term 'identified tax haven income' means income for the taxable year which is attributable to a foreign jurisdiction for any period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c).

''(3) REGULATIONS.—The Secretary shall prescribe regulations similar to the regulations issued under section 999(c) to carry out the purposes of this subsection.''.

(b) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REDUCTION OF FOREIGN TAX CREDIT, ETC., FOR IDENTIFIED TAX HAVEN INCOME.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part—

''(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any foreign jurisdiction if such taxes are with respect to income attributable to a period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c), and

''(B) subsections (a), (b), (c), and (d) of section 904 and sections 902 and 960 shall be applied separately with respect to all income of a taxpayer attributable to periods described in subparagraph (A) with respect to all such jurisdictions.

''(2) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which treat income paid through 1 or more entities as derived from a foreign jurisdiction to which this subsection applies if such income was, without regard to such entities, derived from such jurisdiction.''.

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

SA 2629. Mr. DAYTON (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. ___. REFUNDABLE TAX CREDIT FOR ENERGY COST ASSISTANCE OF FARMERS AND RANCHERS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. CREDIT FOR ENERGY COST ASSISTANCE FOR FARMERS AND RANCHERS.

''(a) GENERAL RULE.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the lesser of—

''(1) 30 percent of the amount paid or incurred for qualified energy costs, or

''(2) $3,000.

''(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any individual engaged in a farming business (as defined in section 263A(e)(4)).

''(c) RESIDENTIAL ENERGY COSTS.—For purposes of this section, the term 'qualified energy costs' means the cost of any fuel, energy utility, natural gas, fertilizer, and heating oil used in the farming business of the taxpayer during the taxable year.

''(d) TERMINATION.—This section shall not apply to qualified energy costs paid or incurred after December 31, 2005.''.

(b) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(e) ENERGY ASSISTANCE FOR FARMERS AND RANCHERS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined under section 36(a).''.

(c) REFUNDABILITY.—Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or'' before ''enacted'' and by inserting before the period at the end '', or from section 36 of such Code''.

(d) CLERICAL AMENDMENTS.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and by adding at the end the following new items:

''Sec. 36. Credit for energy cost assistance for farmers and ranchers.

''Sec. 37. Overpayments of tax.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. _____. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SA 2630. Mr. SCHUMER (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

SEC. ____. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. ____. RULES RELATING TO FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(2) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(b) DEFINITION.—

(1) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(2) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(c) CONFORMING AMENDMENTS.—

(1) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(2) Section 907(a) is hereby repealed.

(3) Section 907(c)(4) is hereby repealed.

(4) Section 907(f) is hereby repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(3) TRANSITIONAL RULES.—

(A) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(B) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(C) LOSSES.—The amendment made by subsection (c)(3) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

SA 2631. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

Subtitle B—Hope at Home

SEC. 411. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45N. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATION.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National

Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

''(e) PORTION OF CREDIT MADE REFUNDABLE.—

''(1) IN GENERAL.—In the case of an eligible employer of a Ready Reserve-National Guard employee, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

''(2) ELIGIBLE EMPLOYER.—For purposes of this subsection, the term 'eligible employer' means an employer which is a State or local government or subdivision thereof.

''(3) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

''(i) section 3111(b), and

''(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following:

''(27) the Ready Reserve-National Guard employee credit determined under section 45N(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45N(a),'' after ''45A(a),''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45M the following:

''Sec. 45N. Ready Reserve-National Guard employee credit.''.

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

SEC. 412. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding after section 30C the following new section:

''SEC. 30D. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the sum of the employment credits for each qualified replacement employee under this section.

''(2) EMPLOYMENT CREDIT.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 50 percent of the lesser of—

''(A) the individual's qualified compensation attributable to service rendered as a qualified replacement employee, or

''(B) $12,000.

''(b) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

''(1) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

''(2) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(3) group health plan costs (if any) with respect to the qualified replacement employee.

''(c) QUALIFIED REPLACEMENT EMPLOYEE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified replacement employee' means an individual who is hired to replace a Ready Reserve-National Guard employee or a Ready Reserve-National Guard self-employed taxpayer, but only with respect to the period during which—

''(A) such Ready Reserve-National Guard employee is receiving an actual compensation amount (as defined in section 45N(b)) from the employee's employer and is participating in qualified active duty, including time spent in travel status, or

''(B) such Ready Reserve-National Guard self-employed taxpayer is participating in such qualified active duty.

''(2) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' has the meaning given such term by section 45N(d)(3).

''(3) READY RESERVE-NATIONAL GUARD SELF-EMPLOYED TAXPAYER.—The term 'Ready Reserve-National Guard self-employed taxpayer' means a taxpayer who—

''(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in section 10142 and 10101 of title 10, United States Code.

''(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

''(e) LIMITATIONS.—

''(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(B) the tentative minimum tax for the taxable year.

''(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(B) the 2 succeeding taxable years.

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

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a small business employer or a Ready Reserve-National Guard self-employed taxpayer.

''(2) SMALL BUSINESS EMPLOYER.—

''(A) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

''(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(3) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' has the meaning given such term by section 45N(d)(1).

''(4) SPECIAL RULES FOR CERTAIN MANUFACTURERS.—

''(A) IN GENERAL.—In the case of any qualified manufacturer—

''(i) subsection (a)(2)(B) shall be applied by substituting '$20,000' for '$12,000', and

''(ii) paragraph (2)(A) of this subsection shall be applied by substituting '100' for '50'.

''(B) QUALIFIED MANUFACTURER.—For purposes of this paragraph, the term 'qualified manufacturer' means any person if—

''(i) the primary business of such person is classified in sector 31, 32, or 33 of the North American Industrial Classification System, and

''(ii) all of such person's facilities which are used for production in such business are located in the United States.

''(5) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(6) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.''.

(b) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating to rule for employment credits) is amended—

(1) by inserting ''or compensation'' after ''salaries'', and

(2) by inserting ''30D,'' before ''45A(a),''.

(c) CONFORMING AMENDMENT.—Section 55(c)(2) is amended by inserting ''30D(e)(1),'' after ''30(b)(3),''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 30C the following new item:

''Sec. 30D. Credit for replacement of activated military reservists.''.

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

SEC. 413. INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.

(a) IN GENERAL.—Section 3401 (relating to definitions) is amended by adding at the end the following new subsection:

''(i) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

''(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

''(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

''(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

''(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 2005.

SEC. 414. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.

(a) PENSION PLANS.—

(1) IN GENERAL.—Section 414(u) (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

''(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

''(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

''(ii) the differential wage payment shall be treated as compensation, and

''(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

''(B) SPECIAL RULE FOR DISTRIBUTIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

''(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

''(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

''(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(i)(2).''.

(2) CONFORMING AMENDMENT.—The heading for section 414(u) is amended by inserting ''AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY'' after ''USERRA''.

(b) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) (defining compensation) is amended by adding at the end the following new sentence: ''The term 'compensation' includes any differential wage payment (as defined in section 3401(i)(2)).''.

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

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect, and

(ii) such plan or contract amendment applies retroactively for such period.

SEC. 415. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by adding at the end the following new paragraph:

''(5) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SA 2632. Mr. LOTT (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert:

SEC. ___. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SA 2633. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. CLARIFICATION OF TREATMENT OF OUTSIDE INCOME AND EXPENSES IN THE SENATE.

(a) IN GENERAL.—For purposes of rule XXXVI and paragraph 5(b)(3) of rule XXXVII of the Standing Rules of the Senate, compensation or outside earned income for any calendar year shall be reduced by actual and necessary expenses incurred by a Member of the Senate in connection with the practice of medicine. A Member of the Senate shall include information with respect to such expenses with any report in which such compensation or income is required to be included.

(b) PAYMENT OR REIMBURSEMENT.—If expenses described in subsection (a) are—

(1) paid or reimbursed by another person, the amount of any such payment shall not be counted as compensation or outside earned income; and

(2) not paid or reimbursed, the amount of compensation or outside earned income shall be determined by subtracting the actual and necessary expenses incurred by the Member from any payment received for the activity.

SA 2634. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. TREATMENT AND SUPPORT SERVICES FOR VETERANS.

Out of any money in the Treasury of the United States not otherwise appropriated, and in addition to any amount otherwise appropriated, there are appropriated $500,000,000 to the Secretary of Veterans Affairs for each of fiscal years 2006 through 2010, to provide veterans suffering from mental illness, post-traumatic stress disorder, or drug or alcohol dependency with—

(1) readjustment counseling and related mental health services under section 1712A of title 38, United States Code; and

(2) treatment and rehabilitative services under section 1720A of such title.

SEC. ___. ELIMINATION OF THE SCHEDULED PHASE OUT OF THE LIMITATIONS ON PERSONAL EXEMPTIONS AND ITEMIZED DEDUCTIONS FOR INDIVIDUALS EARNING IN EXCESS OF $1,000,000.

(a) PERSONAL EXEMPTIONS.—Section 151(d)(3)(E) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

''(iii) EXCEPTION.—This subparagraph shall not apply with respect to any individual whose adjusted gross income for the taxable year exceeds $1,000,000 ($2,000,000 in the case of a joint return).''.

(b) ITEMIZED DEDUCTIONS.—Section 68(f) of such Code is amended by adding at the end the following new paragraph:

''(3) EXCEPTION.—This subsection shall not apply with respect to any individual whose adjusted gross income for the taxable year exceeds $1,000,000 ($2,000,000 in the case of a joint return).''.

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

(d) APPLICATION OF EGTRRA SUNSET.—The amendments made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 2635. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV add the following:

SEC. 410. TEMPORARY WINDFALL PROFITS TAX.

(a) IN GENERAL.—Subtitle E (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

''CHAPTER 56—TEMPORARY WINDFALL PROFITS ON CRUDE OIL

''Sec. 5896. Imposition of tax.
''Sec. 5897. Windfall profit; etc.
''Sec. 5898. Special rules and definitions.

''SEC. 5896. IMPOSITION OF TAX.

''(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby

imposed on any applicable taxpayer an excise tax in an amount equal to 50 percent of the windfall profit of such taxpayer for any taxable year beginning in 2005.

''(b) APPLICABLE TAXPAYER.—For purposes of this chapter, the term 'applicable taxpayer' means, with respect to operations in the United States—

''(1) any integrated oil company (as defined in section 291(b)(4)), and

''(2) any other producer or refiner of crude oil with gross receipts from the sale of such crude oil or refined oil products for the taxable year exceeding $100,000,000.

''SEC. 5897. WINDFALL PROFIT; ETC.

''(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the adjusted taxable income of the applicable taxpayer for the taxable year over the reasonably inflated average profit for such taxable year.

''(b) ADJUSTED TAXABLE INCOME.—For purposes of this chapter, with respect to any applicable taxpayer, the adjusted taxable income for any taxable year is equal to the taxable income for such taxable year (within the meaning of section 63 and determined without regard to this subsection)—

''(1) increased by any interest expense deduction, charitable contribution deduction, and any net operating loss deduction carried forward from any prior taxable year, and

''(2) reduced by any interest income, dividend income, and net operating losses to the extent such losses exceed taxable income for the taxable year.

In the case of any applicable taxpayer which is a foreign corporation, the adjusted taxable income shall be determined with respect to such income which is effectively connected with the conduct of a trade or business in the United States.

''(c) REASONABLY INFLATED AVERAGE PROFIT.—For purposes of this chapter, with respect to any applicable taxpayer, the reasonably inflated average profit for any taxable year is an amount equal to the average of the adjusted taxable income of such taxpayer for taxable years beginning during the 2002–2004 taxable year period plus 10 percent of such average.

''SEC. 5898. SPECIAL RULES AND DEFINITIONS.

''(a) WITHHOLDING AND DEPOSIT OF TAX.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896.

''(b) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information as the Secretary may by regulations prescribe.

''(c) RETURN OF WINDFALL PROFIT TAX.—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

''(d) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

''(e) BUSINESSES UNDER COMMON CONTROL.—For purposes of this chapter, all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''CHAPTER 56. Temporary Windfall Profit on Crude Oil.''.

(c) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The windfall profit tax imposed by section 5896.''.

(d) NONREFUNDABLE CREDIT.—In the case of taxable years beginning in 2005, for purposes of the Internal Revenue Code of 1986, the tax liability of each taxpayer otherwise determined under the Internal Revenue Code of 1986 shall be reduced by $100 for each personal exemption (within the meaning of section 151 of such Code) claimed by such taxpayer for such taxable year.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning in 2005.

SA 2636. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 121, line 4, strike the period at the end and insert '', or

''(v)(I) the applicable exempt organization, or a financing subsidiary or affiliate wholly owned by one or more applicable exempt organizations, is the sole owner and beneficiary of the contract,

''(II) the interest in the contract of each person other than the applicable exempt organization arises solely from a security or collateral interest, and

''(III) a principal portion of the death benefits attributable to the insurance contract is paid to the applicable exempt organization, or a subsidiary or affiliate wholly owned by one or more applicable exempt organizations.

SA 2637. Mr. COLEMAN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. _____. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2) shall be applied with respect to all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965.

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SA 2638. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ____. EXEMPTION OF QUALIFIED 501(C)(3) BONDS FOR NURSING HOMES FROM FEDERAL GUARANTEE PROHIBITIONS.

(a) IN GENERAL.—Section 149(b)(3) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR QUALIFIED 501(C)(3) BONDS FOR NURSING HOMES.—

''(i) IN GENERAL.—Paragraph (1) shall not apply to any qualified 501(c)(3) bond issued before the date which is 1 year after the date of the enactment of this subparagraph for the benefit of an organization described in section 501(c)(3), if such bond is part of an issue the proceeds of which are used to finance 1 or more of the following facilities primarily for the benefit of the elderly:

''(I) Licensed nursing home facility.

''(II) Licensed or certified assisted living facility.

''(III) Licensed personal care facility.

''(IV) Continuing care retirement community.

''(ii) LIMITATION.—With respect to any calendar year, clause (i) shall not apply to any bond described in such clause if the aggregate authorized face amount of the issue of which such bond is a part when increased by the outstanding amount of such bonds issued by the issuer for such calendar year exceeds $15,000,000.

''(iii) CONTINUING CARE RETIREMENT COMMUNITY.—For purposes of this subparagraph, the term 'continuing care retirement community' means a community which provides, on the same campus, a continuum of residential living options and support services to persons at least 60 years of age under a written agreement. For purposes of the preceding sentence, the residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 2639. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006;

which was ordered to lie on the table; as follows:

Beginning on page 76, strike line 23 and all that follows through page 77, line 2.

SA 2640. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

Beginning on page 76, strike line 24 and all that follows through page 77, line 2, and insert the following:

Section 1397E(d)(2)(B) is amended to read as follows:

''(B) QUALIFIED CONTRIBUTIONS.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of—

''(I) equipment or software for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

''(II) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

''(III) services of employees (but not of the local education agency) as volunteer mentors,

''(IV) internships, or other educational opportunities outside the academy for students,

''(V) cash, or

''(VI) any other tangible or intangible property specified by the eligible local education agency.

''(ii) EXCLUSION.—Such term shall not include any discounts, set-up fees, and contributions conditioned upon business with the contributor.

''(iii) VALUATION.—Valuation of the qualified contribution shall be reasonable given the nature of the contribution. For tangible and intangible property, valuation based on pricing that is regularly charged for the sale of such tangible and intangible property shall be reasonable. For services, valuation of such services based on pricing that is regularly charged for the sale of such services shall be reasonable. For services that are not regularly sold, valuation based on the average hourly compensation, including benefits, of the employees providing such services for the contributor shall be reasonable, so long as such cost is applied to the reasonable estimate of the contributed hours for such services.''.

SA 2641. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV add the following:

SEC. ___. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004 AND FUNDING OF LIHEAP TRUST FUND.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004, as amended by section 553 of this Act, is amended by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) LOW INCOME HOME ENERGY ASSISTANCE TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

''SEC. 9511. LOW-INCOME HOME ENERGY ASSISTANCE TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Low-Income Home Energy Assistance Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Low-Income Home Energy Assistance Trust Fund amounts equivalent to the increased revenues received in the Treasury as the result of the amendment made by section 410(a) of the Tax Relief Act of 2005.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Low Income Home Energy Assistance Trust Fund not to exceed $2,920,000,000 shall be available for fiscal year 2006, as provided by appropriation Acts, to carry out the program under the Low-Income Home Energy Assistance Act of 1981 through the distribution of funds to all the States in accordance with section 2604 of that Act (42 U.S.C. 8623) (other than subsection (e) of such section), but only if not less than $1,880,000,000 has been appropriated for such program for such fiscal year.''.

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 9511. Low-Income Home Energy Assistance Trust Fund.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SA 2642. Mr. BINGAMAN (for himself, Mr. KERRY, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, add the following:

SEC. ___. CREDIT FOR EMPLOYEE HEALTH INSURANCE EXPENSES.

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

''SEC. 45N. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to—

''(1) 50 percent in the case of an employer with less than 26 qualified employees,

''(2) 40 percent in the case of an employer with more than 25 but less than 36 qualified employees, and

''(3) 30 percent in the case of an employer with more than 35 but less than 51 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed the maximum employer contribution for self-only coverage or family coverage (as applicable) determined under section 8906(a) of title 5, United States Code, for the calendar year in which such taxable year begins.

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

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which—

''(i) provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4)) to all qualified employees of the employer, and

''(ii) pays at least 70 percent of the cost of such coverage (60 percent in the case of family coverage) for each qualified employee.

''(B) TRANSITION RULE FOR NEW PLANS.—

''(i) IN GENERAL.—If a small employer (or any predecessor) did not provide health insurance coverage to the qualified employees of the employer during the employer's precompliance period, then subparagraph (A) shall be applied to such employer for the first 5 taxable years following such period by substituting '50 percent' for '70 percent' in clause (ii) (or for '60 percent' in such clause, in the case of family coverage).

''(ii) PRECOMPLIANCE PERIOD.—For purposes of clause (i), the precompliance periods are—

''(I) the period beginning with the small employer's taxable year preceding its first taxable year beginning after the date of the enactment of this section, and

''(II) the period beginning with the small employer's taxable year preceding the first taxable year for which the employer meets the requirement of subparagraph (A)(i).

An employer not in existence for any period shall be treated in the same manner as an employer which is in existence and not providing coverage.

''(C) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of not less than 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under clause (i) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by paragraph (1) of section 9832(b) (determined by disregarding the last sentence of paragraph (2) of such section).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

''(A) a health plan of the employee's spouse,

''(B) title XVIII, XIX, or XXI of the Social Security Act,

''(C) chapter 17 of title 38, United States Code,

''(D) chapter 55 of title 10, United States Code,

''(E) chapter 89 of title 5, United States Code, or

''(F) any other provision of law.

''(4) EMPLOYEE.—The term 'employee'—

''(A) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000 of compensation from the employer during such year,

''(B) does not include an employee within the meaning of section 401(c)(1), and

''(C) includes a leased employee within the meaning of section 414(n).

''(5) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).

''(g) TERMINATION.—This section shall not apply with respect to any taxable year beginning after December 31, 2006.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following:

''(27) the employee health insurance expenses credit determined under section 45N.''.

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to limitation based on amount of tax for specified credits) is amended—

(1) in clause (ii)(II), by striking the period at the end and inserting '', and''; and

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

''(iii) the employee health insurance expenses credit determined under section 45N.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45N. Employee health insurance expenses.''.

(e) EMPLOYER OUTREACH.—The Internal Revenue Service shall, in conjunction with the Small Business Administration, develop materials and implement an educational program to ensure that business personnel are aware of—

(1) the eligibility criteria for the tax credit provided under section 45N of the Internal Revenue Code of 1986 (as added by this section),

(2) the methods to be used in calculating such credit, and

(3) the documentation needed in order to claim such credit.

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

SEC. ___. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004, as amended by section 553 of this Act,is amended by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. ___. EXTENSION OF SUPERFUND TAXES.

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

SA 2643. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 35, between lines 16 and 17, insert the following:

SEC. 104. HOUSING RELIEF FOR INDIVIDUALS AFFECTED BY HURRICANE KATRINA.

(a) EXCLUSION OF EMPLOYER PROVIDED HOUSING FOR INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income of a qualified employee shall not include the value of any lodging furnished to such employee, such employee's spouse, or any of such employee's dependents by or on behalf of a qualified employer for any month during the taxable year.

(2) LIMITATION.—The amount which may be excluded under subsection (a) for any month for which lodging is furnished during the taxable year shall not exceed $1,000.

(3) TREATMENT OF EXCLUSION.—For purposes of the Internal Revenue Code of 1986, an exclusion under subsection (a) shall be treated as an exclusion under section 119 of such Code.

(b) EMPLOYER CREDIT FOR HOUSING EMPLOYEES AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—In the case of a qualified employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any month during the taxable year an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a).

(2) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of section 280C(a) of such Code shall apply.

(3) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of such Code.

(c) QUALIFIED EMPLOYEE.—For purposes of this section, the term ''qualified employee'' means, with respect to any month, an individual—

(1) who had a principal residence (as defined in section 121 of the Internal Revenue Code of 1986) in the Hurricane Katrina disaster area (as defined in section 1400N(2) of such Code) on August 28, 2005, and

(2) who performs not less than 80 percent of the employment services for a qualified employer in the Hurricane Katrina disaster area (as so defined).

(d) QUALIFIED EMPLOYER.—For purposes of this section, the term ''qualified employer'' means any employer with a trade or business located in the Hurricane Katrina disaster area (as so defined).

(e) APPLICATION OF SECTION.—This section shall apply to lodging provided—

(1) after the date of the enactment of this Act, and

(2) before the date which is 1 year after the date of the enactment of this Act.

SEC. 105. HOMELESSNESS PREVENTION.

Notwithstanding any other provision of law, the Director of the Federal Emergency Management Agency (referred to in this section as the ''Director'') shall not cease to make payments for hotel or motel accommodations, or for other short-term temporary housing, on behalf of a victim of Hurricane Katrina or Hurricane Rita who was being assisted in that manner as of November 14, 2005 (referred to in this section as an ''eligible victim''), until such time as the Director determines that—

(1) the eligible victim has located a habitable home;

(2) the Director has provided financial assistance to the eligible victim for use in relocating to that home, and the eligible victim has so relocated; and

(3) the eligible victim is able to afford the rent for that home, either with resources of the eligible victim or through the use of assistance payments from the Director (and, in the case of a victim who can afford that home only through the use of those assistance payments, that the Director has provided the assistance payments for a period of at least 90 days).

SEC. 106. SENSE OF THE SENATE.

It is the sense of the Senate that Congress should develop and provide funding for solutions necessary to address the lack of supply of affordable housing in areas devastated by Hurricane Katrina and Hurricane Rita.

SA 2644. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. TREATMENT OF BIOFUEL PRODUCTION FACILITIES AS EXEMPT FACILITY BOND.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', or'' and by adding at the end the following new paragraph:

''(16) biofuel production facilities.''.

(b) BIOFUEL PRODUCTION FACILITIES.—Section 142 is amended by adding at the end the following:

''(n) BIOFUEL PRODUCTION FACILITIES.—

''(1) IN GENERAL.—For purposes of subsection (a)(16), the term 'biofuel production facilities' means any facility for the production of any transportation fuel and related byproducts from biomass.

''(2) BIOMASS DEFINED.—For purposes of paragraph (1), the term 'biomass' means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of enactment of this Act.

SA 2645. Mr. COLEMAN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ___. WEATHERIZATION ASSISTANCE CREDIT.

(a) IN GENERAL.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 45M the following new section:

''SEC. 45N. WEATHERIZATION ASSISTANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a utility, the amount of the weatherization assistance credit determined under this section for the taxable year shall be an amount equal to 20 percent of the qualified weatherization assistance expenses.

''(b) DEFINITIONS.—For purposes of this section:

''(1) WEATHERIZATION ASSISTANCE EXPENSES.—The term 'weatherization assistance expenses' means amounts—

''(A) paid by the taxpayer—

''(i) to an entity that is described in section 415(b)(2) of the Energy Conservation and Production Act (42 U.S.C. 6865(b)(2)), that receives funds from the Department of Energy Weatherization Assistance Program as such an entity, and that uses the taxpayer's amounts for the installation of energy efficiency improvements in residences of low-income individuals for purposes of section 415(a)(2) of the Energy Conservation and Production Act (42 U.S.C. 6865(a)(2)), as administered by the Department of Energy, or

''(ii) to a State weatherization agency for use by such agency in its program that enhances or extends the Department of Energy's program described in subparagraph (A), and

''(B) certified to the taxpayer by a State weatherization agency as paid to one or more entities described in subparagraph (A)(i) or to such agency described in subparagraph (A)(ii).

''(2) QUALIFIED WEATHERIZATION ASSISTANCE EXPENSES.—The term 'qualified weatherization assistance expenses' means—

''(A) with respect to the first 5 taxable years ending after the date of enactment of this section, the weatherization assistance expenses for each such year, and

''(B) with respect to a taxable year after the fifth taxable year ending after the date of enactment of this section, the excess (if any) of the weatherization assistance expenses for such year over the weatherization assistance expenses for the fifth taxable year preceding such year.

''(3) UTILITY.—The term 'utility' means a corporation that is engaged in the sale of electric energy or gas and is described in section 7701(a)(33)(A).

''(4) STATE WEATHERIZATION AGENCY.—The term 'State weatherization agency' means the department, agency, board, or other entity of a State that is authorized by such State to administer the weatherization program described in section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865).

''(c) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out the purposes of this section.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''and'' at the end of paragraph (25), striking the period at the end of paragraph (26), and inserting '', and'', and by inserting after paragraph (26) the following new paragraph:

''(27) the weatherization assistance credit determined under section 45N(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding after the item relating to section 45M the following new item:

''45N. Weatherization assistance credit''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to weatherization assistance expenses (within the meaning of section 45N of the Internal Revenue Code of 1986) paid or incurred in taxable years ending after the date of enactment of this Act.

SA 2646. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. INCOME AVERAGING FOR CERTAIN PUNITIVE DAMAGE AWARD RECIPIENTS.

(a) IN GENERAL.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any individual who receives any punitive damage award as a plaintiff in the Exxon Valdez oil spill litigation (Case No. A89-095-CV (HRH)) in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

(2) income which is attributable to such award shall be treated as income attributable to such a fishing business for such taxable year.

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

SA 2647. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Beginning on page 63, line 18, strike all through page 64, line 15, and insert the following:

SEC. 212. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

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

Beginning on page 69, line 6, strike all through page 71, line 13, and insert the following:

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—Section 41 is amended—

(1) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(2) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(3) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(4) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6)(A) and inserting ''RESEARCH'' .

Beginning on page 267, line 12, strike all through page 268, line 15, and insert the following:

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

On page 310, between lines 10 and 11, insert the following:

(b) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004, as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

On page 310, line 11, strike ''(b)'' and insert ''(c)''.

On page 320, in the table following line 17, strike ''119.5'' and insert ''120''.

On page 322, line 24, insert ''which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year and''

SA 2648. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. 405. EXCLUSION OF CERTAIN AMOUNTS FROM INCOME FOR PURPOSES OF ELIGIBILITY FOR FEDERALLY ASSISTED LOW-INCOME HOUSING PROGRAMS.

The Department of Housing and Urban Development Act (42 U.S.C. 3537a) is amended by inserting after section 12 the following new section:

''SEC. 13. EXCLUSION OF CERTAIN AMOUNTS FROM INCOME.

''(a) IN GENERAL.—Notwithstanding any other provision of law, amounts received by a member of the Armed Forces under section 403 of title 37, United States Code, as a basic allowance for housing may not be treated as income for purposes of determining, for purposes of any program of the Department of Housing and Urban Development (unless a request is made by such member for the receipt of rental assistance under any such program to be treated as such income) or any other agency of the Federal Government for housing assistance (including any program for grants, loans, subsidies, advances, guarantees, credits, tax-exempt bonds, or other financial assistance), the eligibility of the member or the member's family, or a dependent of the member or such dependent's family, for—

''(1) assistance under such program; or

''(2) occupancy in any dwelling unit in any building or project for which assistance under such program is provided—

''(A) to the member or the member's family, or a dependent of the member or such dependent's family directly; or

''(B) to the owner of such building or project.

''(b) OPT OUT.—Each State housing authority may, without penalty, determine if it will provide the exclusion described in subsection (a) to members of the Armed Forces.''.

SA 2649. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 16, line 23, strike ''or Mississippi'' and insert ''Mississippi, Florida, or Texas''

On page 17, line 7, strike ''Gulf Opportunity Zone'' and insert ''Katrina, Wilma, and Rita Go Zones''

SA 2650. Mr. FEINGOLD (for himself, Mr. CONRAD, Mr. CHAFEE, Mr. OBAMA, and Mr. SALAZAR) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ____. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any 1 of the 3 applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term ''applicable time period'' means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term ''direct-spending legislation'' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms ''direct-spending legislation'' and ''revenue legislation'' do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of ⅗ of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) SUNSET.—This section shall expire on September 30, 2010.

SA 2651. Mr. SUNUNU proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ____. REPEAL OF STATE AND LOCAL TAX EXEMPTION FOR FANNIE MAE AND FREDDIE MAC.

(a) FANNIE MAE.—Section 309(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(c)) is amended to read as follows:

''(c) [Repealed.]''.

(b) FREDDIE MAC.—Section 303(e) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(e)) is amended to read as follows:

''(e) [Repealed.]''.

SA 2652. Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. OBAMA, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, add the following:

SEC. ____. $10,000 INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(d) (relating to portion of credit refundable) is amended—

(1) by striking ''as exceeds'' and all that follows through '', or'' in paragraph (1)(B)(i) and inserting ''as exceeds $10,000, or'', and

(2) by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(c) APPLICATION OF SUNSET TO THIS SECTION.—Each amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 2653. Mr. BAUCUS (for Mr. REID (for himself, Mr. KERRY, Mr. LAUTENBERG, Ms. SNOWE, Mr. SALAZAR, Mr. BINGAMAN, Mr. JEFFORDS, Mr. BAYH, Mrs. CLINTON, Mr. HARKIN, Mrs. FEINSTEIN, and Ms. COLLINS)) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

Subtitle B—Extending Tax Incentives for Renewable Energy Production and Energy Efficient Construction

SECTION 411. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT THROUGH 2010.

Paragraphs (1), (2), (3), (4), (5), (6), (7), and (9) of section 45(d) (relating to qualified facilities) are amended by striking ''2008'' each place it appears and inserting ''2011''.

SEC. 412. EXTENSION OF RENEWABLE ENERGY INVESTMENT TAX CREDIT THROUGH 2010.

Paragraphs (2)(A)(i)(II) and (3)(A)(ii) (relating to energy credit) is amended by striking ''2008'' both places it appears and inserting ''2011''.

SEC. 413. EXTENSION OF CLEAN RENEWABLE ENERGY BONDS THROUGH 2010.

Section 54(m) (relating to termination) is amended by striking ''2007'' and inserting ''2010''.

SEC. 414. EXTENSION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION THROUGH 2010.

Section 179D(h) (relating to termination) is amended by striking ''2007'' and inserting ''2010''.

SEC. 415. EXTENSION OF NEW ENERGY EFFICIENT HOME CREDIT THROUGH 2010.

Section 45L(g) (relating to termination) is amended by striking ''2007'' and inserting ''2010''.

SEC. 416. EXTENSION OF RESIDENTIAL RENEWABLE ENERGY EFFICIENT PROPERTY CREDIT THROUGH 2010.

Section 25D(g) is amended to read as follows:

''(a) TERMINATION.—The credit allowed under this section shall not apply to—

''(1) property described in paragraph (1) or (2) of subsection (d) placed in service after December 31, 2010, and

''(2) property described in subsection (d)(3) placed in service after December 31, 2007.''.

SEC. 417. EXTENSION OF NONBUSINESS ENERGY PROPERTY CREDIT THROUGH 2010.

Section 25C(g) (relating to termination) is amended by striking ''2007'' and inserting ''2010''.

SEC. 418. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by adding at the end the following new paragraph:

''(5) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SA 2654. Mr. GRASSLEY proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, add the following:

SEC. _____. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate makes the following findings:

(1) As many as 44,000,000 Americans are estimated to lack health insurance during the course of the year, many of whom are uninsured for a short period of time while a smaller number face longer periods without coverage.

(2) Rising health care costs contribute to the problem of the uninsured and make it more difficult to find a simple solution to make health care affordable.

(3) There is not a one-size fits all solution to address health care coverage issues.

(4) Businesses have competing needs for their resources, including investments to ensure their competitiveness and providing health care coverage for their employees and dependents.

(5) Lower tax rates on dividends and capital gains saved 24,000,000 families an average of nearly $950 on their 2004 taxes, including about 7,000,000 seniors who saved, on average, $1,230 each.

(6) These pro-growth tax cuts have spurred economic development and job creation and have been partly responsible for an increase in tax receipts.

(7) Of the more than 30,000,000 tax returns that included dividend income, those with adjusted gross income of less than $75,000 accounted for 64 percent, or over 19,000,000 of such returns.

(8) Of the nearly 23,000,000 tax returns that included capital gains, 62 percent of these returns, or about 14,000,000, had less than $75,000 in adjusted gross income.

(9) Allowing taxes to increase will make it harder for employers and individuals to afford health care insurance, leading to more individuals without health insurance.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should—

(1) prevent an increase in taxes on millions of Americans by not allowing the tax policy enacted in 2003 to expire; and

(2) extend tax policies that have proven to enhance economic growth, create jobs, and improve business' and individuals' ability to afford health insurance coverage; and

(3) address the multiple aspects of our Nation's health care crisis, including the need to make health care more affordable, to expand coverage, and to strengthen the health care safety net by—

(A) promoting the use of health care technology, which will help reduce medical errors that contribute to higher costs and promote greater efficiency in care delivery;

(B) providing new financial assistance and tax credits to make health insurance more affordable;

(C) creating financial incentives for young adults to purchase lifetime, portable health insurance;

(D) expanding health insurance coverage options for low-income entrepreneurs and self-employed individuals;

(E) increasing access to specialty care within the health care safety net by providing a tax deduction to physician specialists who provide care for patients referred from health care safety net providers;

(F) reducing regulatory burdens on health care safety net providers that lead to higher administrative costs and a diversion of funds that could be spent on patient care; and

(G) improving outreach efforts to maximize participation of eligible beneficiaries in Federal health care safety net programs.

SA 2655. Mr. CRAIG (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF CONGRESS REGARDING DOHA ROUND.

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

(1) Members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round).

(2) The Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement).

(3) The WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement.

(4) In section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies''.

(5) The countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws.

(6) Chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury.

(7) United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed.

(8) Trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy.

(9) The United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology.

(10) United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950.

(11) Many industries critical to United States national security are at severe risk from unfair foreign competition.

(12) The Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages.

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

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

SA 2656. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 321, strike line 1 and all that follows through page 323, line 6, and insert the following:

SEC. ___. INCREASED LIHEAP FUNDING FOR 2006.

With respect to fiscal year 2006, in addition to amounts appropriated under any other provision of law, for making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), $2,920,000,000, shall be appropriated to distribute funds to all the States in accordance with section 2604 of that Act (42 U.S.C. 8623) (other than subsection (e) of such section).

SEC.___. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. ___. RULES RELATING TO FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(2) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(b) DEFINITION.—

(1) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(2) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(c) CONFORMING AMENDMENTS.—

(1) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(2) Section 907(a) is hereby repealed.

(3) Section 907(c)(4) is hereby repealed.

(4) Section 907(f) is hereby repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(3) TRANSITIONAL RULES.—

(A) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(B) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(C) LOSSES.—The amendment made by subsection (c)(3) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

SEC. ___. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $24.00, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be

paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005 and which has an average daily worldwide production of crude oil of at least 250,000 barrels for such taxable year. For purposes of this subsection, all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SA 2657. Mr. ROCKEFELLER (for himself, Mr. HATCH, Mr. BOND, Ms. MIKULSKI, Mr. LOTT, Ms. SNOWE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SECTION ___. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SA 2658. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the bill add the following:

SECTION 1. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to * * *

SA 2659. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING TESTIMONY OF CERTAIN OIL COMPANY EXECUTIVES.

(a) FINDINGS.—The Senate makes the following findings:

(1) On November 9, 2005, the Senate Committee on Energy and Natural Resources and the Senate Committee on Commerce, Science and Transportation held a joint hearing on ''Energy Pricing and Profits''.

(2) The chief executive officers of the 5 largest oil companies appeared as witnesses at the joint hearing on ''Energy Prices and Profits''.

(3) Section 1001 of title 18, United States Code, prohibits any ''materially false, fictitious, or fraudulent statement or representation'' at a Senate hearing.

(4) A White House document obtained by The Washington Post contradicts the testimony of some of these witnesses.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Attorney General of the United States should promptly begin an investigation to determine whether the testimony given by any of the oil company executives at the November 9, 2005, joint hearing (referred to in subsection (a)(1)) violated section 1001 of title 18, United States Code, or other applicable statutes.

SA 2660. Mr. DODD (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 405. MODIFICATION OF TAX RATES ON CAPITAL GAINS AND DIVIDENDS FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.

(a) MODIFICATION OF TAX RATES ON CAPITAL GAINS AND DIVIDENDS FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—

(1) IN GENERAL.—Section 1(h) is amended by adding at the end the following new paragraph:

''(12) MODIFIED RATES FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—If a taxpayer has taxable income of $1,000,000 or more for any taxable year—

''(A) paragraph (11) (relating to dividends taxed as capital gain) shall not apply to any qualified dividend income of the taxpayer for the taxable year, and

''(B) paragraph (1)(C) shall be applied by substituting '20 percent' for '15 percent' with respect to the adjusted net capital gain of the taxpayer for the taxable year, determined by only taking into account gain or loss properly allocable to the portion of the taxable year after December 31, 2005.''

(2) APPLICATION TO MINIMUM TAX.—Section 55(b)(3) is amended by adding at the end the following new sentence: ''In the case of a taxpayer with alternative minimum taxable income of $1,000,000 or more for any taxable year, the rules of section 1(h)(12) shall apply for purposes of this paragraph.''

(3) EFFECTIVE DATES.—

(A) CAPITAL GAINS.—Section 1(h)(12)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after December 31, 2005.

(B) DIVIDEND RATES.—Section 1(h)(12)(A) of such Code (as added by paragraph (1)) shall apply to dividends received after December 31, 2005.

(4) APPLICATION OF JGTRRA SUNSET.—The amendment made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

(b) DEDICATION OF RESULTING REVENUES.—

(1) NO CHILD LEFT BEHIND TRUST FUND.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

''SEC. 9511. NO CHILD LEFT BEHIND TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'No Child Left Behind Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the No Child Left Behind Trust Fund the following amounts equivalent to the increased revenues received in the Treasury as the result of the amendment made by section 405(a) of the Tax Relief Act of 2005:

''(1) In the case of fiscal year 2006, $4,085,000,000.

''(2) In the case of fiscal year 2007, $4,543,000,000.

''(3) In the case of fiscal year 2008, $4,725,000,000.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the No Child Left Behind Trust Fund shall be available for fiscal years beginning after 2005, as provided by appropriation Acts, to carry out programs under the Elementary and Secondary Education Act of 1965 in accordance with the provisions of, and amendments made by, the No Child Left Behind Act of 2001.''.

(2) MILITARY RESTORATION TRUST FUND.—Subchapter A of chapter 98 (relating to trust fund code), as amended by paragraph (1), is amended by adding at the end the following new section:

''SEC. 9512. MILITARY RESTORATION TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Military Restoration Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Military Restoration Trust Fund the following amounts equivalent to the increased revenues received in the Treasury as the result of the amendment made by section 405(a) of the Tax Relief Act of 2005:

''(1) In the case of fiscal year 2006, $4,085,000,000.

''(2) In the case of fiscal year 2007, $4,543,000,000.

''(3) In the case of fiscal year 2008, $4,725,000,000.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Military Restoration Trust Fund shall be available for fiscal years beginning after 2005, as provided by appropriation Acts, to replenish equipment and vehicle stocks of the Marine Corps and the Army (including the National Guard and Reserve) that have been damaged or destroyed as a result of Operation Iraqi Freedom and Operation Enduring Freedom.''.

(3) CLERICAL AMENDMENTS.—The table of sections for such subchapter is amended by adding at the end the following new items:

''Sec. 9511. No Child Left Behind Trust Fund.

''Sec. 9512. Military Restoration Trust Fund.''.

SA 2661. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. ___. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

SA 2662. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

SA 2663. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 84, strike lines 20 through 25, and on page 85, strike lines 1 through 5.

SA 2664. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of subtitle A of title V, add the following:

SEC. 504. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

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

SEC. 505. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by striking ''preparation or presentation of'' and inserting ''tax liability reflected in'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

''(A) 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

''(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SA 2665. Mr. HARKIN (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, add the following:

SEC. ___. RESTORATION OF THE PHASEOUT OF PERSONAL EXEMPTIONS AND THE OVERALL LIMITATION ON ITEMIZED DEDUCTION; REDUCTION IN INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) RESTORATION OF THE PHASEOUT OF PERSONAL EXEMPTIONS AND THE OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—

(1) RESTORATION OF PHASEOUT OF PERSONAL EXEMPTIONS.—

(A) IN GENERAL.—Paragraph (3) of section 151(d) (relating to exemption amount) is amended by striking subparagraphs (E) and (F).

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 2005.

(2) RESTORATION OF PHASEOUT OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—

(A) IN GENERAL.—Section 68 is amended by striking subsections (f) and (g).

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 2005.

(b) REDUCTION IN INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.—

(1) IN GENERAL.—Section 24(d) (relating to portion of credit refundable) is amended—

(A) by striking ''as exceeds'' and all that follows through '', or'' in paragraph (1)(B)(i) and inserting ''as exceeds $9,000 (or $10,000 in the case of taxable years beginning in 2006), or'',

(B) by striking ''2001, the $10,000 amount'' in paragraph (3) and inserting ''2006, the $9,000 amount'', and

(C) by striking ''2000'' in paragraph (3)(B) and inserting ''2005''.

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

(3) APPLICATION OF SUNSET TO THIS SECTION.—Each amendment made by this subsection shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 2666. Mr. PRYOR (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

"SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C thereof, relating to refundable credits).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If

the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified issuers in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural rennaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural rennaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

SA 2667. Ms. SNOWE (for herself, Mr. BINGAMAN, Ms. COLLINS, and Mr. REED) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV add the following:

SEC. ____. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES AND FUNDING OF LIHEAP TRUST FUND.

(a) IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

(1) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold form such payment a tax in an amount equal to 1.75 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to payments made after December 31, 2005.

(b) LOW INCOME HOME ENERGY ASSISTANCE TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

''SEC. 9511. LOW-INCOME HOME ENERGY ASSISTANCE TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Low-Income Home Energy Assistance Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Low-Income Home Energy Assistance Trust Fund amounts equivalent to the increased revenues received in the Treasury as the result of the amendment made by section 410(a) of the Tax Relief Act of 2005.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Low Income Home Energy Assistance Trust Fund not to exceed $2,920,000,000 shall be available for fiscal year 2006, as provided by appropriation Acts, to carry out the program under the Low-Income Home Energy Assistance Act of 1981 through the distribution of funds to all the States in accordance with section 2604 of that Act (42 U.S.C. 8623) (other than subsection (e) of such section), but only if not less than $1,880,000,000 has been appropriated for such program for such fiscal year.''.

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 9511. Low-Income Home Energy Assistance Trust Fund.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SA 2668. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which

was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ___. REPEAL OF REDUCTION IN CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30(b) (relating to limitations on credit for qualified electric vehicles) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles placed in service after December 31, 2005.

SA 2669. Ms. LANDRIEU (for herself and Mr. VITTER) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

On page 35, between lines 16 and 17, insert the following:

SEC. 104. HOUSING RELIEF FOR INDIVIDUALS AFFECTED BY HURRICANE KATRINA.

(a) EXCLUSION OF EMPLOYER PROVIDED HOUSING FOR INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income of a qualified employee shall not include the value of any lodging furnished to such employee, such employee's spouse, or any of such employee's dependents by or on behalf of a qualified employer for any month during the taxable year.

(2) LIMITATION.—The amount which may be excluded under subsection (a) for any month for which lodging is furnished during the taxable year shall not exceed $600.

(3) TREATMENT OF EXCLUSION.—For purposes of the Internal Revenue Code of 1986 (other than sections 3121(a)(19) and 3306(b)(14), an exclusion under subsection (a) shall be treated as an exclusion under section 119 of such Code.

(b) EMPLOYER CREDIT FOR HOUSING EMPLOYEES AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—In the case of a qualified employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any month during the taxable year an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a).

(2) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of section 280C(a) of such Code shall apply.

(3) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of such Code.

(c) QUALIFIED EMPLOYEE.—For purposes of this section, the term ''qualified employee'' means, with respect to any month, an individual—

(1) who had a principal residence (as defined in section 121 of the Internal Revenue Code of 1986) in the go zone (as defined in section 1400N(1) of such Code) on August 28, 2005, and

(2) who performs not less than 80 percent of the employment services for a qualified employer in the Hurricane Katrina disaster area (as so defined).

(d) QUALIFIED EMPLOYER.—For purposes of this section, the term ''qualified employer'' means any employer with a trade or business located in the Hurricane Katrina disaster area (as so defined).

(e) APPLICATION OF SECTION.—This section shall apply to lodging provided—

(1) after the date of the enactment of this Act, and

(2) before the date which is 6 months after the date of the enactment of this Act, and

(3) no credit with respect to such lodging shall be claimed before October 1, 2006.

SA 2670. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

On page 82, between lines 20 and 21, insert the following:

SEC. 224. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

On page 107, between lines 4 and 5, insert the following:

SEC. 307. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of subsection 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) to an organization described in subparagraph (A) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D).

''(iv) QUALIFIED FARMER OR RANCHER.—

''(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year in which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

''(II) DEFINITION.—For purposes of subclause (I), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.''.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

''(2) CORPORATIONS.—In the case of a corporation—

''(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

''(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) made—

''(I) by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(iv)(II)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

''(II) to an organization described in paragraph (1)(A),

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

''(i) this section,

''(ii) part VIII (except section 248),

''(iii) any net operating loss carrryback to the taxable year under section 172,

''(iv) section 199, and

''(v) any capital loss carryback to the taxable year under section 1212(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of clause (i) of section 170(b)(1)(C) is amended by striking ''subparagraph (D)'' and inserting ''subparagraph (D) or (E)''.

(2) Clause (i) of section 170(b)(1)(D) is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) or (E)''.

(3) Paragraph (2) of section 170(d) is amended by striking ''subsection (b)(2)'' each place it appears and inserting ''subsection (b)(2)(A)''.

(4) Section 545(b)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

SEC. 308. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by this section 33 of this Act, is amended by adding at the end the following new paragraph:

''(18) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such

contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

''(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

''(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).

''(G) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 309. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

''Sec. 139A. Mileage reimbursements to charitable volunteers''.

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

SEC. 310. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2) shall be applied with respect to all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965..

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

On page 149, line 7, strike ''$100'' and insert ''$250''.

Beginning on page 150, line 4, strike all through page 151, line 2 and insert the following:

SEC. 318. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by section 317 of this Act, is amended by adding at the end the following new paragraph:

''(16) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution—

''(A) a cancelled check, or

''(B) a receipt or a letter or other written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

On page 172, after line 21, add the following:

SEC. 322. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking ''used for the production of interest, dividends, rents, and royalties'' and inserting ''used for the production of gross investment income (as defined in paragraph (2))'', and

(2) in subparagraph (C), by inserting ''or carrybacks'' after ''carryovers''.

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

SEC. 323. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection(o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

SEC. 324. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations), as amended by section 346 of this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(k)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns) is amended by inserting ''(other than subsection (j) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(j).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(j).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(j) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(j) and of the penalty established under section 6033(k)—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(k) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2005

SEC. 325. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) the State tax officer,

''(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''an section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appear.

(3) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS'' after ''RULE''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6014(c)'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the

date of the enactment of this Act but shall not apply to requests made before such date.

On page 174, line 4, strike ''121st day'' and insert ''181st day''.

On page 174, line 6, strike ''121st day'' and insert ''181st day''.

On page 174, line 10, strike ''121st day'' and insert ''181st day''.

On page 174, line 12, strike ''121st day'' and insert ''181st day''.

On page 176, line 25, strike ''5'' and insert ''the applicable percentage''.

On page 177, line 1, strike ''percent''.

On page 178, line 2, strike ''5 percent'' and insert ''the applicable percentage''.

On page 178, between lines 4 and 5, insert the following:

''(4) APPLICABLE PERCENTAGE.—For purposes of paragraphs (1) and (3), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

On page 178, strike lines 9 through 15 and insert the following:

''(A) any amount paid by the sponsoring organization from a donor advised fund—

''(i) to any organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3)) or any sponsoring organization if such amount is for maintenance in a donor advised fund), and

''(ii) notwithstanding clause (i), to any organization described section 170(f)(17)(B)(ii), but only to the extent not prohibited by regulations, and

On page 179, strike lines 1 through 3 and insert the following:

''(2) DISTRIBUTIONS TO SPONSORING ORGANIZATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such term shall include any distribution to a sponsoring organization.

''(B) ORGANIZATION LEVEL DISTRIBUTIONS.—For purposes of subsection (c)(1)(B), such term shall not include any distribution to a sponsoring organization unless such distribution is designated for use in connection with a charitable program of such organization.

On page 185, line 9, strike ''section 4967(g)(2)(C)'' and insert ''section 4967(g)(2)(A)(iii)''.

On page 186, strike lines 7 through 14 and insert the following:

''(c) TAXABLE DISTRIBUTION.—For purposes of this subsection—

''(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund).

''(2) EXCEPTION.—Notwithstanding paragraph (1), such term shall not include any distribution from a donor advised fund to any organization described section 170(f)(17)(B)(ii) to the extent such distribution is not prohibited under regulations.

On page 189, line 17, strike ''121st day'' and insert ''181st day''.

On page 190, line 22, strike ''4967(g)(2)(C)'' and insert ''4967(g)(2)(A)(iii)''.

On page 192, lines 18 and 19, strike ''provided by the sponsoring organization in connection with'' and insert ''from''.

Beginning on page 193, line 17 strike all through page 196, line 4 and insert the following:

SEC. 333. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by section 318 of this Act, is amended by adding at the end the following new paragraph:

''(17) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3), (4), or (5) of subsection (c) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or(4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

''(13) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(d) REGULATIONS.—The regulations prescribed under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i), 2522(c)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of the Internal Revenue Code of 1986 shall deny a deduction for contributions to sponsoring organizations (as defined in section 4967(g)(1) of such Code) which are described in section 170(f)(17)(B)(ii) of such Code and shall apply excise taxes to distributions from donor advised funds (as defined in section 4967(g)(2) of such Code) and sponsoring organizations (as so defined) to organizations so described in cases where the donor of the contributions or the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization (as defined in section 509(f)(3) of such Code) of such organization.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

On page 205, line 16, strike ''5 percent'' and insert ''the applicable percentage''.

On page 206, between lines 11 and 12, insert the following:

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)(ii), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

On page 206, strike lines 18 through 22 and insert the following:

''(2) ADMINISTRATIVE AND OPERATING EXPENSES.—Reasonable and necessary administrative expenses of a type III supporting organization shall be treated as a qualifying distribution to a supported organization.

On page 214, line 6, strike ''any''.

On page 216, strike line 24 and insert the following:

''(5) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization (as defined in section 4959(h)(2)) in any business enterprise if the holdings are held

for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the type III supporting organization.

''(6) PRESENT HOLDINGS.—For purposes of

On page 219, strike lines 5 through 9 and insert the following:

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3), as redesignated by section 311, is amended by inserting ''(other than an organization described in section 509(a)(3))'' after ''paragraph (1)''.

Beginning on page 225, line 9, strike all through page 230, line 21 and insert the following:

SEC. 402. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) is amended by striking ''**25 PERCENT**'' and inserting ''**60 PERCENT**''.

(b) REPEAL OF EXCESSIVE PASSIVE INCOME AS A TERMINATION EVENT.—

(1) IN GENERAL.—Section 1362(d) is amended by striking paragraph (3).

(2) CONFORMING AMENDMENT.—Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581), a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a))), or a financial holding company (within the meaning of section 2(p) of such Act), the term 'passive investment income' shall not include—

''(i) interest income earned by such bank or company, or

''(ii) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 percent'' and inserting ''60 percent''.

(5) Subsection (d) of section 1375 is amended by striking ''subchapter C'' both places it appears and inserting ''accumulated''.

(6) The heading for section 1375 is amended by striking ''**25 PERCENT**'' and inserting ''**60 PERCENT**''.

(7) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' and inserting ''60 percent''.

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

On page 235, in between lines 13 and 14, insert the following:

SEC. 405. MODIFICATION OF BOND RULE.

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

SEC. 406. TREATMENT OF CERTAIN STOCK OPTION PLANS UNDER NONQUALIFIED DEFERRED COMPENSATION RULES.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 409A of the Internal Revenue Code of 1986 to extend to applicable foreign option plans the exception under such section for incentive stock options under section 422 of such Code and options granted under an employee stock purchase plan meeting the requirements of section 423 of such Code. Such extension shall be subject to such terms and conditions as may be prescribed in such regulations.

(b) APPLICABLE FOREIGN OPTION PLANS.—For purposes of subsection (a)—

(1) IN GENERAL.—The term ''applicable foreign option plan'' means a plan providing for the issuance of employee stock options—

(A) which is established under the laws of a foreign jurisdiction, and

(B) which, under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements under section 422 or 423 of such Code.

(2) SUBSTANTIALLY SIMILAR.—A plan shall not be treated as subject to substantially similar requirements under paragraph (1)(B) unless—

(A) the plan is required to cover substantially all employees,

(B) in the case of an option under an employee stock purchase plan, the plan is required to provide an option price which is not less than the amount specified in section 423(b)(6) of such Code, except that such section shall be applied by substituting ''80 percent'' for ''85 percent'' each place it appears,

(C) the plan is required to provide coverage of individuals who, but for the exception of the application of section 409A of such Code by reason of this section, would be subject to tax under such section with respect to the plan, and

(D) the plan meets such other requirements as the Secretary of the Treasury prescribes in the regulations under subsection (a).

SEC. 407. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

Beginning on page 236, line 17, strike all through page 239, line 6 and insert the following:

SEC. 502. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) EFFECTIVE DATE MODIFICATION.—

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) (relating to suspension) is amended by adding at the end the following new sentence: ''If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after the date of the enactment of this Act.

On page 244, after line 24, insert the following:

SEC. 504. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

SEC. 505. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting '', or tax liability reflected in,'' after ''the preparation or presentation of'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

Beginning on page 261, line 20, strike all through page 264, line 14, and insert the following:

SEC. 531. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

On page 276, line 20, strike ''$1,250'' and insert ''$2,000''.

On page 276, line 22, strike ''$25'' and insert ''$40''.

On page 323, after line 20, insert the following:

SEC. 563. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company'' after ''regulated investment company''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions with respect to taxable years beginning after December 31, 2004.

SEC. 564. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

''(i) shall not be included in computing such shareholder's long-term capital gains, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

SEC. 565. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

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

SEC. 566. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of

section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 567. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

SEC. 568. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C thereof, relating to refundable credits).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

SEC. 569. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

SEC. 570. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 571. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 572. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue

Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

TITLE VI—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

SEC. 601. SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS.

The provisions of, and amendments made by, title I, title II, subtitle A of title III, and title IV shall not apply to taxable years beginning after September 30, 2010, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.

SA 2671. Mr. FRIST (for Mr. ENZI) proposed an amendment to the bill S. 1418, to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wired for Health Care Quality Act''.

SEC. 2. IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY.

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

''TITLE XXIX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 2901. DEFINITIONS.

''In this title:

''(1) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as defined in section 1842(b)(18)(CC) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

''(2) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

''(3) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means—

''(A) a health insurance issuer (as defined in section 2791(b)(2));

''(B) a group health plan (as defined in section 2791(a)(1)); and

''(C) a health maintenance organization (as defined in section 2791(b)(3)).

''(4) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171 of the Social Security Act.

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

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

''(7) QUALIFIED HEALTH INFORMATION TECHNOLOGY.—The term 'qualified health information technology' means a computerized system (including hardware and software) that—

''(A) protects the privacy and security of health information;

''(B) maintains and provides permitted access to health information in an electronic format;

''(C) incorporates decision support to reduce medical errors and enhance health care quality;

''(D) complies with the standards adopted by the Federal Government under section 2903; and

''(E) allows for the reporting of quality measures under section 2907.

''(8) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

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

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

''(b) PURPOSE.—It shall be the purpose of the Office to coordinate with relevant Federal agencies and private entities and oversee programs and activities to develop a nationwide interoperable health information technology infrastructure that—

''(1) ensures that patients' individually identifiable health information is secure and protected;

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

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

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

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

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

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

''(8) facilitates health research; and

''(9) promotes prevention of chronic diseases.

''(c) DUTIES OF THE NATIONAL COORDINATOR.—The National Coordinator shall—

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

''(2) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health information;

''(3) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

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

''(5) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including Federal commissions) with public and private parties of interest, including consumers, payers, employers, hospitals and other health care providers, physicians, community health centers, laboratories, vendors and other stakeholders;

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

''(7) prepare the reports described under section 2903(i) (excluding paragraph (4) of such section).

''(d) DETAIL OF FEDERAL EMPLOYEES.—

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

''(2) EFFECT OF DETAIL.—Any detail of personnel under paragraph (1) shall—

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

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

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

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Office, regardless of whether such efforts were carried out prior to or after the enactment of this title.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2006, $5,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

''SEC. 2903. AMERICAN HEALTH INFORMATION COLLABORATIVE.

''(a) PURPOSE.—The Secretary shall establish the public-private American Health Information Collaborative (referred to in this section as the 'Collaborative') to—

''(1) advise the Secretary and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

''(2) serve as a forum for the participation of a broad range of stakeholders to provide input on achieving the interoperability of health information technology; and

''(3) recommend standards (including content, communication, and security standards) for the electronic exchange of health information (including for the reporting of quality data under section 2907) for adoption

by the Federal Government and voluntary adoption by private entities.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Collaborative shall be composed of members of the public and private sectors to be appointed by the Secretary, including representatives from—

''(A) consumer or patient organizations;

''(B) organizations with expertise in privacy and security;

''(C) health care providers;

''(D) health insurance plans or other third party payors;

''(E) information technology vendors; and

''(F) purchasers or employers.

''(2) PARTICIPATION.—In appointing members under paragraph (1), and in developing the procedures for conducting the activities of the Collaborative, the Secretary shall ensure a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Collaborative.

''(3) TERMS.—Members appointed under paragraph (1) shall serve for 2 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member's term or until a successor has been appointed.

''(4) OUTSIDE INVOLVEMENT.—With respect to the functions of the Collaborative, the Secretary shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including individuals with expertise in utilizing health information technology to improve health care quality and patient safety;

''(D) data exchange; and

''(E) developing health information technology standards and new health information technology.

''(c) RECOMMENDATIONS AND POLICIES.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall recommend to the Secretary uniform national policies for adoption by the Federal Government and voluntary adoption by private entities to support the widespread adoption of health information technology, including—

''(1) protection of individually identifiable health information through privacy and security practices;

''(2) measures to prevent unauthorized access to health information, including unauthorized access through the use of certain peer-to-peer file-sharing applications;

''(3) methods to notify patients if their individually identifiable health information is wrongfully disclosed;

''(4) methods to facilitate secure patient access to health information;

''(5) fostering the public understanding of health information technology;

''(6) the ongoing harmonization of industry-wide health information technology standards;

''(7) recommendations for a nationwide interoperable health information technology infrastructure;

''(8) the identification and prioritization of specific use cases for which health information technology is valuable, beneficial, and feasible;

''(9) recommendations for the establishment of an entity to ensure the continuation of the functions of the Collaborative; and

''(10) other policies (including recommendations for incorporating health information technology into the provision of care and the organization of the health care workplace) determined to be necessary by the Collaborative.

''(d) STANDARDS.—

''(1) EXISTING STANDARDS.—The standards adopted by the Consolidated Health Informatics Initiative shall be deemed to have been recommended by the Collaborative under this section.

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

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information;

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

''(C) identify duplication and overlap in such existing standards;

and recommend new standards and modifications to such existing standards as necessary.

''(3) ONGOING REVIEW.—Beginning 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall—

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information;

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

''(C) identify duplication and overlap in such existing standards;

and recommend new standards and modifications to such existing standards as necessary.

''(4) LIMITATION.—The standards and timeframe for adoption described in this section shall be consistent with any standards developed pursuant to the Health Insurance Portability and Accountability Act of 1996.

''(e) FEDERAL ACTION.—Not later than 90 days after the issuance of a recommendation from the Collaborative under subsection (d)(2), the Secretary of Health and Human Services, the Secretary of Veterans Affairs, and the Secretary of Defense, in collaboration with representatives of other relevant Federal agencies, as determined appropriate by the Secretary, shall jointly review such recommendations. If appropriate, the Secretary shall provide for the adoption by the Federal Government of any standard or standards contained in such recommendation.

''(f) COORDINATION OF FEDERAL SPENDING.—

''(1) IN GENERAL.—Not later than 1 year after the adoption by the Federal Government of a recommendation as provided for in subsection (e), and in compliance with chapter 113 of title 40, United States Code, no Federal agency shall expend Federal funds for the purchase of any new health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information that is not consistent with applicable standards adopted by the Federal Government under subsection (e).

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to restrict the purchase of minor (as determined by the Secretary) hardware or software components in order to modify, correct a deficiency in, or extend the life of existing hardware or software.

''(g) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in subsection (e), all Federal agencies collecting health data for the purposes of quality reporting, surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary, shall comply with standards adopted under subsection (e).

''(h) VOLUNTARY ADOPTION.—

''(1) IN GENERAL.—Any standards adopted by the Federal Government under subsection (e) shall be voluntary with respect to private entities.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private entity that enters into a contract with the Federal Government adopt the standards adopted by the Federal Government under this section with respect to activities not related to the contract.

''(3) LIMITATION.—Private entities that enter into a contract with the Federal Government shall adopt the standards adopted by the Federal Government under this section for the purpose of activities under such Federal contract.

''(i) REPORTS.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, on an annual basis, a report that—

''(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of an interoperable nationwide system for the electronic exchange of health information;

''(2) describes barriers to the adoption of such a nationwide system;

''(3) contains recommendations to achieve full implementation of such a nationwide system; and

''(4) contains a plan and progress toward the establishment of an entity to ensure the continuation of the functions of the Collaborative.

''(j) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Collaborative, except that the term provided for under section 14(a)(2) shall be 5 years.

''(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Collaborative, regardless of whether such efforts were carried out prior to or after the enactment of this title.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $4,000,000 for fiscal year 2006, $4,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

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

''(a) IMPLEMENTATION.—

''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

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

''(b) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure and certify that hardware and software that claim to be in compliance with applicable standards for the electronic exchange of health information adopted under this title have established and maintained such compliance in technical conformance with such standards.

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

''(c) OUTSIDE INVOLVEMENT.—The Secretary, through consultation with the Collaborative, may accept recommendations on the development of the criteria under subsections (a) and (b) from a Federal agency or private entity.

''SEC. 2905. GRANTS TO FACILITATE THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

''(a) COMPETITIVE GRANTS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to facilitate the purchase and enhance the utilization of qualified health information technology systems to improve the quality and efficiency of health care.

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

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

''(B) submit to the Secretary a strategic plan for the implementation of data sharing and interoperability measures;

''(C) be a—

''(i) not for profit hospital, including a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act);

''(ii) individual or group practice; or

''(iii) another health care provider not described in clause (i) or (ii);

''(D) adopt the standards adopted by the Federal Government under section 2903;

''(E) implement the measures adopted under section 2907 and report to the Secretary on such measures;

''(F) agree to notify patients if their individually identifiable health information is wrongfully disclosed;

''(G) demonstrate significant financial need; and

''(H) provide matching funds in accordance with paragraph (4).

''(3) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used to facilitate the purchase and enhance the utilization of qualified health information technology systems and training personnel in the use of such technology.

''(4) MATCHING REQUIREMENT.—To be eligible for a grant under this subsection an entity shall contribute non-Federal contributions to the costs of carrying out the activities for which the grant is awarded in an amount equal to $1 for each $3 of Federal funds provided under the grant.

''(5) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this subsection the Secretary shall give preference to—

''(A) eligible entities that are located in rural, frontier, and other underserved areas as determined by the Secretary;

''(B) eligible entities that will link, to the extent practicable, the qualified health information system to local or regional health information plan or plans; and

''(C) with respect to an entity described in subsection (a)(2)(C)(iii), a nonprofit health care provider.

''(b) COMPETITIVE GRANTS TO STATES FOR THE DEVELOPMENT OF STATE LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to States for the establishment of State programs for loans to health care providers to facilitate the purchase and enhance the utilization of qualified health information technology.

''(2) ESTABLISHMENT OF FUND.—To be eligible to receive a competitive grant under this subsection, a State shall establish a qualified health information technology loan fund (referred to in this subsection as a 'State loan fund') and comply with the other requirements contained in this section. A grant to a State under this subsection shall be deposited in the State loan fund established by the State. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

''(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) a State shall—

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

''(B) submit to the Secretary a strategic plan in accordance with paragraph (4);

''(C) establish a qualified health information technology loan fund in accordance with paragraph (2);

''(D) require that health care providers receiving such loans—

''(i) link, to the extent practicable, the qualified health information system to a local or regional health information network;

''(ii) consult with the Health Information Technology Resource Center established in section 914(d) to access the knowledge and experience of existing initiatives regarding the successful implementation and effective use of health information technology; and

''(iii) agree to notify patients if their individually identifiable health information is wrongfully disclosed;

''(E) require that health care providers receiving such loans adopt the standards adopted by the Federal Government under section 2903;

''(F) require that health care providers receiving such loans implement the measures adopted under section 2907 and report to the Secretary on such measures; and

''(G) provide matching funds in accordance with paragraph (8).

''(4) STRATEGIC PLAN.—

''(A) IN GENERAL.—A State that receives a grant under this subsection shall annually prepare a strategic plan that identifies the intended uses of amounts available to the State loan fund of the State.

''(B) CONTENTS.—A strategic plan under subparagraph (A) shall include—

''(i) a list of the projects to be assisted through the State loan fund in the first fiscal year that begins after the date on which the plan is submitted;

''(ii) a description of the criteria and methods established for the distribution of funds from the State loan fund; and

''(iii) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—Amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the State loan fund established under paragraph (1). Loans under this section may be used by a health care provider to facilitate the purchase and enhance the utilization of qualified health information technology and training of personnel in the use of such technology.

''(B) LIMITATION.—Amounts received by a State under this subsection may not be used—

''(i) for the purchase or other acquisition of any health information technology system that is not a qualified health information technology system;

''(ii) to conduct activities for which Federal funds are expended under this title, or the amendments made by the Wired for Health Care Quality Act; or

''(iii) for any purpose other than making loans to eligible entities under this section.

''(6) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a State loan fund under this subsection may only be used for the following:

''(A) To award loans that comply with the following:

''(i) The interest rate for each loan shall be less than or equal to the market interest rate.

''(ii) The principal and interest payments on each loan shall commence not later than 1 year after the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

''(iii) The State loan fund shall be credited with all payments of principal and interest on each loan awarded from the fund.

''(B) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

''(C) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund.

''(D) To earn interest on the amounts deposited into the State loan fund.

''(7) ADMINISTRATION OF STATE LOAN FUNDS.—

''(A) COMBINED FINANCIAL ADMINISTRATION.—A State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this subsection with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established.

''(B) COST OF ADMINISTERING FUND.—Each State may annually use not to exceed 4 percent of the funds provided to the State under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this title.

''(C) GUIDANCE AND REGULATIONS.—The Secretary shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this subsection, including—

''(i) provisions to ensure that each State commits and expends funds allotted to the State under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

''(ii) guidance to prevent waste, fraud, and abuse.

''(D) PRIVATE SECTOR CONTRIBUTIONS.—

''(i) IN GENERAL.—A State loan fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection.

''(ii) AVAILABILITY OF INFORMATION.—A State shall make publicly available the identity of, and amount contributed by, any private sector entity under clause (i) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

''(8) MATCHING REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may not make a grant under paragraph (1) to a State unless the State agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward the costs of the State program to be implemented under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

''(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that a State has provided pursuant to subparagraph (A), the Secretary may not include any amounts provided to the State by the Federal Government.

''(9) PREFERENCE IN AWARDING GRANTS.—The Secretary may give a preference in awarding grants under this subsection to States that adopt value-based purchasing programs to improve health care quality.

''(10) REPORTS.—The Secretary shall annually submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report summarizing the reports received by the Secretary from each State that receives a grant under this subsection.

''(c) COMPETITIVE GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to implement regional or local health information plans to improve health care quality and efficiency through the electronic exchange of health information pursuant to the standards, protocols, and other requirements adopted by the Secretary under sections 2903 and 2907.

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

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

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

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

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

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

''(iii) pharmacists or pharmacies;

''(iv) health insurance plans;

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

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

''(vii) patient or consumer organizations;

''(viii) employers; and

''(ix) any other health care providers or other entities, as determined appropriate by the Secretary;

''(D) demonstrate the participation, to the extent practicable, of stakeholders in the electronic exchange of health information within the local or regional plan pursuant to paragraph (2)(C);

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

''(F) adopt the standards adopted by the Secretary under section 2903;

''(G) require that health care providers receiving such grants implement the measures adopted under section 2907 and report to the Secretary on such measures;

''(H) agree to notify patients if their individually identifiable health information is wrongfully disclosed;

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

''(J) prepare and submit to the Secretary an application in accordance with paragraph (3); and

''(K) agree to provide matching funds in accordance with paragraph (5).

''(3) APPLICATION.—

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

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

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

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

''(iii) a strategy that includes initiatives to improve health care quality and efficiency, including the use and reporting of health care quality measures adopted under section 2907;

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

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

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

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

''(I) the sustainability of the plan;

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

''(III) the entities to which such costs and benefits will accrue; and

''(viii) in the case of an applicant entity that is unable to demonstrate the participation of all stakeholders pursuant to paragraph (2)(C), the justification from the entity for any such nonparticipation.

''(4) USE OF FUNDS.—Amounts received under a grant under paragraph (1) shall be used to establish and implement a regional or local health information plan in accordance with this subsection.

''(5) MATCHING REQUIREMENT.—

''(A) IN GENERAL.—The Secretary may not make a grant under this subsection to an entity unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the infrastructure program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than 50 percent of such costs ($1 for each $2 of Federal funds provided under the grant).

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

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

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

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

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

''(4) a description of the efforts of recipients under this section to facilitate secure patient access to health information; and

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

''(e) REQUIREMENT TO ACHIEVE QUALITY IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will result in the greatest improvement in quality measures under section 2907.

''(f) LIMITATION.—An eligible entity may only receive one non-renewable grant under subsection (a), one non-renewable grant under subsection (b), and one non-renewable grant under subsection (c).

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated $116,000,000 for fiscal year 2006, $141,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available through fiscal year 2010.

''SEC. 2906. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

''(a) IN GENERAL.—The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating qualified health information technology systems in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

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

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

''(2) submit to the Secretary a strategic plan for integrating qualified health information technology in the clinical education of health professionals and for ensuring the consistent utilization of decision support software to reduce medical errors and enhance health care quality;

''(3) be—

''(A) a health professions school;

''(B) a school of nursing; or

''(C) an institution with a graduate medical education program;

''(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate health information technology, and implement the quality measures adopted under section 2907, in the delivery of health care services; and

''(5) provide matching funds in accordance with subsection (c).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

''(A) use grant funds in collaboration with 2 or more disciplines; and

''(B) use grant funds to integrate qualified health information technology into community-based clinical education.

''(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

''(d) MATCHING FUNDS.—

''(1) IN GENERAL.—The Secretary may award a grant to an entity under this section only if the entity agrees to make available non-Federal contributions toward the costs of the program to be funded under the grant in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

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

''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that—

''(1) describes the specific projects established under this section; and

''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

''(h) SUNSET.—This section shall not apply after September 30, 2010.

''SEC. 2907. QUALITY MEASURES.

''(a) IN GENERAL.—The Secretary shall develop quality measures, including measures to assess the effectiveness, timeliness, patient self-management, patient centeredness, efficiency, and safety, for the purpose of measuring the quality of care patients receive.

''(b) REQUIREMENTS.—The Secretary shall ensure that the quality measures developed under this section comply with the following:

''(1) MEASURES.—

''(A) REQUIREMENTS.—In developing the quality measures under this section, the Secretary shall, to the extent feasible, ensure that—

''(i) such measures are evidence based, reliable, and valid;

''(ii) such measures are consistent with the purposes described in section 2902(b);

''(iii) such measures include measures of clinical processes and outcomes, patient experience, efficiency, and equity; and

''(iv) such measures include measures of overuse and underuse of health care items and services.

''(2) PRIORITIES.—In developing the quality measures under this section, the Secretary shall ensure that priority is given to—

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

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

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

''(3) RISK ADJUSTMENT.—The Secretary shall establish procedures to account for differences in patient health status, patient characteristics, and geographic location. To the extent practicable, such procedures shall recognize existing procedures.

''(4) MAINTENANCE.—The Secretary shall, as determined appropriate, but in no case more often than once during each 12-month period, update the quality measures, including through the addition of more accurate and precise measures and the retirement of existing outdated measures.

''(5) RELATIONSHIP WITH PROGRAMS UNDER THE SOCIAL SECURITY ACT.—The Secretary shall ensure that the quality measures developed under this section—

''(A) complement quality measures developed by the Secretary under programs administered by the Secretary under the Social Security Act, including programs under titles XVIII, XIX, and XXI of such Act; and

''(B) do not conflict with the needs and priorities of the programs under titles XVIII, XIX, and XXI of such Act, as set forth by the Administrator of the Centers for Medicare & Medicaid Services.

''(c) REQUIRED CONSIDERATIONS IN DEVELOPING AND UPDATING THE MEASURES.—In developing and updating the quality measures under this section, the Secretary may take into account—

''(1) any demonstration or pilot program conducted by the Secretary relating to measuring and rewarding quality and efficiency of care;

''(2) any existing activities conducted by the Secretary relating to measuring and rewarding quality and efficiency;

''(3) any existing activities conducted by private entities, including health insurance plans and payors;

''(4) the report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; and

''(5) issues of data collection and reporting, including the feasibility of collecting and reporting data on measures.

''(d) SOLICITATION OF ADVICE AND RECOMMENDATIONS.—On and after July 1, 2006, the Secretary shall consult with the following regarding the development, updating, and use of quality measures developed under this section:

''(1) Health insurance plans and health care providers, including such plans and providers with experience in the care of the frail elderly and individuals with multiple complex chronic conditions, or groups representing such health insurance plans and providers.

''(2) Groups representing patients and consumers.

''(3) Purchasers and employers or groups representing purchasers or employers.

''(4) Organizations that focus on quality improvement as well as the measurement and reporting of quality measures.

''(5) Organizations that certify and license health care providers.

''(6) State government public health programs.

''(7) Individuals or entities skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment.

''(8) Individuals or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

''(9) Individuals or entities with experience with—

''(A) urban health care issues;

''(B) safety net health care issues; and

''(C) rural and frontier health care issues.

''(e) USE OF QUALITY MEASURES.—

''(1) IN GENERAL.—For purposes of activities conducted or supported by the Secretary under this Act, the Secretary shall, to the extent practicable, adopt and utilize the quality measures developed under this section.

''(2) COLLABORATIVE AGREEMENTS.—With respect to activities conducted or supported by the Secretary under this Act, the Secretary may establish collaborative agreements with private entities, including group health plans and health insurance issuers, providers, purchasers, consumer organizations, and entities receiving a grant under section 2905, to—

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

''(B) foster uniformity between the health care quality measures utilized by private entities.

''(3) REPORTING.—The Secretary shall implement procedures to enable the Department of Health and Human Services to accept the electronic submission of data for purposes of—

''(A) quality measurement using the quality measures developed under this section and using the standards adopted by the Federal Government under section 2903; and

''(B) for reporting measures used to make value-based payments under programs under the Social Security Act.

''(f) DISSEMINATION OF INFORMATION.—Beginning on January 1, 2008, in order to make comparative quality information available to health care consumers, health professionals, public health officials, researchers, and other appropriate individuals and entities, the Secretary shall provide for the dissemination, aggregation, and analysis of quality measures collected under section 2905 and the dissemination of recommendations and best practices derived in part from such analysis.

''(g) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to public and private entities to enable such entities to—

''(1) implement and use evidence-based guidelines with the greatest potential to improve health care quality, efficiency, and patient safety; and

''(2) establish mechanisms for the rapid dissemination of information regarding evidence-based guidelines with the greatest potential to improve health care quality, efficiency, and patient safety.

''(h) RULE OF CONSTRUCTION.—Nothing in this title shall be construed as prohibiting the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, from developing quality

measures (and timing requirements for reporting such measures) for use under programs administered by the Secretary under the Social Security Act, including programs under titles XVIII, XIX, and XXI of such Act.''.

SEC. 3. LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

(a) IN GENERAL.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines—

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

(2) how such variation among State laws impacts the secure electronic exchange of health information—

(A) among the States; and

(B) between the States and the Federal Government.

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

(1) describes the results of the study carried out under subsection (a); and

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

SEC. 4. ENSURING PRIVACY AND SECURITY.

Nothing in this Act (or the amendments made by this Act) shall be construed to affect the scope, substance, or applicability of—

(1) section 264 of the Health Insurance Portability and Accountability Act of 1996;

(2) sections 1171 through 1179 of the Social Security Act; and

(3) any regulation issued pursuant to any such section.

SEC. 5. GAO STUDY.

Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the necessity and workability of requiring health plans (as defined in section 1171 of the Social Security Act (42 U.S.C. 1320d)), health care clearinghouses (as defined in such section 1171), and health care providers (as defined in such section 1171) who transmit health information in electronic form, to notify patients if their individually identifiable health information (as defined in such section 1171) is wrongfully disclosed.

SEC. 6. STUDY OF REIMBURSEMENT INCENTIVES.

The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

SEC. 7. HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.

Section 914 of the Public Health Service Act (42 U.S.C. 299b–3) is amended by adding at the end the following:

''(d) HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.—

''(1) IN GENERAL.—The Secretary, acting through the Director, shall develop a Health Information Technology Resource Center to provide technical assistance and develop best practices to support and accelerate efforts to adopt, implement, and effectively use interoperable health information technology in compliance with section 2903 and 2907.

''(2) PURPOSES.—The purpose of the Center is to—

''(A) provide a forum for the exchange of knowledge and experience;

''(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

''(C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of interoperable health information technology.

''(D) provide for the establishment of regional and local health information networks to facilitate the development of interoperability across health care settings and improve the quality of health care;

''(E) provide for the development of solutions to barriers to the exchange of electronic health information; and

''(F) conduct other activities identified by the States, local or regional health information networks, or health care stakeholders as a focus for developing and sharing best practices.

''(3) SUPPORT FOR ACTIVITIES.—To provide support for the activities of the Center, the Director shall modify the requirements, if necessary, that apply to the National Resource Center for Health Information Technology to provide the necessary infrastructure to support the duties and activities of the Center and facilitate information exchange across the public and private sectors.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the duplication of Federal efforts with respect to the establishment of the Center, regardless of whether such efforts were carried out prior to or after the enactment of this subsection.

''(e) TECHNICAL ASSISTANCE TELEPHONE NUMBER OR WEBSITE.—The Secretary shall establish a toll-free telephone number or Internet website to provide health care providers and patients with a single point of contact to—

''(1) learn about Federal grants and technical assistance services related to interoperable health information technology;

''(2) learn about qualified health information technology and the quality measures adopted by the Federal Government under sections 2903 and 2907;

''(3) learn about regional and local health information networks for assistance with health information technology; and

''(4) disseminate additional information determined by the Secretary.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary for each of fiscal years 2006 and 2007 to carry out this subsection.''.

SEC. 8. REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEMEDICINE.

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

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, November 17, 2005, at 10 a.m. in Room 216 of the Hart Senate Office Building to conduct an oversight hearing on the In Re Tribal Lobbying Matters, Et Al. Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday, November 17, 2005 at 10 a.m. in 328A, Senate Russell Office Building. The purpose of this Committee hearing will be to consider the role of U.S. agriculture in the control and eradication of avian influenza.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 17, 2005, at 10 a.m., to conduct a hearing on ''A Review of the GAO Report on the Sale of Financial Products to Military Personnel.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, November 17, 2005, at 2:30 p.m., on pending Committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a business meeting on November 17, 2005 at 9:30 a.m. to consider the following agenda:

S. 1708 ''Emergency Lease Requirements Act of 2005.''

S. 1496 ''Electronic Duck Stamp Act of 2005.''

S. 1165 ''James Campbell National Wildlife Refuge Expansion Act of 2005.''

S.____ ''Army Corps Assessment Authorization for the State of Louisiana.''

Eight Committee resolutions to authorize the remainder of GSA's FY06 Capital Investment and Leasing Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a hearing on November 17, 2005 at 9:35 a.m. to evaluate the degree to which the preliminary findings on the failure of the levees are being incorporated into the restoration of hurricane protection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, November 17, 2005, at 10 a.m. for a hearing titled, ''From Proposed to Final: Evaluating Regulations for the National Security Personnel System.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, November 17, 2005, at 10 a.m. in Room 216 of the Hart Senate Office Building to conduct an oversight hearing on the In Re Tribal Lobbying Matters, et al.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 17, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

Agenda

I. Nominations

Joseph Frank Bianco, to be U.S. District Judge for the Eastern District of New York; Timothy Mark Burgess, to be U.S. District Judge for the District of Alaska; Gregory F. Van Tatenhove, to be U.S. District Judge for the Eastern District of Kentucky; Eric Nicholas Vitaliano, to be U.S. District Judge for the Eastern District of New York; James O'Gara, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy; Emilio Gonzalez, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security; Catherine Lucille Hanaway, to be U.S. Attorney for the Eastern District of Missouri; Carol E. Dinkins, to be Chairman of the Privacy and Civil Liberties Oversight Board; Alan Charles Raul, to be Vice Chairman of the Privacy and Civil Liberties Oversight Board.

II. Bills

S. 1088, Streamlined Procedures Act of 2005, Kyl, Cornyn, Grassley, Hatch;

S. 1789, Personal Data Privacy and Security Act of 2005, Specter, Leahy, Feinstein, Feingold;

S. 751, Notification of Risk to Personal Data Act, Feinstein, Kyl;

H.R. 683, Trademark Dilution Revision Act of 2005, Smith–TX;

S. 1967, A bill to amend title 18, United States Code, with respect to certain activities of the Secret Service, and for other purposes, Specter;

S. 1961, Extending the Child Safety Pilot Program Act of 2005, Biden, Hatch, Cornyn;

S. 1354, Wartime Treatment Study Act, Feingold, Grassley, Kennedy;

S. ———, Comprehensive Immigration Reform, Chairman's Mark.

III. Matters

S.J. Res. 1, Marriage Protection Amendment, Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to meet to conduct a hearing on ''Recent Developments in Assessing Future Asbestos Claims Under the FAIR Act'' on Thursday, November 17, 2005 at 2 p.m. in the Dirksen Senate Office Building Room 226.

Panel I: Douglas Holtz-Eakin, Ph.D., Director, Congressional Budget Office, Washington, DC.

Panel II: Charles Bates, Ph.D., Chairman, Bates White LLC, Washington, DC; Laura Welch, M.D., Medical Director, Center to Protect Workers Rights, Washington, DC; Mark Peterson, Ph.D., President, Legal Analysis Systems, Thousand Oaks, CA; Mark Lederer, Chief Financial Officer, Claims Resolution Management Corporation (aka The Manville Trust), Katonah, NY; Denise Martin, Ph.D., Sr. Vice President, National Economic Research Associates, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 17, 2005 at 10:30 a.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 17, 2005 at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs be authorized to meet during the session of the Senate on Thursday, November 17, 2005, at 2:30 p.m. to hold a hearing on African Organizations and Institutions: Cross-Continental Progress.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Thursday, November 17, 2005, at 10 a.m., on Aviation Safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Priya Narasimhan be granted the privilege of the floor during votes and throughout the debate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEETING THE HOUSING AND SERVICE NEEDS OF SENIORS ACT OF 2005

Mr. GRASSLEY. Mr. President, for the leader I have a unanimous consent request that the Senate proceed to the immediate consideration of Calendar No. 285, S. 705.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 705) to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment, as follows:

[Strike out all after the enacting clause and insert the part printed in italic.]

S. 705

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 ''Meeting the Housing and Service Needs of Seniors Act of 2005''.

[SEC. 2. FINDINGS.

[Congress finds the following:

[(1) The senior population (persons 65 or older) in this country is rapidly growing, and is expected to increase from 34,700,000 in 2000 to nearly 40,000,000 by 2010, and then will dramatically increase to over 50,000,000 by 2020.

[(2) By 2020, the population of ''older'' seniors, those over age 85, is expected to double to 7,000,000, and then double again to 14,000,000 by 2040.

[(3) As the senior population increases, so does the need for additional safe, decent, affordable, and suitable housing that meets their unique needs.

[(4) Due to the health care, transportation, and service needs of seniors, issues of providing suitable and affordable housing opportunities differ significantly from the housing needs of other families.

[(5) Seniors need access to a wide array of housing options, such as affordable assisted living, in-home care, supportive or service-enriched housing, and retrofitted homes and apartments to allow seniors to age in place and to avoid premature placement in institutional settings.

[(6) While there are many programs in place to assist seniors in finding and affording suitable housing and accessing needed services, these programs are fragmented and spread across many agencies, making it difficult for seniors to access assistance or to receive comprehensive information.

[(7) Better coordination among Federal agencies is needed, as is better coordination at State and local levels, to ensure that seniors can access government activities, programs, services, and benefits in an effective and efficient manner.

[(8) Up to date, accurate, and accessible statistics on key characteristics of seniors, including conditions, behaviors, and needs, are required to accurately identify the housing and service needs of seniors.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) The term ''housing'' means any form of residence, including rental housing, homeownership, assisted living, group home, supportive housing arrangement, nursing facility, or any other physical location where a person can live.

[(2) The term ''service'' includes transportation, health care, nursing assistance, meal, personal care and chore services, assistance with daily activities, mental health care, physical therapy, case management, and any other services needed by seniors to allow

them to stay in their housing or find alternative housing that meets their needs.

[(3) The term ''program'' includes any Federal or State program providing income support, health benefits or other benefits to seniors, housing assistance, mortgages, mortgage or loan insurance or guarantees, housing counseling, supportive services, assistance with daily activities, or other assistance for seniors.

[(4) The term ''Council'' means the Interagency Council on Meeting the Housing and Service Needs of Seniors.

[(5) The term ''senior'' means any individual 65 years of age or older.

[SEC. 4. INTERAGENCY COUNCIL ON MEETING THE HOUSING AND SERVICE NEEDS OF SENIORS.

[(a) ESTABLISHMENT.—There is established in the executive branch an independent council to be known as the Interagency Council on Meeting the Housing and Service Needs of Seniors.

[(b) OBJECTIVES.—The objectives of the Council are as follows:

[(1) To promote coordination and collaboration among the Federal departments and agencies involved with housing, health care, and service needs of seniors in order to better meet the needs of senior citizens.

[(2) To identify the unique housing and service needs faced by seniors around the country and to recommend ways that the Federal Government, States, State and local governments, and others can better meet those needs, including how to ensure that seniors can find and afford housing that allows them to access health care, transportation, nursing assistance, and assistance with daily activities where they live or in their communities.

[(3) To facilitate the aging in place of seniors, by identifying and making available the programs and services necessary to enable seniors to remain in their homes as they age.

[(4) To improve coordination among the housing and service related programs and services of Federal agencies for seniors and to make recommendations about needed changes with an emphasis on—

[(A) maximizing the impact of existing programs and services;

[(B) reducing or eliminating areas of overlap and duplication in the provision and accessibility of such programs and services; and

[(C) making access to programs and services easier for seniors around the country.

[(5) To increase the efficiency and effectiveness of existing housing and service related programs and services which serve seniors.

[(6) To establish an ongoing system of coordination among and within such agencies or organizations so that the housing and service needs of seniors are met in a more efficient manner.

[(c) MEMBERSHIP.—The Council shall be composed of the following:

[(1) The Secretary of Housing and Urban Development or a designee of the Secretary.

[(2) The Secretary of Health and Human Services or a designee of the Secretary.

[(3) The Secretary of Agriculture or a designee of the Secretary.

[(4) The Secretary of Transportation or a designee of the Secretary.

[(5) The Secretary of Labor or a designee of the Secretary.

[(6) The Secretary of Veterans Affairs or a designee of the Secretary.

[(7) The Secretary of the Treasury or a designee of the Secretary.

[(8) The Commissioner of the Social Security Administration or a designee of the Commissioner.

[(9) The Administrator of the Centers for Medicare and Medicaid Services or a designee of the Administrator.

[(10) The Administrator of the Administration on Aging or a designee of the Administrator.

[(11) The head (or designee) of any other Federal agency as the Council considers appropriate.

[(12) State and local representatives knowledgeable about the needs of seniors as chosen by the Council members described in paragraphs (1) through (11).

[(d) CHAIRPERSON.—The Chairperson of the Council shall alternate between the Secretary of Housing and Urban Development and the Secretary of Health and Human Services on an annual basis.

[(e) VICE CHAIR.—Each year, the Council shall elect a Vice Chair from among its members.

[(f) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members at any time, and no less often than quarterly. The Council shall hold meetings with stakeholders and other interested parties at least twice a year, so that the opinions of such parties can be taken into account and so that outside groups can learn of the Council's activities and plans.

[SEC. 5. FUNCTIONS OF THE COUNCIL.

[(a) RELEVANT ACTIVITIES.—In carrying out its objectives, the Council shall—

[(1) review all Federal programs and services that assist seniors in finding, affording, and rehabilitating housing, including those that assist seniors in accessing health care, transportation, supportive services, and assistance with daily activities, where or close to where seniors live;

[(2) monitor, evaluate, and recommend improvements in existing programs and services administered, funded, or financed by Federal, State, and local agencies to assist seniors in meeting their housing and service needs and make any recommendations about how agencies can better work to house and serve seniors; and

[(3) recommend ways—

[(A) to reduce duplication among programs and services by Federal agencies that assist seniors in meeting their housing and service needs;

[(B) to ensure collaboration among and within agencies in the provision and availability of programs and services so that seniors are able to easily access needed programs and services;

[(C) to work with States to better provide housing and services to seniors by—

[(i) holding individual meetings with State representatives;

[(ii) providing ongoing technical assistance to States in better meeting the needs of seniors; and

[(iii) working with States to designate State liaisons to the Council;

[(D) to identify best practices for programs and services that assist seniors in meeting their housing and service needs, including model—

[(i) programs linking housing and services;

[(ii) financing products offered by government, quasi-government, and private sector entities;

[(iii) land use, zoning, and regulatory practices; and

[(iv) innovations in technology applications that give seniors access to information on available services;

[(E) to collect and disseminate information about seniors and the programs and services available to them to ensure that seniors can access comprehensive information;

[(F) to hold biannual meetings with stakeholders and other interested parties (or to hold open Council meetings) to receive input and ideas about how to best meet the housing and service needs of seniors;

[(G) to maintain an updated website of policies, meetings, best practices, programs, services, and any other helpful information to keep people informed of the Council's activities; and

[(H) to work with the Federal Interagency Forum on Aging Statistics, the Census Bureau, and member agencies to collect and maintain data relating to the housing and service needs of seniors so that all data can be accessed in one place and to identify and address unmet data needs.

[(b) REPORTS.—

[(1) BY MEMBERS.—Each year, the head of each agency that is a member of the Council shall prepare and transmit to the Council a report that describes—

[(A) each program and service administered by the agency that serves seniors and the number of seniors served by each program or service, the resources available in each, as well as a breakdown of where each program and service can be accessed;

[(B) the barriers and impediments, including statutory or regulatory, to the access and use of such programs and services by seniors;

[(C) the efforts made by each agency to increase opportunities for seniors to find and afford housing that meet their needs, including how the agency is working with other agencies to better coordinate programs and services; and

[(D) any new data collected by each agency relating to the housing and service needs of seniors.

[(2) BY THE COUNCIL.—Each year, the Council shall prepare and transmit to the President, the Senate Committee on Banking, Housing, and Urban Affairs, the Senate Committee on Health, Education, Labor, and Pensions, the House Financial Services Committee, and the House Committee on Education and the Workforce a report that—

[(A) summarizes the reports required in paragraph (1);

[(B) utilizes recent data to assess the nature of the problems faced by seniors in meeting their unique housing and service needs;

[(C) provides a comprehensive and detailed description of the programs and services of the Federal Government in meeting the needs and problems described in subparagraph (B);

[(D) describes the activities and accomplishments of the Council in working with Federal, State, and local governments, and private organizations in coordinating programs and services to meet the needs described in subparagraph (B) and the resources available to meet those needs;

[(E) assesses the level of Federal assistance required to meet the needs described in subparagraph (B); and

[(F) makes recommendations for appropriate legislative and administrative actions to meet the needs described in subparagraph (B) and for coordinating programs and services designed to meet those needs.

[SEC. 6. POWERS OF THE COUNCIL.

[(a) HEARINGS.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out the purposes of this Act.

[(b) INFORMATION FROM AGENCIES.—Agencies which are members of the Council shall provide all requested information and data to the Council as requested.

[(c) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

[(d) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

[SEC. 7. COUNCIL PERSONNEL MATTERS.

[(a) COMPENSATION OF MEMBERS.—All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

[(b) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

[(c) STAFF.—

[(1) IN GENERAL.—The Council shall, without regard to civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as may be necessary to enable the Council to perform its duties.

[(2) EXECUTIVE DIRECTOR.—The Council shall appoint an Executive Director at its initial meeting. The Executive Director shall be compensated at a rate not to exceed the rate of pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

[(3) COMPENSATION.—With the approval of the Council, the Executive Director may appoint and fix the compensation of such additional personnel as necessary to carry out the duties of the Council. The rate of compensation may be set without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

[(d) TEMPORARY AND INTERMITTENT SERVICES.—In carrying out its objectives, the Council may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

[(e) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Council, any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

[(f) ADMINISTRATIVE SUPPORT.—The Secretary of Housing Urban Development and the Secretary of Health and Human Services shall provide the Council with such administrative and supportive services as are necessary to ensure that the Council can carry out its functions.

[SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this Act, $1,500,000 for each of fiscal years 2005 through 2010.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Meeting the Housing and Service Needs of Seniors Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The senior population (persons 65 or older) in this country is rapidly growing, and is expected to increase from 34,700,000 in 2000 to nearly 40,000,000 by 2010, and then will dramatically increase to over 50,000,000 by 2020.

(2) By 2020, the population of ''older'' seniors, those over age 85, is expected to double to 7,000,000, and then double again to 14,000,000 by 2040.

(3) As the senior population increases, so does the need for additional safe, decent, affordable, and suitable housing that meets their unique needs.

(4) Due to the health care, transportation, and service needs of seniors, issues of providing suitable and affordable housing opportunities differ significantly from the housing needs of other families.

(5) Seniors need access to a wide array of housing options, such as affordable assisted living, in-home care, supportive or service-enriched housing, and retrofitted homes and apartments to allow seniors to age in place and to avoid premature placement in institutional settings.

(6) While there are many programs in place to assist seniors in finding and affording suitable housing and accessing needed services, these programs are fragmented and spread across many agencies, making it difficult for seniors to access assistance or to receive comprehensive information.

(7) Better coordination among Federal agencies is needed, as is better coordination at State and local levels, to ensure that seniors can access government activities, programs, services, and benefits in an effective and efficient manner.

(8) Up to date, accurate, and accessible statistics on key characteristics of seniors, including conditions, behaviors, and needs, are required to accurately identify the housing and service needs of seniors.

SEC. 3. DEFINITIONS.

In this Act:

(1) HOUSING.—The term ''housing'' means any form of residence, including rental housing, homeownership, assisted living, group home, supportive housing arrangement, nursing facility, or any other physical location where a person can live.

(2) SERVICE.—The term ''service'' includes transportation, health care, nursing assistance, meal, personal care and chore services, assistance with daily activities, mental health care, physical therapy, case management, and any other services needed by seniors to allow them to stay in their housing or find alternative housing that meets their needs.

(3) PROGRAM.—The term ''program'' includes any Federal or State program providing income support, health benefits or other benefits to seniors, housing assistance, mortgages, mortgage or loan insurance or guarantees, housing counseling, supportive services, assistance with daily activities, or other assistance for seniors.

(4) COUNCIL.—The term ''Council'' means the Interagency Council on Meeting the Housing and Service Needs of Seniors.

(5) SENIOR.—The term ''senior'' means any individual 65 years of age or older.

SEC. 4. INTERAGENCY COUNCIL ON MEETING THE HOUSING AND SERVICE NEEDS OF SENIORS.

(a) ESTABLISHMENT.—There is established in the executive branch an independent council to be known as the Interagency Council on Meeting the Housing and Service Needs of Seniors.

(b) OBJECTIVES.—The objectives of the Council are as follows:

(1) To promote coordination and collaboration among the Federal departments and agencies involved with housing, health care, and service needs of seniors in order to better meet the needs of senior citizens.

(2) To identify the unique housing and service needs faced by seniors around the country and to recommend ways that the Federal Government, States, State and local governments, and others can better meet those needs, including how to ensure that seniors can find and afford housing that allows them to access health care, transportation, nursing assistance, and assistance with daily activities where they live or in their communities.

(3) To facilitate the aging in place of seniors, by identifying and making available information related to the programs and services necessary to enable seniors to remain in their homes as they age.

(4) To improve coordination among the housing and service related programs and services of Federal agencies for seniors and to make recommendations about needed changes with an emphasis on—

(A) maximizing the impact of existing programs and services;

(B) reducing or eliminating areas of overlap and duplication in the provision and accessibility of such programs and services; and

(C) making access to programs and services easier for seniors around the country.

(5) To increase the efficiency and effectiveness of existing housing and service related programs and services which serve seniors.

(6) To establish an ongoing system of coordination among and within such agencies or organizations so that the housing and service needs of seniors are met in a more efficient manner.

(c) MEMBERSHIP.—The Council shall be composed of the following:

(1) The Secretary of Housing and Urban Development.

(2) The Secretary of Health and Human Services.

(3) The Secretary of Agriculture or a designee of the Secretary.

(4) The Secretary of Transportation or a designee of the Secretary.

(5) The Secretary of Labor or a designee of the Secretary.

(6) The Secretary of Veterans Affairs or a designee of the Secretary.

(7) The Secretary of the Treasury or a designee of the Secretary.

(8) The Commissioner of the Social Security Administration or a designee of the Commissioner.

(9) The Administrator of the Centers for Medicare and Medicaid Services or a designee of the Administrator.

(10) The Administrator of the Administration on Aging or a designee of the Administrator.

(11) The head (or designee) of any other Federal agency as the Council considers appropriate.

(12)(A) 3 additional members, as appointed by the President to serve terms not to exceed 4 years, of whom—

(i) one shall be a Governor of a State;

(ii) one shall be a Mayor of a political subdivision of a State;

(iii) one shall be a county, town, township, parish, village, hamlet, or other general purpose local official of a political subdivision of a State.

(B) Of the members appointed by the President under subparagraph (A)—

(i) no more than 2 members may be affiliated with the same political party; and

(ii) none shall be considered a Federal employee.

(d) CHAIRPERSON.—The Chairperson of the Council shall alternate between the Secretary of Housing and Urban Development and the Secretary of Health and Human Services every 2 years.

(e) VICE CHAIR.—Every 2 years, the Council shall elect a Vice Chair from among its members.

(f) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members at any time, and no less often than quarterly. The Council shall hold meetings with stakeholders and other interested parties at least twice a year, so that the opinions of such parties can be taken into account and so that outside groups can learn of the Council's activities and plans.

SEC. 5. FUNCTIONS OF THE COUNCIL.

(a) RELEVANT ACTIVITIES.—In carrying out its objectives, the Council shall—

(1) review all Federal programs and services that assist seniors in finding, affording, and rehabilitating housing, including those that assist seniors in accessing health care, transportation,

supportive services, and assistance with daily activities, where or close to where seniors live;

(2) monitor, evaluate, and recommend improvements in existing programs and services administered, funded, or financed by Federal, State, and local agencies to assist seniors in meeting their housing and service needs and make any recommendations about how agencies can better work to house and serve seniors; and

(3) recommend ways to—

(A) reduce duplication among programs and services by Federal agencies that assist seniors in meeting their housing and service needs;

(B) ensure collaboration among and within agencies in the provision and availability of programs and services so that seniors are able to easily access needed programs and services;

(C) work with States to better provide housing and services to seniors by—

(i) holding individual meetings with State representatives;

(ii) providing ongoing technical assistance to States in better meeting the needs of seniors; and

(iii) working with States to designate State liaisons to the Council;

(D) identify best practices for programs and services that assist seniors in meeting their housing and service needs, including model—

(i) programs linking housing and services;

(ii) financing products offered by government, quasi-government, and private sector entities;

(iii) land use, zoning, and regulatory practices; and

(iv) innovations in technology applications that give seniors access to information on available services or that help in providing services to seniors;

(E) collect and disseminate information about seniors and the programs and services available to them to ensure that seniors can access comprehensive information;

(F) hold biannual meetings with stakeholders and other interested parties (or to hold open Council meetings) to receive input and ideas about how to best meet the housing and service needs of seniors;

(G) maintain an updated website of policies, meetings, best practices, programs, services, and any other helpful information to keep people informed of the Council's activities; and

(H) work with the Federal Interagency Forum on Aging Statistics, the Census Bureau, and member agencies to collect and maintain data relating to the housing and service needs of seniors so that all data can be accessed in one place and to identify and address unmet data needs.

(b) REPORTS.—

(1) BY MEMBERS.—Each year, the head of each agency who is a member of the Council shall prepare and transmit to the Council a report that describes—

(A) each program and service administered by the agency that serves a substantial number of seniors and the number of seniors served by each program or service, the resources available in each, as well as a breakdown of where each program and service can be accessed;

(B) the barriers and impediments, including statutory or regulatory, to the access and use of such programs and services by seniors;

(C) the efforts made by each agency to increase opportunities for seniors to find and afford housing that meet their needs, including how the agency is working with other agencies to better coordinate programs and services; and

(D) any new data collected by each agency relating to the housing and service needs of seniors.

(2) BY THE COUNCIL.—Each year, the Council shall prepare and transmit to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, the Special Committee on Aging of the Senate, the Financial Services Committee of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, a report that—

(A) summarizes the reports required in paragraph (1);

(B) utilizes recent data to assess the nature of the problems faced by seniors in meeting their unique housing and service needs;

(C) provides a comprehensive and detailed description of the programs and services of the Federal Government in meeting the needs and problems described in subparagraph (B);

(D) describes the activities and accomplishments of the Council in working with Federal, State, and local governments, and private organizations in coordinating programs and services to meet the needs described in subparagraph (B) and the resources available to meet those needs;

(E) assesses the level of Federal assistance required to meet the needs described in subparagraph (B); and

(F) makes recommendations for appropriate legislative and administrative actions to meet the needs described in subparagraph (B) and for coordinating programs and services designed to meet those needs.

SEC. 6. POWERS OF THE COUNCIL.

(a) HEARINGS.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM AGENCIES.—Agencies which are represented on the Council shall provide all requested information and data to the Council as requested.

(c) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—

(1) IN GENERAL.—The Council may accept, use, and dispose of gifts or donations of services or property.

(2) REGULATIONS REQUIRED.—The Council shall adopt internal regulations governing the receipt of gifts or donations of services or property similar to those described in part 2601 of title 5, Code of Federal Regulations.

SEC. 7. COUNCIL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Council who is not an officer or employee of the Federal Government shall serve without compensation.

(2) FEDERAL EMPLOYEES.—A member of the Council who is an officer or employee of the United States shall serve without compensation in addition to the compensation received for services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(c) STAFF.—

(1) EXECUTIVE DIRECTOR.—The Council shall appoint an Executive Director at its initial meeting. The Executive Director shall be compensated at a rate not to exceed the rate of pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) COMPENSATION.—With the approval of the Council, the Executive Director may appoint and fix the compensation of such additional personnel as necessary to carry out the duties of the Council. The rate of compensation may be set without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) TEMPORARY AND INTERMITTENT SERVICES.—In carrying out its objectives, the Council may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Council, any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) ADMINISTRATIVE SUPPORT.—The Secretary of Housing Urban Development and the Secretary of Health and Human Services shall provide the Council with such administrative (including office space), supportive services, and technical supports as are necessary to ensure that the Council can carry out its functions.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act, $1,500,000 for each of fiscal years 2005 through 2010.

Mr. SARBANES. Mr. President, I rise today to urge my colleagues to support passage of S. 705, legislation to establish an Interagency Council on Meeting the Housing and Service Needs of Seniors. This legislation will help the Federal Government work with its partners to meet the growing housing and related needs of senior citizens around the country. The Interagency Council will work to better coordinate Federal programs so that seniors and their families can access the programs and the services necessary to allow them to age in place or find suitable housing alternatives.

The challenges that confront us are growing more urgent as our population ages. Data from the 2000 census show that the population over 65 years of age was 34.7 million. This number is expected to grow to over 50 million by 2020. It is projected that by 2030 nearly 20 percent of our population will be over 65. That is, almost one American in every five will be elderly.

As our senior population continues to increase, so will the demand for affordable housing and service options. This is a matter of concern not only for those who will need the services but for families—children along with spouses. It concerns communities all around the country, as productive and responsible citizens grow older and need help. It is a matter of deep concern for us all, because it will affect the well-being of our entire society.

In order for seniors to age in place, or find alternative housing arrangements, services must be linked with housing. Seniors must be able to access needed health supports, transportation, meal and chore services, and assistance with daily tasks in or close to their homes. Without needed supports, seniors and their families face difficult and even daunting decisions.

The Commission on Affordable Housing and Health Facility Needs for Seniors—''Seniors Commission''—established by Congress in 1999 found that too often, seniors face premature institutionalization because housing and services are not linked. According to the Commission's report, ''the very

heart'' of its work ''is the recognition that the housing and service needs of seniors traditionally have been addressed in different 'worlds' that often fail to recognize or communicate with each other.'' The Commission concluded that: ''the most striking characteristic of seniors'' housing and health care in this country is the disconnection of one field from another.''

If left unattended, the problem of lack of coordination will increasingly undermine all of our efforts to assure that Americans, as they age, have access to the services they need. The Interagency Council on the Housing and Service Needs of Seniors will increase coordination and will serve as a permanent national platform to address the needs and issues of our aging population.

The Interagency Council will help to improve collaboration and coordination among the Federal agencies and our State and local partners, to ensure that seniors are better able to access housing and services. This Council will work to find new ways to link housing programs and needed supportive services to increase their efficiency, to make them more accessible, and to strengthen their capacity.

The decisions that our seniors and their families must make are difficult enough. They should not be made more painful and burdensome by having to negotiate a confusing maze of programs and services and a multiplicity of administrative procedures. I am hopeful that the Interagency Council on Meeting the Housing and Service Needs of Seniors will be able to focus attention on this problem, while working towards solutions.

This bill has wide support from a diverse array of groups, ranging from senior advocates to faith-based organizations and direct service providers. The diversity of groups that have worked together in support of this legislation is indicative of the great need for such coordination. If we are to successfully address the growing needs of seniors, it is clear that much work must be done. The establishment of an Interagency Council on Meeting the Housing and Service Needs of Seniors is a critical first step in this endeavor. I urge my colleagues to vote in favor of this important legislation. I ask unanimous consent that the legislation as reported from Committee be printed immediately following this statement. I also ask unanimous consent that the attached letters of support, section-by-section analysis of the bill, and relevant fact sheet be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Finally, I want to thank Chairman SHELBY for his leadership and assistance in moving this legislation. I also want to acknowledge the excellent work of the staff on this bill, especially that of Jennifer Fogel-Bublick, as well as Sarah Garrett, Mark Calabria, and Tewana Wilkerson. In addition, we could not have done this without the active support of Kathy Casey, Chairman SHELBY's Staff Director.

EXHIBIT 1

AARP,
Washington, DC, April 15, 2005.

Hon. PAUL SARBANES,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of AARP, thank you for introducing S. 705, the ''Meeting the Housing and Service Needs of Seniors Act of 2005,'' a bill to establish an Interagency Council to improve coordination in service delivery. As proposed, the Interagency Council would not only coordinate, but also monitor, evaluate, and recommend improvements in existing programs and services that assist seniors in meeting their housing and service needs at the federal, state, and local level. And, the Council would collect and disseminate information about seniors along with these programs and services.

Better coordination of housing programs is needed for a variety of reasons. In many instances, multiple program requirements and paperwork may become duplicative and burdensome. Resident means testing and qualifications may also be slightly different across programs. And, different methods of establishing rent levels and defining market areas for comparison are used by different programs. Lastly, different housing sponsors and agencies may have different waiting lists that can overlap for a population at need.

The need for greater coordination is particularly apparent when trying to put together the housing, health, and social services programs at all levels of government that are critical to successfully serving persons with disabilities of all ages. Research has shown that federal housing programs have very efficiently, if inadvertently, targeted those who are at high risk of needing supportive services to remain independent. Analysis by AARP's Public Policy Institute of data from the 2002 American Communities Survey found that, compared to older homeowners, older renters in subsidized housing were:

Much older—half of the older renters in subsidized housing were 75 or older compared to just over a third of older homeowners;

Twice as likely to experience physical and cognitive limitations that threaten their ability to live independently;

More than three times as likely to live alone and have weak informal supports from family; and

Roughly three times as likely to be at high risk of needing Medicaid assistance due to low incomes and high levels of disability.

Better coordination of housing, health, and social services programs would serve a variety of purposes. Housing managers need reliable partners from health and social services agencies to serve the large and growing number of frail older people in their buildings. Social services agencies could benefit from the greater efficiencies of serving concentrations of older people with supportive services needs. But the most compelling case for better coordination comes from the lives of the older people who need assistance—the older woman who is desperately clinging to independence in her apartment; the older man who is told he must move to a nursing home to get needed services; or the older resident in a nursing home who might have been able to leave if suitable housing and services were available.

AARP actively participated in the Seniors Housing Commission whose 2002 report called attention to many of these issues. We have supported efforts to expand the mission of housing programs and to provide the needed tools for serving older persons with disabilities through building features that accommodate service needs, staffing that includes trained service coordinators, and retrofitting dollars to convert buildings to assisted living. AARP is co-chairing a process, along with the National Cooperative Bank Development Corporation, Fannie Mae, and the National Council of State Housing Finance Agencies, to develop recommendations on how housing finance programs could be better structured to promote affordable assisted living. While these efforts have been important, they do not yet approach the scale of what is needed to serve the frail older people who need help. Only a concerted effort by all agencies at all levels of government can adequately address these needs.

We urge Congress and the Administration to work together to expedite the passage of this legislation and subsequent establishment of the Interagency Council. AARP again thanks you for your attention to the needs of American seniors, and stands ready to assist you to enact this important legislation. If you have any further questions, feel free to contact me, or have your staff contact Tim Gearan of our Federal Affairs staff.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

ELDERLY HOUSING COALITION,
April 5, 2005.

Re support for Interagency Council on Housing and Service Needs of Seniors.

Hon. PAUL SARBANES,
Committee on Banking, Housing and Urban Affairs Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES, The Elderly Housing Coalition (EHC) is comprised of organizations that represent providers of affordable housing and supportive service for the elderly. We are writing in enthusiastic support of your legislation that would establish the Interagency Council on Housing and Service Needs of Seniors. This Council is desperately needed and will help federal, state and local governments better serve the housing and service needs of our elderly population.

According to the Congressional Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century, we must integrate our current fragmented system of programs that seniors rely on to find the housing and services they need. As the number of seniors grows exponentially and will, in fact, have doubled by 2030, we must find a way to use our resources more effectively.

Your bill will be a great first step to bringing the key governmental agencies together to identify how they can best work to maximize program efficiency and streamline access. Again, we are pleased to offer our support for this legislation establishing an interagency council and thank you for your leadership on this issue.

If there is anything that the Elderly Housing Coalition can do to help or if you have any questions about the EHC please contact Nancy Libson or Alayna Waldrum.

Sincerely,

Alliance for Retired Americans, American Association of Homes and Services for the Aging, American Association of Service Coordinators, Association of Jewish Aging Services of North America, B'nai B'rith International, Catholic Charities USA, Catholic Health Association of the United States, Council of Large Public Housing Authorities,

Elderly Housing Development and Operations Corporation.

Kinship Caregiver Resources/Intergenerational Village Project, Local Initiatives Support Corporation, National Association of Housing Cooperatives, National Association of Housing and Redevelopment Officials, National Housing Conference, National Low Income Housing Coalition, National PACE Association, Stewards of Affordable Housing for the Future, Volunteers of America.

AMERICAN ASSOCIATION OF SERVICE COORDINATORS,
Columbus, OH, April 5, 2005.

Hon. PAUL SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the 1,600 members of the American Association of Service Coordinators (AASC), I want to express our support for your proposed legislation to establish an Interagency Council on Housing and Service Needs of Seniors. AASC believes that this bill is urgently needed to assist service coordinators and others seeking to bring together the various federal and other programs needed by older persons and other special populations.

In my testimony, before the Commission on Affordable Housing and Health Facility describing the present fragmented system, I stated that ''even for long-time professionals, the current 'crazy-quilt' tapestry of services and shelter options make it difficult to fully grasp their complexities, let alone try to access them. The results are confusion among consumers, duplication of service delivery, government agencies not knowing who supplies what service or that some services even exist, reduction in qualified service workers, regulations that impede dedicated service providers from providing the service they were hired and want to perform.''

One of AASC recommendations to the Commission was the establishment of a cabinet-level department that would encompass in one entity housing, health care and other federal support programs serving the elderly to better focus federal policy and regulatory efforts, in conjunction with states and communities. AASC believes that your bill is an important step to establish a permanent national platform to address many of the cross-cutting needs and issues confronting increasing numbers of frail and vulnerable older persons.

As you may know, AASC is a national, nonprofit organization representing professional service coordinators who serve low-income older persons and other special populations living in federally assisted and public housing facilities nationwide, their caregivers, and others in their local community. Our dedicated membership consists of service coordinators, case managers and social workers, housing managers and administrators, housing management companies, public housing authorities, state housing finance agencies, state and local area agencies on aging and a broad range of national and state organizations and professionals involved in affordable, service-enhanced housing. Background information on AASC is available on our website: www.servicercoordinators.org.

We are grateful for your leadership on the vital issue. Please let me know how AASC can assist you to expedite enactment of this important legislation.

Sincerely,

JANICE MONKS,
President.

AMERICAN ASSOCIATION OF HOMES AND SERVICES FOR THE AGING,
Washington, DC, April 5, 2005.

Re Interagency Council on Housing and Service Needs of Seniors legislation.

Hon. PAUL SARBANES,
Committee on Banking, Housing and Urban Affairs Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: On behalf of AAHSA, I am writing to thank you for introducing legislation to establish an Interagency Council on Housing and Service Needs of Seniors. AAHSA members serve two million people every day through mission-driven, not-for-profit organizations dedicated to providing the services people need, when they need them, in the place they call home. Our members offer the continuum of aging services: assisted living residences, continuing care retirement communities, nursing homes, senior housing facilities, and outreach services. AAHSA's mission is to create the future of aging services through quality the public can trust.

Half of our members own or operate federally subsidized senior apartment buildings and work collaboratively with home and community based service providers that operate programs governed by a maze of departmental regulations. This unique perspective gives us and our members a bird's eye view of how important it is for the various federal agencies to work together to ensure the best care in the most responsive and efficient manner possible.

In 2002 the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century reported to Congress that a top priority for the federal government should be integrating the existing fragmented system of programs that seniors rely on to piece together the housing and services they need. Time is precious—the United States is facing exponential growth in our senior population, which will double by 2030. AAHSA members have created a number of successful models for combining services and senior housing. Unfortunately these are limited and difficult to replicate because of the programmatic barriers. Now is the time to get the policymakers to the table to address the barriers and opportunities that exist in our federal programs and how to make them work.

We know that this can be done. AAHSA strongly supports your bill, which will help the Executive branch and Federal agencies better coordinate the successful aging programs, as an important first step. Thank you for your leadership. If there is anything that AAHSA or my staff can do to support you, please do not hesitate to let me know.

Sincerely,

LARRY MINNIX,
President and CEO.

UNITED JEWISH COMMUNITIES,
Washington, DC, May 12, 2005.

Hon. PAUL SARBANES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: On behalf of United Jewish Communities, I am pleased to offer our support for your efforts to establish an Interagency Council on Housing and Service Needs for Seniors through your introduction of S. 705, the Meeting the Housing and Service Needs of Seniors Act of 2005. As proposed, the executive level Interagency Council will provide crucial coordination of housing, health and social services for seniors. The Interagency Council will also make possible greater cooperation between the federal agencies involved with these programs, including HUD, HHS, DOT and AOA.

As you may know, UJC represents and serves 155 Jewish Federations and 400 independent Jewish communities across North America—one of the world's largest and most effective networks of social service providers and programs, meeting the needs of all people, Jews and non-Jews, wherever they live. More importantly, the American Jewish population is aging faster than the general population. More than a million Jews are over 65; more than 318,000 live alone. Federation-supported programs, transportation assistance, home-delivered meals and a myriad of other services help ensure that our seniors are cared for with dignity and loving-kindness. It is critical that we maximize program efficiency and streamline access.

United Jewish Communities strongly supports your bill, which will better help key governmental agencies coordinate aging programs. We urge Congress and the Administration to work together to pass this legislation. Thank you for your leadership on this initiative. If there is anything that UJC can do to be of further assistance, please do not hesitate to let us know.

Sincerely,

STEPHAN O. KLINE,
Director, Government Affairs.

THE ENTERPRISE FOUNDATION,
Columbia, MD, May 20, 2005.

Hon. PAUL S. SARBANES,
Ranking Member, Senate Committee on Banking, Housing and Urban Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: The Enterprise Foundation strongly supports your bill to establish an Interagency Council on Housing and Service Needs of Seniors (S. 705). Developing effective and efficient coordination among the various federal agencies that are involved in providing housing, health care and supportive services to seniors is critical to meeting the needs of elderly low-income Americans and their families.

The Enterprise Foundation and our subsidiary organization, the Enterprise Social Investment Corporation, certainly recognize that providing decent, affordable housing for low-income seniors requires effective linkages between housing and services to enable seniors to remain in their homes and communities. To date, ESIC has completed 212 elderly housing projects, representing an invetment of more than $729 million. Of the 68,727 affordable housing units ESIC has produced, 20,005 include support services for elderly and disabled residents as well as families.

In recognition of the need for collaboration, The Foundation, ESIC and the Corporation for Supportive Housing have recently embarked on a new Supportive Housing Investment Partnership that is the nation's largest, most ambitious initiative focused on leveraging private capital investments to significantly increase the production of supportive housing across the country. This partnership will enable nonprofit developers to build more than 3,000 new supportive housing units over the next two years. This partnership is designed to expand the impact of all of the partners, to be flexible in adapting to local needs and environments, and also to support the established relationships and the significant efforts to date of each partner.

Similar collaboration at the federal level among and within agencies providing programs and services for seniors would maximize the impact of . . . seniors receive the assistance they need.

The Enterprise Foundation commends you for your leadership on this and other housing issues and urges Congress to expedite the passage of this critical legislation. Please

call upon us if we can provide additional information or assistance.,

Sincerely,

F. BARTON HARVEY III,
Chairman of the Board and Chief Executive Officer.

ELDERLY HOUSING DEVELOPMENT & OPERATIONS CORPORATION,
Fort Lauderdale, FL, April 15, 2005.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am pleased that Elderly Housing Development and Operations Corporation (EHDOC) representing over 40 senior housing facilities in 14 states, is joining with other non-profit organizations involved with federally assisted senior housing to strongly support your bill to establish an Interagency Council on Housing and Service Needs of Seniors. We believe that the establishment of this Interagency Council will provide a cost-effective and efficient means to promote coordination between the various federal agencies involved with senior housing and services, particularly HUD and HHS.

EHDOC is well aware of the need to improve collaboration between the various federal agencies based on our efforts to assist low-income, frail elderly in Council House in Suitland, MD. Unfortunately, it is often difficult to link the various services needed to enable many frail elderly to remain in their homes as they age due to the existing fragmentation of federal housing, services and health care policies and programs.

The difficulty experienced by EHDOC with linking housing and services is repeated by many nonprofit sponsors of federally assisted senior housing throughout the country. As you know, I was honored to serve as your appointee to the recent Commission on Affordable Housing and Health Care Facilities Needs of Older Persons. We repeatedly heard testimony from public and private agencies involved with senior housing, supportive services and health care, older persons and others, of their difficulties in bringing together these services to meet the needs of older persons.

As stated in the Senior Commissions' final report, ''the very heart of this Commission's work is the recognition that the housing and service needs of seniors traditionally have been addressed in different 'worlds' that often fail to recognize or communicate with each other.'' Findings of the Commission concluded ''while policymakers have struggled to be responsive to the needs of seniors, the very structure of Congressional committees and Federal agencies often makes it difficult to address complex needs in a comprehensive and coordinated fashion. For example: medical needs of seniors are addressed by Medicare and Medicaid; social service needs are addressed by Medicaid, the OAA, and other block grant programs; housing programs are administered by HUD and the Department of Agriculture's RHS; and transportation programs are administered by the U.S. Department of Trsportation (DOT).''

We commend you for your leadership in addressing this critical need to effectively bring together the various federal agencies and others involved with affordable housing and service needs of older persons through the establishment of an Interagency Council on Senior Housing. Please let me if you have any questions or how EHDOC can assist you with the enactment of this important legislation.

Sincerely,

STEVE PROTULIS,
Executive Director.

S. 705—SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section establishes the title of the bill, the ''Meeting the Housing and Service Needs of Seniors Act of 2005''

Section 2. Congressional findings

This section states Congressional Findings, including:

(1) The senior population (persons 65 or older) in this country is rapidly growing, and is expected to increase from 34,700,000 in 2000 to nearly 40,000,000 by 2010, and then will dramatically increase to over 50,000,000 by 2020.

(2) Seniors need access to a wide array of housing options, such as affordable assisted living, in home care, supportive or service-enriched housing, and retrofitted homes and apartments to allow seniors to age in place and to avoid premature placement in institutional settings.

(3) While there are many programs in place to assist seniors in finding and affording suitable housing and accessing needed services, these programs are fragmented and spread across many agencies, making it difficult for seniors to access assistance or to receive comprehensive information.

(4) Better coordination among Federal agencies is needed, as is better coordination at State and local levels, to ensure that seniors can access government activities, programs, services, and benefits in an effective and efficient manner.

Section 3. Definitions

This section provides definitions of the following terms: ''housing,'' ''service,'' ''program,'' ''Council,'' and ''senior.''

Section 4. Interagency Council on Meeting the Housing and Service Needs of Seniors

This section establishes a high level executive branch Interagency Council on Meeting the Housing and Service Needs of Seniors.

This section also lays out the objectives of the Council, including promoting coordination and collaboration among the federal agencies and departments which serve seniors; identifying housing and service needs of seniors; facilitating the aging in place of seniors; and making recommendations about needed changes to maximize the impact of existing programs, reduce duplication and increase access to programs and services.

This section details the Council membership—the Secretaries of HUD and HHS, as well as the Secretaries or designees of the Department of Agriculture, Labor, Transportation, Veterans Affairs, and the Treasury. Also serving on the Council will be the following (or their designees): the Commissioner of the Social Security Administration, the Administrator of the Centers for Medicare and Medicaid Services and the Administrator of the Administration on Aging. The Council will also have three additional members- a Governor, a Mayor and a local official, as appointed by the President. This section establishes that the Secretaries of HUD and HHS will chair the Council in rotating 2-year terms. Under this section, the Council is required to meet quarterly, and must hold at least 2 meetings a year with stakeholders and interested parties. This requirement can be met by opening at least two of the quarterly meetings to the public.

Section 5. Functions of the council

This section lists the activities that the Council will undertake in meeting its objectives. In meeting its objectives, the Council will: review all federal programs and services that assist seniors; monitor, evaluate and recommend improvements in existing programs, and how programs can be better coordinated; recommend ways to reduce duplication and ensure greater collaboration; work to facilitate the aging in place of seniors; work with states to ensure programs and services are coordinated at state and local levels; identify best practices for meeting the needs of seniors; ensure seniors have access to information about programs and services, including the establishment of a website; and maintain updated data sources on seniors and their needs.

This section also requires that each agency or department that is a member of the Council provide a report to the Council that describes: each program in the agency or department that serves a substantial number of seniors; any barriers to the access and use of such programs; the efforts made by the agency in increasing service enriched housing opportunities for seniors; and any new data relating to housing and service needs of seniors.

Based on the information provided by each member agency, the Council is required to prepare and transmit a report to Congress and the President that summarizes the agency information; assesses the needs of seniors; provides a comprehensive description of the programs and services that exist for seniors; describes how the agencies and Council are working with state and local governments and private organizations to better coordinate senior programs; and makes recommendations for legislative and administrative changes needed to better meet the needs of seniors.

Section 6. Powers of the council

This section details how the Council will work, including granting the Council the power to hold hearings and take testimony as needed. In addition, this section provides that member agencies must provide the Council with all requested information. This section also requires the Council to adopt internal ethics guidelines.

Section 7. Council personnel matters

This section clarifies that Council members shall not be compensated for their service on the Council. Under this section, the Council must appoint an Executive Director at its initial meeting, and the Executive Director, with the approval of the Council may hire staff.

This section also requires the Secretaries of the U.S. Department of Housing and Urban Development and the U.S. Department of Health and Human Services to provide all necessary administrative support including office space and computer/internet access.

Section 8. Authorization of appropriations

This section authorizes $1.5 million per year for 5 years for the Council.

SUMMARY OF LEGISLATION TO ESTABLISH AN INTERAGENCY COUNCIL ON MEETING THE HOUSING AND SERVICE NEEDS OF SENIORS

This legislation will create an executive level Interagency Council to better coordinate housing programs and related services so that senior citizens can age in place and access needed services. Unfortunately, the current programs and services that assist the elderly in meeting their needs are spread across numerous federal agencies, making it difficult for seniors to understand and access needed services.

The senior population (persons 65 or older) in this country is rapidly growing, and is expected to increase from 34.7 million in 2000 to nearly 40 million by 2010, and then will dramatically increase to over 50 million by 2020. By the year 2030, nearly one-fifth of the United States population will be above 65 years of age. As the senior population increases, so does the need for additional safe, decent, affordable, and suitable housing that meets their unique needs.

The Council will undertake a number of activities to help coordinate housing programs and services for seniors:

Conduct a thorough review of all federal programs and services designed to assist seniors with their housing needs

Facilitate the ''aging in place'' of seniors

Make recommendations about how to reduce duplication among programs and how to more effectively coordinate programs and services

Collect and disseminate data and information on seniors and their needs

Maintain an updated website with information on how seniors can access housing and services that fit their needs

Work with States to coordinate programs and services at the State and local level

Implement the recommendation of the 1999 Congressionally established Seniors Commission that the federal government streamline and consolidate its programs and services for seniors

This Interagency Council will be comprised of the Secretaries (or designees) of the agencies which operate programs for seniors: HUD, HHS, DOT, Agriculture, Treasury, Labor, Veterans Affairs, as well as the Commissioner of the Social Security Administration, the Administrator of the Centers for Medicare and Medicaid Services and the Administrator of the Administration on Aging.

The legislation authorizes $1.5 million per year for 5 years to pay for staff and other expenses. .

The legislation is supported by many organizations involved in housing and services for seniors, including: AARP (American Association of Retired Persons), NAHRO (the National Association of Housing and Redevelopment Officials), AAHSA (American Association of Homes and Services for the Aging), the Elderly Housing Coalition, and the National Low Income Housing Coalition.

AGING NEEDS IN THE UNITED STATES

Our Nation's Senior Population is Rapidly Growing, and Americans are Living Longer Than Ever Before.

The senior population (age 65 and older) is expected to double by 2030, from 36 million to 70 million, one-fifth of the Nation's population.

By 2050 there will be over 86 million seniors, an increase of 147% since 2000.

The average American life expectancy is anticipated to increase from 76 to 81 by 2060.

By 2020 the number of seniors over age 85 is expected to double to 7 million and then double again to 14 million by 2040.

Seniors Want to Age in Place.

82% of Americans age 45 and older say that even if they need help caring for themselves, they prefer receiving services that allow them to stay in their current home.

89% of those 55 and older desire to age in place, up from 84% in 1992.

To Facilitate Aging in Place, Services Must Be Connected to Housing.

While many seniors want to remain at home, over 18% of seniors (over 5.8 million) who do not reside in nursing facilities have difficulty performing their daily activities without assistance, and over one million of these seniors are severely impaired, requiring assistance with many of their basic tasks.

Many other seniors, those that can perform their daily functions, still require access to health care, transportation and other services.

In fact, nearly 20% of seniors have significant long-term care needs.

It is predicted that both shrinking family size and increasing workforce participation by women could make informal care less available (women currently provide the majority of such care), leading to a greater reliance on care from other sources.

In 2005, $129 billion will be spent on paid care for seniors; roughly $15,000 per senior.

To pay for long-term care, many seniors rely on government funding—Medicaid (39%) and Medicare (20%), while 36% of seniors pay out-of-pocket expenses.

Today, approximately one-third of all Medicaid spending pays for long-term care, making Medicaid our Nation's largest source of payment for such services and supports.

Medicaid spent a total of $83.8 billion for long-term care services in 2003.

Of those over age 85, roughly 55% are impaired and require long-term care.

A Florida study showed that more than 34% of seniors in government-assisted housing have no family to turn to if sick or disabled.

Many Seniors Are Not in a Financial Position to Pay for the Housing and/or Services They Need.

There are nearly six times as many seniors in need of affordable housing as are currently served in rent-assisted housing.

81% of seniors are homeowners, but: 44% of those have incomes of less than 50% of Area Median Income; 40% have no savings; 26% have less than $25,000 saved.

35% of senior renters are severely rent burdened and pay more than 50% of their income for rent.

The median income of older persons in 2002 was $19,436 for males and $11,406 for females.

In home support services are expensive and can cost from $140–$200 per day, or up to $73,000 per year.

Roughly one-third of seniors who enter a nursing home are eligible for Medicaid upon admission; another third deplete their assets paying for care and then turn to Medicaid to pay for the portion of care that exceeds their income.

Nuring Homes: Without services, seniors find it difficult to remain outside of nursing homes or other institutional settings.

One third of seniors leave their homes to go to nursing homes.

Nursing home costs average $60,000 per year; these costs are expected to rise at least 5% annually.

Almost 20% of seniors over age 85 live in nursing homes, compared with less than 2% of seniors age 65–84.

65% of nursing home admissions are directly from hospitals, giving families little time to explore other options.

The Congressionally established Seniors Commission found in their 2002 report that the unsynchronized federal housing and health policies often lead to premature institutionalization.

Assisted Living Facilities: Many seniors could be well served in assisted living facilities, an immediate step between aging in place and nursing homes.

Assisted living is the fastest growing type of senior housing in the United States, accounting for roughly 75% of all new senior housing produced in recent years.

The typical assisted living resident is a widowed White woman, age 85.

Roughly 50% of assisted living residents have Alzheimer's disease or other cognitive impairment.

In 2002, over 36,000 assisted living facilities served approximately 910,000 residents.

Assisted living costs between $2,100 and $2,900 a month, and is primarily private pay. Few people have private insurance coverage, and public subsidies are limited.

In 2002, 41 states provided at least some Medicaid coverage for assisted living (serving about 102,000 elderly Medicaid beneficiaries), but this covered personal care services, not room and board.

Programs and Services for Seniors are Fragmented: Regardless of where seniors live, it is clear that housing and services must be linked.

The 1999 Congressionally established Seniors Commission found that ''the most striking characteristic of seniors' housing and health care in this country is the disconnection of one field from another.''

The Seniors Commission also found that ''the time has come for coordination among Federal and State agencies and administrators.''

What these facts illustrate is that there is tremendous stress on seniors and on their families to find, maintain and afford housing; to acquire and pay for personal care assistance or long term care; and to access other needed services that can keep them independent and enable them to stay connected to their communities and age in place.

Senator Sarbanes has introduced an Interagency Council on Meeting the Housing and Service Needs of Seniors, to better coordinate housing programs and related services so that seniors can age in place and access needed services.

Mr. GRASSLEY. I ask unanimous consent that the committee-reported amendment be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 705), as amended, was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 72

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate proceeds to H.J. Res. 72 on Friday, that Senator HARKIN be recognized in order to offer an amendment related to CSBG, which is at the desk. I further ask consent that there be 20 minutes for debate in relation to the amendment, no other amendments be in order, and that following that debate the Senate proceed to a vote in relation to the Harkin amendment; further, that following that vote, the joint resolution be read a third time and the Senate proceed to a vote on the joint resolution, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

WIRED FOR HEALTH CARE QUALITY ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 178, S. 1418.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1418) to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1418

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 ''Wired for Health Care Quality Act''.

[SEC. 2. IMPROVING HEALTH CARE, QUALITY, SAFETY, AND EFFICIENCY.

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

''TITLE XXIX—HEALTH INFORMATION TECHNOLOGY

[''SEC. 2901. DEFINITIONS.

[''In this title:

[''(1) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

[''(2) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

[''(3) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means—

[''(A) a health insurance issuer (as defined in section 2791(b)(2));

[''(B) a group health plan (as defined in section 2791(a)(1)); and

[''(C) a health maintenance organization (as defined in section 2791(b)(3)).

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

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

[''(6) QUALIFIED HEALTH INFORMATION TECHNOLOGY.—The term 'qualified health information technology' means a computerized system (including hardware, software, and training) that—

[''(A) protects the privacy and security of health information;

[''(B) maintains and provides permitted access to health information in an electronic format;

[''(C) incorporates decision support to reduce medical errors and enhance health care quality;

[''(D) complies with the standards adopted by the Federal Government under section 2903; and

[''(E) allows for the reporting of quality measures under section 2908.

[''(7) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

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

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

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

[''(1) ensures that patients' health information is secure and protected;

[''(2) improves health care quality, reduces medical errors, and advances the delivery of patient-centered medical care;

[''(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, and incomplete information;

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

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

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

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

[''(8) facilitates health research; and

[''(9) promotes prevention of chronic diseases.

[''(c) DUTIES OF THE NATIONAL COORDINATOR.—The National Coordinator shall—

[''(1) serve as a member of the public-private American Health Information Collaborative established under section 2903;

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

[''(3) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health information;

[''(4) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

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

[''(6) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including Federal commissions) with public and private parties of interest, including consumers, payers, employers, hospitals and other health care providers, physicians, community health centers, laboratories, vendors and other stakeholders;

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

[''(8) submit the reports described under section 2903(i) (excluding paragraph (4) of such section).

[''(d) DETAIL OF FEDERAL EMPLOYEES.—

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

[''(2) EFFECT OF DETAIL.—Any detail of personnel under paragraph (1) shall—

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

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

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

[''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Office, regardless of whether such efforts were carried out prior to or after the enactment of this title.

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

[''SEC. 2903. AMERICAN HEALTH INFORMATION COLLABORATIVE.

[''(a) PURPOSE.—The Secretary shall establish the public-private American Health Information Collaborative (referred to in this section as the 'Collaborative') to—

[''(1) advise the Secretary and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

[''(2) serve as a forum for the participation of a broad range of stakeholders to provide input on achieving the interoperability of health information technology; and

[''(3) recommend standards (including content, communication, and security standards) for the electronic exchange of health information for adoption by the Federal Government and voluntary adoption by private entities.

[''(b) COMPOSITION.—

[''(1) IN GENERAL.—The Collaborative shall be composed of—

[''(A) the Secretary, who shall serve as the chairperson of the Collaborative;

[''(B) the Secretary of Defense, or his or her designee;

[''(C) the Secretary of Veterans Affairs, or his or her designee;

[''(D) the Secretary of Commerce, or his or her designee;

[''(E) the National Coordinator for Health Information Technology;

[''(F) representatives of other relevant Federal agencies, as determined appropriate by the Secretary; and

[''(G) representatives from each of the following categories to be appointed by the Secretary from nominations submitted by the public—

[''(i) consumer and patient organizations;

[''(ii) experts in health information privacy and security;

[''(iii) health care providers;

[''(iv) health insurance plans or other third party payors;

[''(v) standards development organizations;

[''(vi) information technology vendors;

[''(vii) purchasers or employers; and

[''(viii) State or local government agencies or Indian tribe or tribal organizations.

[''(2) CONSIDERATIONS.—In appointing members under paragraph (1)(G), the Secretary shall select individuals with expertise in—

[''(A) health information privacy;

[''(B) health information security;

[''(C) health care quality and patient safety, including those individuals with experience in utilizing health information technology to improve health care quality and patient safety;

[''(D) data exchange; and

[''(E) developing health information technology standards and new health information technology.

[''(3) TERMS.—Members appointed under paragraph (1)(G) shall serve for 2 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member's term or until a successor has been appointed.

[''(c) RECOMMENDATIONS AND POLICIES.—The Collaborative shall make recommendations to identify uniform national policies for adoption by the Federal Government and voluntary adoption by private entities to support the widespread adoption of health information technology, including—

[''(1) protection of health information through privacy and security practices;

[''(2) measures to prevent unauthorized access to health information;

[''(3) methods to facilitate secure patient access to health information;

[''(4) the ongoing harmonization of industry-wide health information technology standards;

[''(5) recommendations for a nationwide interoperable health information technology infrastructure;

[''(6) the identification and prioritization of specific use cases for which heath information technology is valuable, beneficial, and feasible;

[''(7) recommendations for the establishment of an entity to ensure the continuation of the functions of the Collaborative; and

[''(8) other policies determined to be necessary by the Collaborative.

[''(d) STANDARDS.—

[''(1) EXISTING STANDARDS.—The standards adopted by the Consolidated Health Informatics Initiative shall be deemed to have been recommended by the Collaborative under this section.

[''(2) FIRST YEAR REVIEW.—Not later than 1 year after the date of enactment of this title, the Collaborative shall—

[''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

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

[''(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

[''(3) ONGOING REVIEW.—Beginning 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall—

[''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

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

[''(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

[''(4) LIMITATION.—The standards described in this section shall be consistent with any standards developed pursuant to the Health Insurance Portability and Accountability Act of 1996.

[''(e) FEDERAL ACTION.—Not later than 60 days after the issuance of a recommendation from the Collaborative under subsection (d)(2), the Secretary of Health and Human Services, the Secretary of Veterans Affairs, and the Secretary of Defense, in collaboration with representatives of other relevant Federal agencies, as determined appropriate by the Secretary, shall jointly review such recommendations. The Secretary shall provide for the adoption by the Federal Government of any standard or standards contained in such recommendation.

[''(f) COORDINATION OF FEDERAL SPENDING.—Not later than 1 year after the adoption by the Federal Government of a recommendation as provided for in subsection (e), and in compliance with chapter 113 of title 40, United States Code, no Federal agency shall expend Federal funds for the purchase of any form of health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information that is not consistent with applicable standards adopted by the Federal Government under subsection (e).

[''(g) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in subsection (e), all Federal agencies collecting health data for the purposes of surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary shall comply with standards adopted under subsection (e).

[''(h) VOLUNTARY ADOPTION.—Any standards adopted by the Federal Government under subsection (e) shall be voluntary with respect to private entities.

[''(i) REPORTS.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, on an annual basis, a report that—

[''(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of an interoperable nationwide system for the electronic exchange of health information;

[''(2) describes barriers to the adoption of such a nationwide system;

[''(3) contains recommendations to achieve full implementation of such a nationwide system; and

[''(4) contains a plan and progress toward the establishment of an entity to ensure the continuation of the functions of the Collaborative.

[''(j) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Collaborative, except that the term provided for under section 14(a)(2) shall be 5 years.

[''(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Collaborative, regardless of whether such efforts were carried out prior to or after the enactment of this title.

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

["SEC. 2904. IMPLEMENTATION AND CERTIFICATION OF HEALTH INFORMATION STANDARDS.

[''(a) IMPLEMENTATION.—

[''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

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

[''(b) CERTIFICATION.—

[''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure and certify that hardware, software, and support services that claim to be in compliance with any standard for the electronic exchange of health information adopted under this title have established and maintained such compliance in technical conformance with such standards.

[''(2) CERTIFICATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist in the certification described under paragraph (1) using the criteria developed by the Secretary under this section.

[''(c) DELEGATION AUTHORITY.—The Secretary, through consultation with the Collaborative, may delegate the development of the criteria under subsections (a) and (b) to a private entity.

["SEC. 2905. GRANTS TO FACILITATE THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

[''(a) COMPETITIVE GRANTS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

[''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to facilitate the purchase and enhance the utilization of qualified health information technology systems to improve the quality and efficiency of health care.

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

[''(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

[''(B) submit to the Secretary a strategic plan for the implementation of data sharing and interoperability measures;

[''(C) be a—

[''(i) not for profit hospital;

[''(ii) group practice (including a single physician); or

[''(iii) another health care provider not described in clause (i) or (ii);

[''(D) adopt the standards adopted by the Federal Government under section 2903;

[''(E) require that health care providers receiving such grants implement the measurement system adopted under section 2908 and report to the Secretary on such measures;

[''(F) demonstrate significant financial need; and

[''(G) provide matching funds in accordance with paragraph (4).

[''(3) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used to facilitate the purchase and enhance the utilization of qualified health information technology systems.

[''(4) MATCHING REQUIREMENT.—To be eligible for a grant under this subsection an entity shall contribute non-Federal contributions to the costs of carrying out the activities for which the grant is awarded in an amount equal to $1 for each $3 of Federal funds provided under the grant.

[''(5) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this subsection the Secretary shall give preference to—

[''(A) eligible entities that are located in rural, frontier, and other underserved areas as determined by the Secretary; and

[''(B) eligible entities that will link, to the extent practicable, the qualified health information system to local or regional health information networks.

[''(b) COMPETITIVE GRANTS TO STATES FOR THE DEVELOPMENT OF STATE LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

[''(1) IN GENERAL.—The Secretary may award competitive grants to States for the establishment of State programs for loans to

health care providers to facilitate the purchase and enhance the utilization of qualified health information technology.

[''(2) ESTABLISHMENT OF FUND.—To be eligible to receive a competitive grant under this subsection, a State shall establish a qualified health information technology loan fund (referred to in this subsection as a 'State loan fund') and comply with the other requirements contained in this section. A grant to a State under this subsection shall be deposited in the State loan fund established by the State. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

[''(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) a State shall—

[''(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

[''(B) submit to the Secretary a strategic plan in accordance with paragraph (4);

[''(C) establish a qualified health information technology loan fund in accordance with paragraph (2);

[''(D) require that health care providers receiving such loans—

[''(i) link, to the extent practicable, the qualified health information system to a local or regional health information network; and

[''(ii) consult with the Center for Best Practices established in section 914(d) to access the knowledge and experience of existing initiatives regarding the successful implementation and effective use of health information technology;

[''(E) require that health care providers receiving such loans adopt the standards adopted by the Federal Government under section 2903(d);

[''(F) require that health care providers receiving such loans implement the measurement system adopted under section 2908 and report to the Secretary on such measures; and

[''(G) provide matching funds in accordance with paragraph (8).

[''(4) STRATEGIC PLAN.—

[''(A) IN GENERAL.—A State that receives a grant under this subsection shall annually prepare a strategic plan that identifies the intended uses of amounts available to the State loan fund of the State.

[''(B) CONTENTS.—A strategic plan under subparagraph (A) shall include—

[''(i) a list of the projects to be assisted through the State loan fund in the first fiscal year that begins after the date on which the plan is submitted;

[''(ii) a description of the criteria and methods established for the distribution of funds from the State loan fund; and

[''(iii) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

[''(5) USE OF FUNDS.—

[''(A) IN GENERAL.—Amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the State loan fund established under paragraph (1). Loans under this section may be used by a health care provider to facilitate the purchase and enhance the utilization of qualified health information technology.

[''(B) LIMITATION.—Amounts received by a State under this subsection may not be used—

[''(i) for the purchase or other acquisition of any health information technology system that is not a qualified health information technology system;

[''(ii) to conduct activities for which Federal funds are expended under this title, or the amendments made by the Wired for Health Care Quality Act; or

[''(iii) for any purpose other than making loans to eligible entities under this section.

[''(6) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a State loan fund under this subsection may only be used for the following:

[''(A) To award loans that comply with the following:

[''(i) The interest rate for each loan shall be less than or equal to the market interest rate.

[''(ii) The principal and interest payments on each loan shall commence not later than 1 year after the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

[''(iii) The State loan fund shall be credited with all payments of principal and interest on each loan awarded from the fund.

[''(B) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

[''(C) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund.

[''(D) To earn interest on the amounts deposited into the State loan fund.

[''(7) ADMINISTRATION OF STATE LOAN FUNDS.—

[''(A) COMBINED FINANCIAL ADMINISTRATION.—A State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this subsection with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established.

[''(B) COST OF ADMINISTERING FUND.—Each State may annually use not to exceed 4 percent of the funds provided to the State under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this title.

[''(C) GUIDANCE AND REGULATIONS.—The Secretary shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this subsection, including—

[''(i) provisions to ensure that each State commits and expends funds allotted to the State under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

[''(ii) guidance to prevent waste, fraud, and abuse.

[''(D) PRIVATE SECTOR CONTRIBUTIONS.—

[''(i) IN GENERAL.—A State loan fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection.

[''(ii) AVAILABILITY OF INFORMATION.—A State shall make publically available the identity of, and amount contributed by, any private sector entity under clause (i) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

[''(8) MATCHING REQUIREMENTS.—

[''(A) IN GENERAL.—The Secretary may not make a grant under paragraph (1) to a State unless the State agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward the costs of the State program to be implemented under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

[''(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that a State has provided pursuant to subparagraph (A), the Secretary may not include any amounts provided to the State by the Federal Government.

[''(9) PREFERENCE IN AWARDING GRANTS.—The Secretary may give a preference in awarding grants under this subsection to States that adopt value-based purchasing programs to improve health care quality.

[''(10) REPORTS.—The Secretary shall annually submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report summarizing the reports received by the Secretary from each State that receives a grant under this subsection.

[''(c) GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.—

[''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to implement regional or local health information plans to improve health care quality and efficiency through the electronic exchange of health information pursuant to the standards, protocols, and other requirements adopted by the Secretary under sections 2903 and 2908.

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

[''(A) demonstrate financial need to the Secretary;

[''(B) demonstrate that one of its principal missions or purposes is to use information technology to improve health care quality and efficiency;

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

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

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

[''(iii) pharmacists or pharmacies;

[''(iv) health insurance plans;

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

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

[''(vii) patient or consumer organizations;

[''(viii) employers; and

[''(ix) any other health care providers or other entities, as determined appropriate by the Secretary;

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

[''(E) adopt the standards adopted by the Secretary under section 2903;

[''(F) require that health care providers receiving such loans implement the measurement system adopted under section 2908 and report to the Secretary on such measures;

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

[''(H) prepare and submit to the Secretary an application in accordance with paragraph (3); and

[''(I) agree to provide matching funds in accordance with paragraph (5).

[''(3) APPLICATION.—

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

[''(B) REQUIRED INFORMATION.—At a minimum, an application submitted under this paragraph shall include—

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

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

[''(iii) a strategy that includes initiatives to improve health care quality and efficiency, including the use and reporting of health care quality measures adopted under section 2908;

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

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

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

[''(vii) a financial or business plan that describes—

['''(I) the sustainability of the plan;

['''(II) the financial costs and benefits of the plan; and

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

[''(4) USE OF FUNDS.—Amounts received under a grant under paragraph (1) shall be used to establish and implement a regional or local health information plan in accordance with this subsection.

[''(5) MATCHING REQUIREMENT.—

[''(A) IN GENERAL.—The Secretary may not make a grant under this subsection to an entity unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the infrastructure program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than 50 percent of such costs ($1 for each $2 of Federal funds provided under the grant).

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

[''(d) REPORTS.—Not later than 1 year after the date on which the first grant is awarded under this section, and annually thereafter during the grant period, an entity that receives a grant under this section shall submit to the Secretary a report on the activities carried out under the grant involved. Each such report shall include—

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

[''(2) an analysis of the impact of the project on health care quality and safety;

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

[''(4) a description of the efforts of recipients under this section to facilitate secure patient access to health information; and

[''(5) other information as required by the Secretary.

[''(e) AUTHORIZATION OF APPROPRIATIONS.—

[''(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated $125,000,000 for fiscal year 2006, $150,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

[''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available through fiscal year 2010.

["SEC. 2906. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

[''(a) IN GENERAL.—The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating qualified health information technology systems in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

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

[''(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

[''(2) submit to the Secretary a strategic plan for integrating qualified health information technology in the clinical education of health professionals and for ensuring the consistent utilization of decision support software to reduce medical errors and enhance health care quality;

[''(3) be—

[''(A) a health professions school;

[''(B) a school of nursing; or

[''(C) a graduate medical education program;

[''(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate health information technology in the delivery of health care services; and

[''(5) provide matching funds in accordance with subsection (c).

[''(c) USE OF FUNDS.—

[''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

[''(A) use grant funds in collaboration with 2 or more disciplines; and

[''(B) use grant funds to integrate qualified health information technology into community-based clinical education.

[''(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

[''(d) MATCHING FUNDS.—

[''(1) IN GENERAL.—The Secretary may award a grant to an entity under this section only if the entity agrees to make available non-Federal contributions toward the costs of the program to be funded under the grant in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

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

[''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

[''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that—

[''(1) describes the specific projects established under this section; and

[''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

[''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

[''(h) SUNSET.—This section shall not apply after September 30, 2010.

["SEC. 2907. LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

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

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

[''(2) how such variation among State laws impacts the secure electronic exchange of health information—

[''(A) among the States; and

[''(B) between the States and the Federal Government.

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

[''(1) describes the results of the study carried out under subsection (a); and

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

["SEC. 2908. QUALITY MEASUREMENT SYSTEMS.

[''(a) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Secretary of Defense, and representatives of other relevant Federal agencies, as determined appropriate by the Secretary, (referred to in the section as the 'Secretaries') shall jointly develop a quality measurement system for the purpose of measuring the quality of care patients receive.

[''(b) REQUIREMENTS.—The Secretaries shall ensure that the quality measurement system developed under subsection (a) comply with the following:

[''(1) MEASURES.—

[''(A) IN GENERAL.—Subject to subparagraph (B), the Secretaries shall select measures of quality to be used by the Secretaries under the systems.

[''(B) REQUIREMENTS.—In selecting the measures to be used under each system pursuant to subparagraph (A), the Secretaries shall, to the extent feasible, ensure that—

[''(i) such measures are evidence based, reliable and valid;

[''(ii) such measures include measures of process, structure, patient experience, efficiency, and equity; and

[''(iii) such measures include measures of overuse, underuse, and misuse of health care items and services.

[''(2) PRIORITIES.—In developing the system under subsection (a), the Secretaries shall ensure that priority is given to—

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

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

[''(C) measures which may inform health care decisions made by consumers and patients.

[''(3) WEIGHTS OF MEASURES.—The Secretaries shall assign weights to the measures used by the Secretaries under each system established under subsection (a).

[''(4) RISK ADJUSTMENT.—The Secretaries shall establish procedures to account for differences in patient health status, patient characteristics, and geographic location. To the extent practicable, such procedures shall recognize existing procedures.

[''(5) MAINTENANCE.—The Secretaries shall, as determined appropriate, but in no case more often than once during each 12-month period, update the quality measurement systems developed under subsection (a), including through—

[''(A) the addition of more accurate and precise measures under the systems and the retirement of existing outdated measures under the systems; and

[''(B) the refinement of the weights assigned to measures under the systems.

[''(c) REQUIRED CONSIDERATIONS IN DEVELOPING AND UPDATING THE SYSTEMS.—In developing and updating the quality measurement systems under this section, the Secretaries shall—

[''(1) consult with, and take into account the recommendations of, the entity that the Secretaries has an arrangement with under subsection (e);

[''(2) consult with representatives of health care providers, consumers, employers, and other individuals and groups that are interested in the quality of health care; and

[''(3) take into account—

[''(A) any demonstration or pilot program conducted by the Secretaries relating to measuring and rewarding quality and efficiency of care;

[''(B) any existing activities conducted by the Secretaries relating to measuring and rewarding quality and efficiency;

[''(C) any existing activities conducted by private entities including health insurance plans and payors; and

[''(D) the report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

[''(d) REQUIRED CONSIDERATIONS IN IMPLEMENTING THE SYSTEMS.—In implementing the quality measurement systems under this section, the Secretaries shall take into account the recommendations of public-private entities—

[''(1) that are established to examine issues of data collection and reporting, including the feasibility of collecting and reporting data on measures; and

[''(2) that involve representatives of health care providers, consumers, employers, and other individuals and groups that are interested in quality of care.

[''(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE ADVICE AND RECOMMENDATIONS.—

[''(1) ARRANGEMENT.—On and after July 1, 2006, the Secretaries shall have in place an arrangement with an entity that meets the requirements described in paragraph (2) under which such entity provides the Secretaries with advice on, and recommendations with respect to, the development and updating of the quality measurement systems under this section, including the assigning of weights to the measures under subsection (b)(2).

[''(2) REQUIREMENTS DESCRIBED.—The requirements described in this paragraph are the following:

[''(A) The entity is a private nonprofit entity governed by an executive director and a board.

[''(B) The members of the entity include representatives of—

[''(i) health insurance plans and providers with experience in the care of individuals with multiple complex chronic conditions or groups representing such health insurance plans and providers;

[''(ii) groups representing patients and consumers;

[''(iii) purchasers and employers or groups representing purchasers or employers;

[''(iv) organizations that focus on quality improvement as well as the measurement and reporting of quality measures;

[''(v) State government health programs;

[''(vi) individuals or entities skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

[''(vii) individuals or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

[''(C) The membership of the entity is representative of individuals with experience with urban health care issues and individuals with experience with rural and frontier health care issues.

[''(D) If the entity requires a fee for membership, the entity shall provide assurances to the Secretaries that such fees are not a substantial barrier to participation in the entity's activities related to the arrangement with the Secretaries.

[''(E) The entity—

[''(i) permits any member described in subparagraph (B) to vote on matters of the entity related to the arrangement with the Secretary under paragraph (1); and

[''(ii) ensures that member voting provides a balance among disparate stakeholders, so that no member organization described in subparagraph (B) unduly influences the outcome.

[''(F) With respect to matters related to the arrangement with the Secretary under paragraph (1), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment.

[''(G) The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).

[''(f) USE OF QUALITY MEASUREMENT SYSTEM.—

[''(1) IN GENERAL.—For purposes of activities conducted or supported by the Secretary under this Act, the Secretary shall, to the extent practicable, adopt and utilize the measurement system developed under this section.

[''(2) COLLABORATIVE AGREEMENTS.—With respect to activities conducted or supported by the Secretary under this Act, the Secretary may establish collaborative agreements with private entities, including group health plans and health insurance issuers, providers, purchasers, consumer organizations, and entities receiving a grant under section 2908, to—

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

[''(B) foster uniformity between the health care quality measures utilized by private entities.

[''(g) DISSEMINATION OF INFORMATION.—Beginning on January 1, 2008, in order to make comparative quality information available to health care consumers, health professionals, public health officials, researchers, and other appropriate individuals and entities, the Secretary shall provide for the aggregation and analysis of quality measures collected under section 2905 and the dissemination of recommendations and best practices derived in part from such analysis.

[''(h) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to public and private entities to enable such entities to—

[''(1) implement and use evidence-based guidelines with the greatest potential to improve health care quality, efficiency, and patient safety; and

[''(2) establish mechanisms for the rapid dissemination of information regarding evidence-based guidelines with the greatest potential to improve health care quality, efficiency, and patient safety.

["SEC. 2909. APPLICABILITY OF PRIVACY AND SECURITY REGULATIONS.

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

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

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

["SEC. 2910. STUDY OF REIMBURSEMENT INCENTIVES.

[''The Secretary shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.''.

[SEC. 3. HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.

[Section 914 of the Public Health Service Act (42 U.S.C. 299b–3) is amended by adding at the end the following:

[''(d) CENTER FOR BEST PRACTICES.—

[''(1) IN GENERAL.—The Secretary, acting through the Director, shall develop a Center for Best Practices to provide technical assistance and develop best practices to support and accelerate efforts to adopt, implement, and effectively use interoperable health information technology in compliance with section 2903 and 2908.

[''(2) CENTER FOR BEST PRACTICES.—

[''(A) IN GENERAL.—The Center shall support activities to meet goals, including—

[''(i) providing for the widespread adoption of interoperable health information technology;

[''(ii) providing for the establishment of regional and local health information networks to facilitate the development of interoperability across health care settings and improve the quality of health care;

[''(iii) the development of solutions to barriers to the exchange of electronic health information; or

[''(iv) other activities identified by the States, local or regional health information networks, or health care stakeholders as a focus for developing and sharing best practices.

[''(B) PURPOSES.—The purpose of the Center is to—

[''(i) provide a forum for the exchange of knowledge and experience;

[''(ii) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

[''(iii) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of interoperable health information technology; and

[''(iv) assure the timely provision of technical and expert assistance from the Agency and its contractors.

[''(C) SUPPORT FOR ACTIVITIES.—To provide support for the activities of the Center, the Director shall modify the requirements, if necessary, that apply to the National Resource Center for Health Information Technology to provide the necessary infrastructure to support the duties and activities of the Center and facilitate information exchange across the public and private sectors.

[''(3) TECHNICAL ASSISTANCE TELEPHONE NUMBER OR WEBSITE.—The Secretary shall establish a toll-free telephone number or Internet website to provide health care providers and patients with a single point of contact to—

[''(A) learn about Federal grants and technical assistance services related to interoperable health information technology;

[''(B) learn about qualified health information technology and the quality measurement system adopted by the Federal Government under sections 2903 and 2908;

[''(C) learn about regional and local health information networks for assistance with health information technology; and

[''(D) disseminate additional information determined by the Secretary.

[''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2006 through 2010.''.

[SEC. 4. REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEMEDICINE.

[Section 330L(b) of the Public Health Service Act (42 U.S.C. 254c–18(b)) is amended by striking ''2002 through 2006'' and inserting ''2006 through 2010''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wired for Health Care Quality Act''.

SEC. 2. IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY.

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

''TITLE XXIX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 2901. DEFINITIONS.

''In this title:

''(1) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

''(2) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

''(3) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means—

''(A) a health insurance issuer (as defined in section 2791(b)(2));

''(B) a group health plan (as defined in section 2791(a)(1)); and

''(C) a health maintenance organization (as defined in section 2791(b)(3)).

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

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

''(6) QUALIFIED HEALTH INFORMATION TECHNOLOGY.—The term 'qualified health information technology' means a computerized system (including hardware and software) that—

''(A) protects the privacy and security of health information;

''(B) maintains and provides permitted access to health information in an electronic format;

''(C) incorporates decision support to reduce medical errors and enhance health care quality;

''(D) complies with the standards adopted by the Federal Government under section 2903; and

''(E) allows for the reporting of quality measures under section 2908.

''(7) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

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

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

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

''(1) ensures that patients' health information is secure and protected;

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

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

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

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

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

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

''(8) facilitates health research; and

''(9) promotes prevention of chronic diseases.

''(c) DUTIES OF THE NATIONAL COORDINATOR.—The National Coordinator shall—

''(1) serve as a member of the public-private American Health Information Collaborative established under section 2903;

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

''(3) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health information;

''(4) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

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

''(6) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including Federal commissions) with public and private parties of interest, including consumers, payers, employers, hospitals and other health care providers, physicians, community health centers, laboratories, vendors and other stakeholders;

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

''(8) submit the reports described under section 2903(i) (excluding paragraph (4) of such section).

''(d) DETAIL OF FEDERAL EMPLOYEES.—

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

''(2) EFFECT OF DETAIL.—Any detail of personnel under paragraph (1) shall—

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

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

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

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Office, regardless of whether such efforts were carried out prior to or after the enactment of this title.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2006, $5,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

''SEC. 2903. AMERICAN HEALTH INFORMATION COLLABORATIVE.

''(a) PURPOSE.—The Secretary shall establish the public-private American Health Information Collaborative (referred to in this section as the 'Collaborative') to—

''(1) advise the Secretary and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

''(2) serve as a forum for the participation of a broad range of stakeholders to provide input on achieving the interoperability of health information technology; and

''(3) recommend standards (including content, communication, and security standards) for the electronic exchange of health information (including for the reporting of quality data under section 2908) for adoption by the Federal Government and voluntary adoption by private entities.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Collaborative shall be composed of—

''(A) the Secretary, who shall serve as the chairperson of the Collaborative;

''(B) the Secretary of Defense, or his or her designee;

''(C) the Secretary of Veterans Affairs, or his or her designee;

''(D) the Secretary of Commerce, or his or her designee;

''(E) the National Coordinator for Health Information Technology;

''(F) representatives of other relevant Federal agencies, as determined appropriate by the Secretary; and

''(G) representatives from each of the following categories to be appointed by the Secretary from nominations submitted by the public—

''(i) consumer and patient organizations;

''(ii) experts in health information privacy and security;

''(iii) health care providers;

''(iv) health insurance plans or other third party payors;

''(v) standards development organizations;

''(vi) information technology vendors;

''(vii) purchasers or employers; and

''(viii) State or local government agencies or Indian tribe or tribal organizations.

''(2) CONSIDERATIONS.—In appointing members under paragraph (1)(G), the Secretary shall select individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including those individuals with expertise in utilizing health information technology to improve health care quality and patient safety;

''(D) data exchange; and

''(E) developing health information technology standards and new health information technology.

''(3) PARTICIPATION.—Membership and procedures of the Collaborative shall ensure a balance among various sectors of the healthcare system so that no single sector unduly influences the recommendations of the Collaborative.

''(4) TERMS.—Members appointed under paragraph (1)(G) shall serve for 2 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member's term or until a successor has been appointed.

''(c) RECOMMENDATIONS AND POLICIES.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall recommend to the Secretary uniform national policies for adoption by the Federal Government and voluntary adoption by private entities to support the widespread adoption of health information technology, including—

''(1) protection of health information through privacy and security practices;

''(2) measures to prevent unauthorized access to health information;

''(3) methods to facilitate secure patient access to health information;

''(4) fostering the public understanding of health information technology;

''(5) the ongoing harmonization of industry-wide health information technology standards;

''(6) recommendations for a nationwide interoperable health information technology infrastructure;

''(7) the identification and prioritization of specific use cases for which health information technology is valuable, beneficial, and feasible;

''(8) recommendations for the establishment of an entity to ensure the continuation of the functions of the Collaborative; and

''(9) other policies (including recommendations for incorporating health information technology into the provision of care and the organization of the health care workplace) determined to be necessary by the Collaborative.

''(d) STANDARDS.—

''(1) EXISTING STANDARDS.—The standards adopted by the Consolidated Health Informatics Initiative shall be deemed to have been recommended by the Collaborative under this section.

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

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

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

''(C) identify duplication and overlap in such existing standards;

and recommend new standards and modifications to such existing standards as necessary.

''(3) ONGOING REVIEW.—Beginning 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall—

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

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

''(C) identify duplication and overlap in such existing standards;

and recommend new standards and modifications to such existing standards as necessary.

''(4) LIMITATION.—The standards and timeframe for adoption described in this section shall be consistent with any standards developed pursuant to the Health Insurance Portability and Accountability Act of 1996.

''(e) FEDERAL ACTION.—Not later than 60 days after the issuance of a recommendation from the Collaborative under subsection (d)(2), the Secretary of Health and Human Services, the Secretary of Veterans Affairs, and the Secretary of Defense, in collaboration with representatives of other relevant Federal agencies, as determined appropriate by the Secretary, shall jointly review such recommendations. The Secretary shall provide for the adoption by the Federal Government of any standard or standards contained in such recommendation.

''(f) COORDINATION OF FEDERAL SPENDING.—Not later than 1 year after the adoption by the Federal Government of a recommendation as provided for in subsection (e), and in compliance with chapter 113 of title 40, United States Code, no Federal agency shall expend Federal funds for the purchase of any form of health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information that is not consistent with applicable standards adopted by the Federal Government under subsection (e).

''(g) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in subsection (e), all Federal agencies collecting health data for the purposes of quality reporting, surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary, shall comply with standards adopted under subsection (e).

''(h) VOLUNTARY ADOPTION.—

''(1) IN GENERAL.—Any standards adopted by the Federal Government under subsection (e) shall be voluntary with respect to private entities.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private entity that enters into a contract with the Federal Government adopt the standards adopted by the Federal Government under section 2903 with respect to activities not related to the contract.

''(3) LIMITATION.—Private entities that enter into a contract with the Federal Government shall adopt the standards adopted by the Federal Government under section 2903 for the purpose of activities under such Federal contract.

''(i) REPORTS.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, on an annual basis, a report that—

''(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of an interoperable nationwide system for the electronic exchange of health information;

''(2) describes barriers to the adoption of such a nationwide system;

''(3) contains recommendations to achieve full implementation of such a nationwide system; and

''(4) contains a plan and progress toward the establishment of an entity to ensure the continuation of the functions of the Collaborative.

''(j) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Collaborative, except that the term provided for under section 14(a)(2) shall be 5 years.

''(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Collaborative, regardless of whether such efforts were carried out prior to or after the enactment of this title.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $4,000,000 for fiscal year 2006, $4,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

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

''(a) IMPLEMENTATION.—

''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

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

''(b) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure and certify that hardware and software that claim to be in compliance with any standard for the electronic exchange of health information adopted under this title have established and maintained such compliance in technical conformance with such standards.

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

''(c) DELEGATION AUTHORITY.—The Secretary, through consultation with the Collaborative, may accept recommendations on the development of the criteria under subsections (a) and (b) from a Federal agency or private entity.

"SEC. 2905. GRANTS TO FACILITATE THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

''(a) COMPETITIVE GRANTS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to facilitate the purchase and enhance the utilization of qualified health information technology systems to improve the quality and efficiency of health care.

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

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

''(B) submit to the Secretary a strategic plan for the implementation of data sharing and interoperability measures;

''(C) be a—

''(i) not for profit hospital;

''(ii) individual or group practice; or

''(iii) another health care provider not described in clause (i) or (ii);

''(D) adopt the standards adopted by the Federal Government under section 2903;

''(E) implement the measurement system adopted under section 2908 and report to the Secretary on such measures;

''(F) demonstrate significant financial need; and

''(G) provide matching funds in accordance with paragraph (4).

''(3) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used to facilitate the purchase and enhance the utilization of qualified health information technology systems and training personnel in the use of such technology.

''(4) MATCHING REQUIREMENT.—To be eligible for a grant under this subsection an entity shall contribute non-Federal contributions to the costs of carrying out the activities for which the grant is awarded in an amount equal to $1 for each $3 of Federal funds provided under the grant.

''(5) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this subsection the Secretary shall give preference to—

''(A) eligible entities that are located in rural, frontier, and other underserved areas as determined by the Secretary;

''(B) eligible entities that will link, to the extent practicable, the qualified health information system to local or regional health information plan or plans; and

''(C) with respect to an entity described in subsection (a)(2)(C)(iii), a nonprofit health care provider.

''(b) COMPETITIVE GRANTS TO STATES FOR THE DEVELOPMENT OF STATE LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to States for the establishment of State programs for loans to health care providers to facilitate the purchase and enhance the utilization of qualified health information technology.

''(2) ESTABLISHMENT OF FUND.—To be eligible to receive a competitive grant under this subsection, a State shall establish a qualified health information technology loan fund (referred to in this subsection as a 'State loan fund') and comply with the other requirements contained in this section. A grant to a State under this subsection shall be deposited in the State loan fund established by the State. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

''(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) a State shall—

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

''(B) submit to the Secretary a strategic plan in accordance with paragraph (4);

''(C) establish a qualified health information technology loan fund in accordance with paragraph (2);

''(D) require that health care providers receiving such loans—

''(i) link, to the extent practicable, the qualified health information system to a local or regional health information network; and

''(ii) consult with the Health Information Technology Resource Center established in section 914(d) to access the knowledge and experience of existing initiatives regarding the successful implementation and effective use of health information technology;

''(E) require that health care providers receiving such loans adopt the standards adopted by the Federal Government under section 2903;

''(F) require that health care providers receiving such loans implement the measurement system adopted under section 2908 and report to the Secretary on such measures; and

''(G) provide matching funds in accordance with paragraph (8).

''(4) STRATEGIC PLAN.—

''(A) IN GENERAL.—A State that receives a grant under this subsection shall annually prepare a strategic plan that identifies the intended uses of amounts available to the State loan fund of the State.

''(B) CONTENTS.—A strategic plan under subparagraph (A) shall include—

''(i) a list of the projects to be assisted through the State loan fund in the first fiscal year that begins after the date on which the plan is submitted;

''(ii) a description of the criteria and methods established for the distribution of funds from the State loan fund; and

''(iii) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—Amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the State loan fund established under paragraph (1). Loans under this section may be used by a health care provider to facilitate the purchase and enhance the utilization of qualified health information technology and training of personnel in the use of such technology.

''(B) LIMITATION.—Amounts received by a State under this subsection may not be used—

''(i) for the purchase or other acquisition of any health information technology system that is not a qualified health information technology system;

''(ii) to conduct activities for which Federal funds are expended under this title, or the amendments made by the Wired for Health Care Quality Act; or

''(iii) for any purpose other than making loans to eligible entities under this section.

''(6) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a State loan fund under this subsection may only be used for the following:

''(A) To award loans that comply with the following:

''(i) The interest rate for each loan shall be less than or equal to the market interest rate.

''(ii) The principal and interest payments on each loan shall commence not later than 1 year after the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

''(iii) The State loan fund shall be credited with all payments of principal and interest on each loan awarded from the fund.

''(B) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

''(C) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund.

''(D) To earn interest on the amounts deposited into the State loan fund.

''(7) ADMINISTRATION OF STATE LOAN FUNDS.—

''(A) COMBINED FINANCIAL ADMINISTRATION.—A State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this subsection with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established.

''(B) COST OF ADMINISTERING FUND.—Each State may annually use not to exceed 4 percent of the funds provided to the State under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this title.

''(C) GUIDANCE AND REGULATIONS.—The Secretary shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this subsection, including—

''(i) provisions to ensure that each State commits and expends funds allotted to the State under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

''(ii) guidance to prevent waste, fraud, and abuse.

''(D) PRIVATE SECTOR CONTRIBUTIONS.—

''(i) IN GENERAL.—A State loan fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection.

''(ii) AVAILABILITY OF INFORMATION.—A State shall make publicly available the identity of, and amount contributed by, any private sector entity under clause (i) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

''(8) MATCHING REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may not make a grant under paragraph (1) to a State unless the State agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward the costs of the State program to be implemented under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

''(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that a State has provided pursuant to subparagraph (A), the Secretary may not include any amounts provided to the State by the Federal Government.

''(9) PREFERENCE IN AWARDING GRANTS.—The Secretary may give a preference in awarding grants under this subsection to States that adopt value-based purchasing programs to improve health care quality.

''(10) REPORTS.—The Secretary shall annually submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report summarizing the reports received by the Secretary from each State that receives a grant under this subsection.

''(c) COMPETITIVE GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to implement regional or local health information plans to improve health care quality and efficiency through the electronic exchange of health information pursuant to the standards, protocols, and other requirements adopted by the Secretary under sections 2903 and 2908.

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

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

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

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

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

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

''(iii) pharmacists or pharmacies;

''(iv) health insurance plans;

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

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

''(vii) patient or consumer organizations;

''(viii) employers; and

''(ix) any other health care providers or other entities, as determined appropriate by the Secretary;

''(D) demonstrate the participation, to the extent practicable, of stakeholders in the electronic exchange of health information within the local or regional plan pursuant to paragraph (2)(C);

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

''(F) adopt the standards adopted by the Secretary under section 2903;

''(G) require that health care providers receiving such grants implement the measurement system adopted under section 2908 and report to the Secretary on such measures;

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

''(I) prepare and submit to the Secretary an application in accordance with paragraph (3); and

''(J) agree to provide matching funds in accordance with paragraph (5).

''(3) APPLICATION.—

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

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

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

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

''(iii) a strategy that includes initiatives to improve health care quality and efficiency, including the use and reporting of health care quality measures adopted under section 2908;

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

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

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

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

''(I) the sustainability of the plan;

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

''(III) the entities to which such costs and benefits will accrue; and

''(viii) if the case of an applicant entity that is unable to demonstrate the participation of all stakeholders pursuant to paragraph (2)(C), the justification from the entity for any such non-participation.

''(4) USE OF FUNDS.—Amounts received under a grant under paragraph (1) shall be used to establish and implement a regional or local health information plan in accordance with this subsection.

''(5) MATCHING REQUIREMENT.—

''(A) IN GENERAL.—The Secretary may not make a grant under this subsection to an entity unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the infrastructure program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than 50 percent of such costs ($1 for each $2 of Federal funds provided under the grant).

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

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

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

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

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

''(4) a description of the efforts of recipients under this section to facilitate secure patient access to health information; and

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

''(e) REQUIREMENT TO ACHIEVE QUALITY IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will result in the greatest improvement in quality measurement systems under section 2908.

''(f) LIMITATION.—An eligible entity may only receive one non-renewable grant under subsection (a), one non-renewable grant under subsection (b), and one non-renewable grant under subsection (c).

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated $116,000,000 for fiscal year 2006, $141,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available through fiscal year 2010.

"SEC. 2906. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

''(a) IN GENERAL.—The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating qualified health information technology systems in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

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

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

''(2) submit to the Secretary a strategic plan for integrating qualified health information technology in the clinical education of health professionals and for ensuring the consistent utilization of decision support software to reduce medical errors and enhance health care quality;

''(3) be—

''(A) a health professions school;

''(B) a school of nursing; or

''(C) an institution with a graduate medical education program;

''(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate health information technology, and implement the quality measurement system adopted under section 2908, in the delivery of health care services; and

''(5) provide matching funds in accordance with subsection (c).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

''(A) use grant funds in collaboration with 2 or more disciplines; and

''(B) use grant funds to integrate qualified health information technology into community-based clinical education.

''(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

''(d) MATCHING FUNDS.—

''(1) IN GENERAL.—The Secretary may award a grant to an entity under this section only if the entity agrees to make available non-Federal contributions toward the costs of the program to be funded under the grant in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

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

''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that—

''(1) describes the specific projects established under this section; and

''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2010.

''(h) SUNSET.—This section shall not apply after September 30, 2010.

''SEC. 2907. LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

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

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

''(2) how such variation among State laws impacts the secure electronic exchange of health information—

''(A) among the States; and

''(B) between the States and the Federal Government.

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

''(1) describes the results of the study carried out under subsection (a); and

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

''SEC. 2908. QUALITY MEASUREMENT SYSTEM.

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Veterans Affairs, the Secretary of Defense, and representatives of other relevant Federal agencies, as determined appropriate by the Secretary, shall develop or adopt a quality measurement system, including measures to assess that effectiveness, timeliness, patient self-management, patient centeredness, efficiency, and safety, for the purpose of measuring the quality of care patients receive.

''(b) REQUIREMENTS.—The Secretary shall ensure that the quality measurement system developed under subsection (a) comply with the following:

''(1) MEASURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall select measures of quality to be used by the Secretary under the systems.

''(B) REQUIREMENTS.—In selecting the measures to be used under each system pursuant to subparagraph (A), the Secretary shall, to the extent feasible, ensure that—

''(i) such measures are evidence based, reliable and valid;

''(ii) such measures include measures of clinical processes and outcomes, patient experience, efficiency, and equity; and

''(iii) such measures include measures of overuse and underuse of health care items and services.

''(2) PRIORITIES.—In developing the system under subsection (a), the Secretary shall ensure that priority is given to—

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

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

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

''(3) WEIGHTS OF MEASURES.—The Secretary shall assign weights to the measures used by the Secretary under each system established under subsection (a).

''(4) RISK ADJUSTMENT.—The Secretary shall establish procedures to account for differences in patient health status, patient characteristics, and geographic location. To the extent practicable, such procedures shall recognize existing procedures.

''(5) MAINTENANCE.—The Secretary shall, as determined appropriate, but in no case more often than once during each 12-month period, update the quality measurement systems developed under subsection (a), including through—

''(A) the addition of more accurate and precise measures under the systems and the retirement of existing outdated measures under the systems; and

''(B) the refinement of the weights assigned to measures under the systems.

''(c) REQUIRED CONSIDERATIONS IN DEVELOPING AND UPDATING THE SYSTEMS.—In developing and updating the quality measurement systems under this section, the Secretary shall—

''(1) consult with, and take into account the recommendations of, the entity that the Secretary has an arrangement with under subsection (e);

''(2) consult with representatives of health care providers (including physicians, pharmacists, nurses, and other health care professionals), consumers, employers, and other individuals and groups that are interested in the quality of health care; and

''(3) take into account—

''(A) any demonstration or pilot program conducted by the Secretary relating to measuring and rewarding quality and efficiency of care;

''(B) any existing activities conducted by the Secretary relating to measuring and rewarding quality and efficiency;

''(C) any existing activities conducted by private entities including health insurance plans and payors; and

''(D) the report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

''(d) REQUIRED CONSIDERATIONS IN IMPLEMENTING THE SYSTEMS.—In implementing the quality measurement systems under this section, the Secretary shall take into account the recommendations of public-private entities—

''(1) that are established to examine issues of data collection and reporting, including the feasibility of collecting and reporting data on measures; and

''(2) that involve representatives of health care providers (including physicians, pharmacists, nurses, and other health care professionals), consumers, employers, and other individuals and groups that are interested in quality of care.

''(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE ADVICE AND RECOMMENDATIONS.—

''(1) ARRANGEMENT.—On and after July 1, 2006, the Secretary shall have in place an arrangement with an entity that meets the requirements described in paragraph (2) under which such entity provides the Secretary with advice on, and recommendations with respect to, the development and updating of the quality measurement systems under this section, including the assigning of weights to the measures under subsection (b)(2).

''(2) REQUIREMENTS DESCRIBED.—The requirements described in this paragraph are the following:

''(A) The entity is a private nonprofit entity governed by an executive director and a board.

''(B) The members of the entity include representatives of—

''(i) health insurance plans and health care providers with experience in the care of individuals with multiple complex chronic conditions or groups representing such health insurance plans and providers;

''(ii) groups representing patients and consumers;

''(iii) purchasers and employers or groups representing purchasers or employers;

''(iv) organizations that focus on quality improvement as well as the measurement and reporting of quality measures;

''(v) State government health programs;

''(vi) individuals or entities skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

''(vii) individuals or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

''(C) The membership of the entity is representative of individuals with experience with urban health care issues and individuals with experience with rural and frontier health care issues.

''(D) If the entity requires a fee for membership, the entity shall provide assurances to the Secretary that such fees are not a substantial barrier to participation in the entity's activities related to the arrangement with the Secretary.

''(E) The entity—

''(i) permits any member described in subparagraph (B) to vote on matters of the entity related to the arrangement with the Secretary under paragraph (1); and

''(ii) ensures that member voting provides a balance among disparate stakeholders, so that no member organization described in subparagraph (B) unduly influences the outcome.

''(F) With respect to matters related to the arrangement with the Secretary under paragraph (1), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment.

''(G) The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).

''(f) USE OF QUALITY MEASUREMENT SYSTEM.—

''(1) IN GENERAL.—For purposes of activities conducted or supported by the Secretary under this Act, the Secretary shall, to the extent practicable, adopt and utilize the measurement system developed under this section.

''(2) COLLABORATIVE AGREEMENTS.—With respect to activities conducted or supported by the Secretary under this Act, the Secretary may establish collaborative agreements with private entities, including group health plans and health insurance issuers, providers, purchasers, consumer organizations, and entities receiving a grant under section 2905, to—

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

''(B) foster uniformity between the health care quality measures utilized by private entities.

''(3) REPORTING.—The Secretary shall implement procedures to enable the Department of Health and Human Services to accept the electronic submission of data for purposes of quality measurement using the quality measurement system adopted under this section and using the standards adopted by the Federal Government under section 2903.

''(g) DISSEMINATION OF INFORMATION.—Beginning on January 1, 2008, in order to make comparative quality information available to health care consumers, health professionals, public health officials, researchers, and other appropriate individuals and entities, the Secretary shall provide for the dissemination, aggregation, and analysis of quality measures collected under section 2905 and the dissemination of recommendations and best practices derived in part from such analysis.

''(h) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to public and private entities to enable such entities to—

''(1) implement and use evidence-based guidelines with the greatest potential to improve health care quality, efficiency, and patient safety; and

''(2) establish mechanisms for the rapid dissemination of information regarding evidence-based guidelines with the greatest potential to improve health care quality, efficiency, and patient safety.

''SEC. 2909. ENSURING PRIVACY AND SECURITY.

''Nothing in this title shall be construed to affect the scope or substance of—

''(1) section 264 of the Health Insurance Portability and Accountability Act of 1996;

''(2) sections 1171 through 1179 of the Social Security Act; and

''(3) any regulation issued pursuant to any such section;

and such sections shall remain in effect.

''SEC. 2910. STUDY OF REIMBURSEMENT INCENTIVES.

''The Secretary shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.''.

SEC. 3. HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.

Section 914 of the Public Health Service Act (42 U.S.C. 299b–3) is amended by adding at the end the following:

''(d) HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.—

''(1) IN GENERAL.—The Secretary, acting through the Director, shall develop a Health Information Technology Resource Center to provide technical assistance and develop best practices to support and accelerate efforts to adopt, implement, and effectively use interoperable health information technology in compliance with section 2903 and 2908.

''(2) HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.—

''(A) IN GENERAL.—The Center shall support activities to meet goals, including—

''(i) providing for the widespread adoption of interoperable health information technology;

''(ii) providing for the establishment of regional and local health information networks to facilitate the development of interoperability across health care settings and improve the quality of health care;

''(iii) the development of solutions to barriers to the exchange of electronic health information; or

''(iv) other activities identified by the States, local or regional health information networks, or health care stakeholders as a focus for developing and sharing best practices.

''(B) PURPOSES.—The purpose of the Center is to—

''(i) provide a forum for the exchange of knowledge and experience;

''(ii) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support; and

''(iii) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of interoperable health information technology.

''(C) SUPPORT FOR ACTIVITIES.—To provide support for the activities of the Center, the Director shall modify the requirements, if necessary, that apply to the National Resource Center for Health Information Technology to provide the necessary infrastructure to support the duties and activities of the Center and facilitate information exchange across the public and private sectors.

''(3) TECHNICAL ASSISTANCE TELEPHONE NUMBER OR WEBSITE.—The Secretary shall establish a toll-free telephone number or Internet website to provide health care providers and patients with a single point of contact to—

''(A) learn about Federal grants and technical assistance services related to interoperable health information technology;

''(B) learn about qualified health information technology and the quality measurement system adopted by the Federal Government under sections 2903 and 2908;

''(C) learn about regional and local health information networks for assistance with health information technology; and

''(D) disseminate additional information determined by the Secretary.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the duplication of Federal efforts with respect to the establishment of the Center, regardless of whether such efforts were carried out prior to or after the enactment of this subsection.''.

SEC. 4. REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEMEDICINE.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the Enzi substitute at the desk be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2671) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1418), as amended, was read the third time and passed.

Mr. FRIST. Mr. President, the Senate just passed a bill that takes a major step—major step—to bringing health care into the information age, finally. This bill, the Wired for Health Care Quality Act, reflects the hard work by Senator ENZI, to whom I will turn the floor over shortly, myself, Senator KENNEDY, Senator CLINTON, and many others.

This bill will do as much as anything we have done in this Congress and the last Congress and the Congress before that to cut waste and inefficiency out of our health care system. What the bill does is encourage the use of secure and interoperable health care records, electronic records, electronic medical records.

This has a huge benefit for every American. It reduces waste and inefficiency. It reduces medical errors. It improves the quality of health care. It reduces health care costs throughout the system, raising quality. When you lower costs and you raise quality, by definition, you improve access as well.

This bill will help empower patients to become full partners in what we all have as a vision; and that is, a patient-centered, provider-friendly, consumer-driven system that will be driven by information, and be driven by choice, and be driven by control.

Patient privacy is protected. This secure exchange of lifesaving information improves efficiency throughout the system. It will allow, for the first time, because there are interoperable standards that are set, the exchange of information, which will seamlessly help integrate health care delivery from the time a patient first presents to see a physician or a nurse to ultimate discharge and treatment.

So this really is a pivotal moment. I encourage the House to act quickly on the legislation.

Again, I thank Senator ENZI for his leadership. Without it, this moment simply would not be possible. I thank Senator CLINTON who has stressed, from day one, the importance of having quality injected into this bill, and Senator KENNEDY. I thank them all for their commitment to this effort.

I thank the staff who have worked many hours: Andrea Palm, Katy Barr, Steve Northrup, and David Bowen, and many others.

Mr. President, I do want to at least turn to my colleague to thank him and

so he can make a few comments because this is truly historic legislation. And although it is mighty early in the morning now—late at night or early in the morning—this really is a historic time for health care and health care delivery.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the leader for his kind comments but much more so for his diligent work and leadership on this issue. As the heart doctor of the Senate, and the doctor with a lot of heart, he understands the need for health information technology and worked in a very bipartisan way with Senator CLINTON to come up with some of the precepts we have in this bill. Senator KENNEDY and I were working on some other aspects of it. And we merged those two to come up with a much more comprehensive health IT bill.

This will make a huge difference in the country. A RAND study that was recently released said this will save about $162 billion a year in medical costs. In my opinion, that is not even going to be the biggest benefit. The biggest benefit is that it is going to allow medical data to move with the people as they move.

When they go to the doctor's office, they will not have to take that little clipboard and fill out whatever it is they can remember about their health. And it will not matter because a lot more information will be available to the doctor so he can make the right kinds of decisions and choices.

It will also benefit travelers. If a tourist is out on the road and has a wreck and has to see a doctor, they will have their information with them. They will have access to it so the doctor will know what medications they are on, even if they are in a coma, and can make sure they are taken care of properly. And yes, it will reduce medical errors and eliminate some adverse reactions from medications or even missed medications.

So this will make a huge difference to the people of this country. The difficulty with doing something by unanimous consent is that a lot of times people think there is not much to it, or if there wasn't much controversy, that nothing really happened. But there has been controversy that has been taken care of behind the scenes, where people got together and actually realized how important this was. So they worked together to come up with solutions, and came up with a truly bipartisan solution in this instance.

So it is almost too bad that it has to go through unanimous consent, that we cannot have some very heated debates on the floor so people will realize the intensity and the interest in the bill.

But there is not anything bad about the bill. This was a teamwork effort from both sides of the aisle. I appreciate the leader mentioning a number of the people who were involved in this bill. This is a truly monumental piece of legislation we just passed, and I add the encouragement to have the House act on it quickly.

Mr. President, I rise today to applaud the Senate passage of S. 1418, the Wired for Health Care Quality Act. As chairman of the Committee on Health, Education, Labor, and Pensions, I have been working to improve the quality and reduce the cost of health care in this Nation.

Some of the most serious challenges facing health care today—medical errors, inconsistent quality, and rising costs—can be addressed through the effective application of available health information technology linking all elements of the health care system. Information-sharing networks have the potential to enable decision support anywhere at any time, thus improving the quality of health care and reducing costs.

Health IT allows medical data to move with people as they move. When they go to the doctor's office they won't have to take the clipboard and write down everything they can remember about themselves. This system also benefits travelers. If a tourist were to get in a car wreck or hurt in some other way, the doctor would be able to find out everything he or she needs to know. If in a coma this technology could save a person's life and if they happen to be on medications, it could prevent adverse drug reactions. This system could also cut down on medical errors with prescriptions—instead of deciphering the doctor's handwriting, the information could be given to the pharmacist electronically.

A RAND study recently released suggested that health IT has the potential to save $162 billion a year. In order for these savings to be realized, we must create an infrastructure for interoperability. S. 1418 is the first step in building that infrastructure.

Most folks agree that there are significant barriers to widespread adoption of interoperable health information technology. One of the primary barriers is the current lack of agreed-upon standards and common implementation guides and a certification process. This bill addresses those factors in a way that appropriately incorporates involvement of both the public and private sectors.

This legislation brings the government and the private sector together to make health care better, safer and more efficient by accelerating the widespread adoption of interoperable health information technology and quality measurement across our health care system. The legislation formalizes involvement of private entities in the standards and policy-setting process by directing the Secretary to establish and chair the public-private American Health Information Collaborative, which shall be composed of representatives of the public and private sectors. S. 1418 also codifies the Office of the National Coordinator for Health Information Technology. President Bush, Secretary Leavitt, and Dr. Brailer have done a lot to advance the health IT infrastructure, and I am glad that Congress is finally stepping up to the plate.

In order to address the health information technology ''adoption gap'' in the United States, S. 1418 authorizes three grant programs that will carefully target financial support to health care providers and consortia for the purpose of facilitating the adoption of interoperable health information technology. To maximize the Secretary of Health and Human Service's flexibility, the bill leaves to the discretion of the Secretary the allocation of the authorization among the three programs.

In addition, the greatest improvements in quality of health care and cost savings will be realized when all elements of the health care system are electronically connected and speak a common technical language—that is they are interoperable. For this reason, each grant program requires that each grant recipient acquire only qualified health information technology systems that are capable of supporting common technical standards adopted by the Federal Government.

Another barrier to widespread adoption of interoperable health information is cultural. I recognize that many physicians and hospitals are hesitant to move from paper-based systems to electronic systems. Some physicians have been writing prescriptions by hand for many years and may resist changing to electronic prescribing. One way to address this cultural barrier to the widespread adoption of health information technology is to support teaching hospitals and continuing education programs that integrate health information technology in the clinical education of health care professionals. Exposing students and residents to effective everyday uses of health IT will lead to a greater adoption by these students and residents when they graduate and begin practicing on their own. The bill authorizes the Secretary to award demonstration grants to health professions centers and academic health centers to integrate health IT into clinical education in community settings.

The issue of health IT is also critical for effective response in public health emergencies. Interoperable health IT systems will help to track infectious disease outbreaks and increase the Federal Government's rapid response in emergency situations.

I thank all of my Senate colleagues for their support of this very important legislation, which will help facilitate the widespread adoption of electronic health records to ultimately result in fewer mistakes, lower costs, better care, and greater patient participation in their health and well-being. This is a great stride forward in the journey to improve our Nation's health care system. I look forward to seeing meaningful health information technology legislation signed into law this Congress.

I would like to commend various staff for the hard work they did in bringing this bill to fruition. First, I want to recognize my fine staff from the Senate HELP Committee, who have doggedly worked with many interested parties over many months—Stephen Northrup and Katy Barr. I would also like to recognize David Bowen from Senator KENNEDY's office for his dedication to this legislation. Elizabeth Hall of Senator FRIST's office did a good job providing leadership support throughout the process. I should also mention Andrea Palm from Senator CLINTON's office and Michelle Spence with Senator ENSIGN's office for ensuring that the health care quality provisions stayed strong. Secondly, I want to recognize the work of the Senate Finance Committee and the complementary bill supporting improvements in health care quality in the Medicaid and Medicare programs that has contributed to our success today. Mark Hayes and Ted Totman from the Senate Finance Committee were very dedicated to seeing this bill pass. And finally, without the dedication and patience of Bill Baird of Senate Legislative Counsel, we would not have the bill that will pass here today.

Mr. KENNEDY. Mr. President, today the Senate has passed legislation that can help transform our health care system and save lives. The Wired for Health Care Quality Act will improve the use of lifesaving health information technology in hospitals and doctors' offices across the country. In so doing, we will improve the quality of care, lower administrative costs, and reduce medical errors.

This legislation is being considered by the Senate because of the leadership and commitment of the chairman of our Health Committee, Senator ENZI. He made health information technology a priority for our committee, and he has guided this legislation to the Senate floor. Successful legislation takes creative thinking and hard work—and Senator ENZI has supplied an abundance of both to this measure.

I also thank our partners in this legislation, Senator FRIST and Senator CLINTON. As a surgeon, Senator FRIST knows firsthand the importance of making sure that doctors have the information they need to provide the best possible care for patients—and that they get that information in time for it to be of value. It is inconceivable that in the 21st century, doctors are asked to treat patients in life or death situations without knowing their medical histories or even the medications they are taking—but that happens every hour of every day in hospitals and emergency rooms around the country. Senator FRIST has been tireless in his commitment to correcting this unacceptable situation.

Senator CLINTON has done an excellent job as well. She has championed better studies of the comparative effectiveness of medications, she is dedicated to improving the quality of care for every patient, and this legislation owes much to her ability and commitment.

This legislation is urgently needed, because we live in a new era of medical miracles and rapid changes in medicine.

Modern electronics have given doctors implantable pacemakers to save patients from sudden cardiac failure.

The sequencing of the human genome offers extraordinary opportunities for new cures and better treatments.

But there is another medical miracle to add to the list.

Modern information technology can transform health care as profoundly as any of these discoveries.

We have a moral responsibility to make the miracles of modern medicine available to every American—but we have failed to meet that responsibility. Costs are crushing our health care system. Premiums are going through the roof. The ranks of the uninsured grow every day. Families are forced to choose between paying the cost of health care or paying for food, rent, and college tuition. That is not the American dream.

Information technology alone can't solve these problems, but it can help substantially. Electronic medical records. Software to warn if a treatment could harm a patient. Computer prescribing. These and many other applications of information technology can save lives and dramatically reduce costs.

Despite the wonders of modern medicine, too many patients today are harmed by preventable mishaps. They waste hours and face new risk when tests must be duplicated, because a crucial record is locked in another archive. Too many doctors only guess at the right course of treatment, because they don't know a patient's medical history. Millions of patients are needlessly put at risk, and billions of dollars are wasted.

When so many Americans are already struggling to afford health care for their families, it is profoundly wrong to squander more than half a trillion dollars each year on administrative expenses.

The Department of Health and Human Services estimates that better use of information technology will save $140 billion every year. Such savings would produce a technology dividend worth over $700 on the cost of an average family's insurance policy. That is like getting 1 month free every year.

Other nations are already using this extraordinary technology to cut costs and save lives—but America lags behind. We can't continue to allow the high cost of health care to price American goods and services out of the global marketplace.

The need to invest in this technology is urgent. In the words of Secretary Leavitt, ''Every day that we delay, lives are lost.'' The time to act is now. The bill before us will improve care, save lives and make health care more affordable for every American.

The need to reduce medical errors is especially urgent. It is already 6 years since the Institute of Medicine reported that medical errors cause 98,000 deaths every year. According to the National Patient Safety Foundation, 42 percent of Americans have been affected by a medical error, either personally or through a friend or relative. One out of every three of those affected said that the error had a permanent negative effect on the patient's health. The exact figures may be the subject of debate, but it is undeniable that preventable deaths occur in our health care system all too often. For even one patient to die needlessly in our health care system ought to be unacceptable.

Our response should be broad based. New technology, new ideas, aud new ways of practicing medicine all have a role in improving the quality of care and saving lives. We no longer expect airline pilots to navigate by looking at the stars or local landmarks. Engineers no longer rely on slide rules to design strong buildings. In virtually every field except medicine, professionals use computers to expand their skills. Yet in medicine, we expect doctors to keep in their heads the possible interactions of the dozens of medications that a patient may be receiving. Under these circumstances, the wonder is not that errors occur, but that they don't occur even more frequently.

The evidence that information technology can save lives is undeniable. In terms of drug safety alone, a recent analysis by the RAND Corporation estimates that by using computerized data, the nation could prevent 2.2 million adverse drug events, and 1 million additional days in the hospital.

What we have today, in the words of the Institute of Medicine, is a ''quality chasm.'' Doctors repeat tests that have already been performed. Residents take medical histories that have already been taken. Patients show up for doctor's appointments that are essentially a waste of time because the tests have been performed but the results have not yet been delivered.

Information technology can help close this gap by improving the coordination of care, providing guidance on the best methods of care and reminding busy physicians when it's time to schedule preventive screenings. The Veterans Administration is a national leader in using IT to improve quality, and patients get better preventive services there than almost any other patient group in America gets, especially in areas such as proper cholesterol screening, eye exams for diabetic patients, and proper immunization against pneumonia.

Electronic medical records improve the quality of care, and can also improve our ability to monitor drug safety, detect outbreaks of disease before they become epidemics and decide which treatments are most effective for patients.

Electronic medical records can be critical in a natural disaster. The devastation of Hurricane Katrina was

compounded because most hospitals kept their records on paper. As a result, medical histories of tens of thousands of hurricane survivors were irretrievably lost. It would be inexcusable if we didn't make the investments needed for the nation to benefit from these innovations.

Information technology doesn't simply improve the quality of care—it reduces costs as well. According to the Institute of Medicine, each prescription error that is prevented saves $4,000 in additional care. This isn't just a theory. Since 1996, when the Veterans Administration began investing significantly in information technology, its costs per patient have actually decreased by 7 percent while private sector costs per patient have increased by 62 percent.

Excessive administrative costs are weighing down our health care system. We are spending over $500 billion a year on such costs—nearly 33 cents out of every health care dollar. These already high costs are also growing 50 percent faster than other health costs. It can cost as much as $20 to process a single insurance claim using antiquated paper records—and nearly half the 18 billion insurance claims in America are still settled in this old-fashioned way every year. We know that paper-based records are prone to error. About one in four health insurance claims is initially rejected because of errors. By contrast, in the financial industry, only 1 in 10,000 ATM transactions has an error.

Despite clear evidence that health IT saves lives and cuts costs, its use is still scandalously low. Our health care system should be the envy of the world, but nations from Australia to Scandinavia are outpacing us in this technology. In Sweden and Holland, nine out of ten primary care physicians use electronic medical records. In Britain, Austria, Finland and many other nations, it is over half. But in the United States, less than a quarter of all doctors use electronic medical records.

Obviously, there are significant barriers to the adoption of health information technology that Congress should also address. Many providers don't have the financial ability to absorb the costs of buying the equipment, making the transition to computer systems, and training staff. It costs a physician's office $30,000 and significant aggravation to install the system. The savings from its use tend to come over the longer term, while the costs are immediate, which is a major financial barrier to hospitals, physicians, and nursing homes already drowning in red ink. Providers get savings over the long run, but the largest share of the savings goes to payers, not providers. If a diabetic is kept out of the hospital by better management of his condition as the result of information technology, that's a loss of revenue to the hospital.

This bipartisan legislation will help overcome these barriers. It requires the development of standards on interoperability and other technical measures for health information technology, and it establishes a public-private consultation to develop those standards.

But standards without Federal resources are not enough to achieve the goal of a modern health care system that we all share. That is why the legislation includes financial assistance to hard pressed providers to meet the technical standards. It provides this assistance in three ways in recognizing the fact that different health care providers and different communities will have different needs. It authorizes direct grants to needy providers. It authorizes financial assistance to establish regional networks. And it creates an innovative Federal-State, public-private partnership to modernize health care by enabling states to fund low interest loans to help health professionals in financial need to acquire the technology to improve the quality and efficiency of health care.

Getting the right hardware and software into the hands of doctors is only half the battle. It is also essential to see that doctors have access to the knowledge necessary to make the technology a success. The legislation establishes a Best Practices Center where technology users can learn from the experience of others who have established such networks. It sets up a Help line at the Department of Health and Human Services to answer technical questions and help meet technical requirements. To assist doctors in sorting through the confusing array of options for this technology, the legislation establishes a certification program, so that providers can quickly determine whether particular systems meet the applicable technical standards.

There are many Senate colleagues who deserve great credit for their thoughtful contributions to this legislation and for their leadership in getting to this moment.

Again, I commend the chairman of our Health Committee, Senator ENZI, for his impressive leadership on this issue. It has been a privilege to work closely with him and his staff since the beginning of this year and to deal with this priority.

The pending legislation combines the bill that Chairman ENZI and I introduced and the bill that Senator FRIST and Senator CLINTON introduced. We have also had broad input from many other committee members, and we have produced a better bill because of it.

Senator DODD was a leader on the issue in the last Congress as well, and our bill includes many of his ideas, especially on making sure that standards are widely available.

Senator ENSIGN made sure that best practices are front and center in implementing this technology.

Our subcommittee chairman, Senator BURR, has a strong interest in using information technology to improve our ability to respond to bioterrorist attacks or other disease emergencies, when lost hours can mean countless lost lives.

Senator REED of Rhode Island had the innovative idea of including a 1–800 number to help providers on technical questions. Senator HARKIN contributed important proposals to use the technology to improve the treatment of chronic diseases.

Senator REID of Nevada has shown impressive leadership in making sure technology improves the lives of American families, and I thank him for his strong support.

Senator SNOWE and Senator STABENOW have a major commitment to effective funding for this technology, and I look forward to working with them on this issue in the days to come. I also commend Senator SNOWE for her strong commitment to protecting the privacy of electronic medical data.

I also commend Steve Northrup and Katy Barr of Senator ENZI's staff, Andrea Palm of Senator CLINTON's staff, Liz Hall of Senator FRIST's staff, and my own health staff, for their effective work on this issue for so many months.

I thank these and all our Senate colleagues who contributed to the legislation we consider today. I look forward to working with all of you and with our colleagues in the House to see this needed measure signed into law as soon as possible.

Mr. ENZI. Mr. President, I rise today to speak about the passage of 1418, the Wired for Health Care Quality Act. As chairman of the Committee on Health, Education, Labor, and Pensions, I have been working to improve the quality and reduce the cost of health care in this Nation. I commend the ranking member of my committee for his dedication to this great cause.

I want to commend my colleague from Maine, Senator SNOWE, and my colleague from Michigan, Senator STABENOW, for their leadership on the issue of health information technology. They have made a major contribution to the debate, and I look forward to working with them as we continue to consider this important issue.

I see the legislation we consider today as the first step toward more effective use of information technology in health care. This proposal will provide the framework to improve the use of health IT. Senator SNOWE and Senator STABENOW have several thoughtful proposals on providing additional financial incentives through Medicare for the use of health information technology.

Providing adequate funding for health IT is a critically important issue, and I believe that it should be carefully considered in our committee and by the Senate. I look forward to working with my colleagues on the committee and with Senator SNOWE and Senator STABENOW to see that health IT receives an appropriate level of funding.

I also believe it is important to examine carefully the privacy protections that apply to individually identifiable health information maintained in electronic databases. The manager's amendment to S. 1418 contains several important provisions relating to privacy, including a GAO investigation on methods to enhance privacy protections for electronically stored and transmitted health information.

I believe it is important to examine the issues surrounding implementation and adoption of health IT systems carefully. To that end, I intend to hold a hearing by the Memorial Day recess next year on the essential issue of funding to promote wide adoption of health information technology. We will also examine the report of the GAO to address the critical issue of protections for the privacy of health information that must be part of health IT systems and practices. I will work closely with my colleagues, Senator SNOWE and Senator STABENOW, as well as with the ranking member on this hearing.

I will also work with the Finance Committee, the committee with jurisdiction over Medicare, and with Senators STABENOW and SNOWE on legislation to spur the widespread adoption of interoperable health information technology through such innovative financing mechanisms, and we will work to achieve passage of that legislation before the end of this Congress.

I happen to be an original sponsor of legislation in the Finance Committee to reward high-quality health care through value based purchasing under Medicare. By rewarding doctors and hospitals for the quality of care they provide, not just the quantity of care, we can improve health care quality in a fiscally responsible way.

I look forward to working with Senators KENNEDY, GRASSLEY, BAUCUS, SNOWE, STABENOW, FRIST, and CLINTON on these important proposals, and I commend them for their leadership on this important field of health IT.

Mr. KENNEDY. I thank the distinguished chairman of our Health Committee for his impressive leadership on the issue of health information technology. Health information technology can revolutionize health care, with lasting benefits in areas from improving quality to better detection of bioterrorist attacks and epidemics.

I also commend my colleagues, Senator STABENOW and Senator SNOWE, for their commitment to seeing that we provide adequate financial support for doctors and hospitals to use health information technology systems. I will work closely with them, and with our chairman and our colleagues on the health committee, to see that we build on the legislation under consideration today in order to assist health care providers to meet the cost of acquiring health IT.

Senator SNOWE and Senator STABENOW have made a major contribution to our debate, and I look forward to working with them on additional proposals on this important issue in the very near future.

Ms. SNOWE. Mr. President, I want to commend Senators ENZI, KENNEDY, FRIST, and CLINTON for their work in addressing the inadequate state of our individual health records today. The Wired for Health Care Quality Act will accelerate the development of essential standards to protect investment in health information technology. Very soon the Federal Government will require compliance with these standards for its purchases—a long overdue step in modernizing health care information management.

I began work with on this issue in the last Congress when we learned from the Institute of Medicine that an estimated 98,000 Americans die each year as a result of medical errors. Technology can help us prevent these deaths and injuries from medical mistakes. That is one reason I joined with Senator STABENOW to assure that we implement live saving technology.

A second reason for our work is that information technology, IT, will help us reduce the cost of health care. As health care costs increase far more rapidly than inflation, care becomes less affordable and the ranks of the uninsured grow. Each of us appreciates that technology will help us reduce that unsustainable trend. Recent reports demonstrate that the cost of implementing health IT is exceeded by a single year of savings. That is a remarkable return on investment, but since an estimated 89 percent of savings accrues to payers, not providers, standards alone will not spur adoption.

Since the rewards for adoption primarily accrue to payers and patients, it is wholly appropriate that payers—including the Federal Government—act in their best interest to reduce costs. That means we must ensure adoption not just by those providers for whom investment is relatively easy, but by those with lesser resources, such as the many who provide care for our Medicare, Medicaid, and SCHIP beneficiaries. I look forward to working with my colleagues to see that we implement financing—including grants and tax incentives—to allow all providers to adopt this promising technology. Otherwise we will see a two-tiered system develop.

If some patients do not receive the benefits of the electronic health record the President has set as a goal, their care will suffer. In fact, if their providers cannot adopt technology, their clinical data may not be not properly integrated in pay-for-performance methodologies. If the resulting criteria don't account for such patients, they then pose the risk of inadequate compensation to providers, and many may decline to serve them. So it is critical that we assure all providers can adopt health IT.

I thank Chairman ENZI and the Senator KENNEDY for their commitment to a hearing next spring on the adoption and financing issue. I also thank the majority leader for his assistance. The issue of adoption certainly multiple committees, and we appreciate his efforts in helping the full Senate to consider promising financing proposals to assure broad adoption.

As we move forward together, we should also remember to follow the physician's adage—certainly one the leader knows so well—to ''first do no harm''. We are all agreed that genetic information, which may indicate probability of disease, must be protected. One's medical record includes even more than probability—it is indisputable evidence of the presence of disease, the drugs one uses, your full physical and mental health history. Consequently, Americans are worried about their health records. A recent survey demonstrates that two-thirds of all consumers have substantial concerns about the privacy of their medical records. The same proportion say that recent reports of privacy breaches have actually increased these concerns. So it comes as no surprise that consumers engage in behaviors to avoid such data from even being created—such as paying out-of-pocket for medical expenses, using a different physician on occasion, or simply asking that vital information not be included in their chart. Patients even forgo treatment altogether in fear of disclosure. This compromises health, so we simply must provide Americans with confidence in the security of their health record.

We simply must have the highest levels of data security. So first we must see procedures established to assure that inappropriate disclosure does not occur. Next, if a data breach does occur, the patient must be informed. To do otherwise is unconscionable.

I am pleased to see that the managers amendment requires such notification for those handling data under the programs established by this legislation, and the bill also establishes a process to address concerns on medical data privacy by directing a GAO study to guide us in providing the assurance all Americans must have that their medical data is protected. I thank my colleagues for including these essential provisions.

Today marks the beginning of a process to offer all Americans a safer, more affordable system of health care. I look forward with Senator STABENOW to working with the majority leader and Senators ENZI, KENNEDY, and CLINTON, as well as Senators GRASSLEY and BAUCUS, as we move forward to realizing the full potential of health IT become reality for our constituents. The rewards in lives and dollars saved compels us to act promptly.

Ms. STABENOW. Mr. President, I want to commend the leadership of Senators ENZI, KENNEDY, FRIST, and CLINTON in this critically important arena. Their diligent work in introducing and passing S. 1418 establishes the groundwork necessary to begin to realize the promises of health information technology, IT.

The evidence showing the ability of health IT to reduce costs and improve quality of care is simply overwhelming. Dr. David Brailer's office attributes savings from widespread adoption of electronic health records in the range of 7.5 percent to 30 percent of annual health care spending that is between $135 and $540 billion annually.

Manufacturers in Michigan and across the country are struggling to remain competitive in a global market with skyrocketing health care costs. Health IT can, and should, play a key role in managing these costs.

Equally compelling is the promise health IT holds for improving the quality of our health care system by ensuring that patients get the care they need, at the right time, and in the best setting.

To realize these promises, however, Congress must enact legislation providing meaningful resources through Federal financial incentives, both mandatory grants and tax incentives, to physicians, hospitals, skilled nursing facilities, and community health and mental health centers for health information technology.

Health care providers are struggling to keep up with their daily needs at the same time they are anticipating cuts in their rates. A major barrier to widespread use of IT is the initial investment cost: the costs of procuring and implementing health IT can be staggering.

Every day we delay providing Federal seed money through a grant program and accelerated depreciation of health information technology expenses, we delay getting health information technology systems in place, and businesses, taxpayers and patients pay in both dollars and lives.

I appreciate the majority leader's commitment to encourage the chairman and ranking member of the Finance Committee and the chairman and ranking member of the HELP Committee to schedule, at the earliest opportunity, consideration of legislative proposals to ensure federal funding to accelerate adoption of health IT.

A meaning Federal investment must be robust, funded with mandatory, rather than discretionary, dollars, and available to individual providers and health care systems.

This is not the place to skimp on dollars; we know every dollar we spend will come back to us many times over. Federal investments, through grants and tax incentives, in health information technology will result in lower Medicare, Medicaid and SCHIP spending, reduced medical errors, and greater quality and efficiency in our health care system. We must provide a level of funding that will allow a significant percentage of our health care providers to adopt and use health IT systems. Additionally, funding must not be limited to authorizations of appropriations. We must actually provide the dollars needed to begin realizing the benefits of health IT.

Nor should we limit funds to providers in networks. We should work towards a system where all health care providers are linked, but we do not need to wait for those networks to be formed to see the benefits of health IT. Standalone e-prescribing systems could reduce medication errors by 50 percent; there is no reason to delay the quality, safety, and financial savings possible through immediate health IT adoption by individual providers.

In addition to funding, we must pay careful attention to privacy and confidentiality rights and concerns. A patient's right to health information privacy is paramount, and an essential component of the health care provider-patient relationship. According to a survey recently released by the California HealthCare Foundation, CHCF, 67 percent of Americans remain concerned about the privacy of their personal health information. The survey also reports that many consumers may be putting their health at risk by avoiding their regular doctor or forgoing needed tests over privacy concerns. Apprehension over privacy and confidentiality, if not addressed thoughtfully, could pose enormous barriers to the savings and health care improvements possible through adoption of health information technologies. Strong, enforceable privacy safeguards based on a patient's right to health information privacy are absolutely critical as we move towards a nationwide, interoperable electronic health care system.

I appreciate provisions included in the managers' amendment addressing the need for patients to be notified if their individually identifiable health information is wrongfully disclosed and a study by the General Accounting Office examining the issue as it relates to all Americans.

I look forward to working with the majority leader, and Senators SNOWE, ENZI, KENNEDY, and CLINTON, as well as Senator GRASSLEY and BAUCUS to ensure passage of legislation this Congress providing meaningful, substantial Federal financial incentives to accelerate adoption of life and dollar saving health information technologies.

Mr. FRIST. Mr. President, I am pleased to speak in support of S. 1418. I share an important goal with Senators ENZI, KENNEDY, SNOWE, STABENOW, and CLINTON—to improve health care quality and reduce costs through the use of health information technology tools.

I spent 20 years as a physician and heart surgeon before coming to the Senate. Like most physicians, I wanted the latest and best medical technology, anything that could make my patients healthier or more comfortable, while reducing health care costs and increasing efficiency.

But amidst the artificial heart assist devices, lasers, CT Scan machines, endoscopic devices, digital X-Rays, and digital thermometers, doctors today keep patient records the same way I did and the way my father did 50 years ago: on paper, in manila folders in file cabinets, in the basements of clinics and hospitals. Yet computers, and computer technology, is everywhere, both inside and outside the hospitals and clinics. From bedside monitors to massive MRI machines, computers power almost all of the diagnostic devices we rely on.

S. 1418 represents an important and crucial first step towards recognizing the importance of computers and the electronic medical record in contemporary health care. Establishing interoperability of the electronic medical record, an essential hurdle towards effective use of health information technology, is a priority. Proposals for providing Federal financial incentives for physicians, community health centers, community mental health centers, hospitals and skilled nursing facilities like that introduced by Senator SNOWE and Senator STABENOW need to be considered.

Assuring proper funding of health IT is an issue of major importance for the Senate to consider in the coming congressional session. I will work with the chairman and ranking member of the Finance Committee and the chairman and ranking member of the HELP committee as well as Senators SNOWE and STABENOW to encourage these committees to schedule, at the earliest opportunity, consideration of legislative proposals to ensure creative and reasonable Federal funding for such an important and relevant mission. I will also work with relevant committees to encourage consideration of legislation that would enable providers to connect to a secure, interoperable network for the electronic exchange of health information.

Mrs. CLINTON. I would like to commend Chairman ENZI and Senator KENNEDY for all of their work on this legislation. I would also like to recognize the commitment and leadership of the majority leader, who I have been working closely with on this issue. Today's passage of S. 1418, the Wired for Health Care Quality Act, is a fundamental first step in establishing a nationwide, interoperable health IT infrastructure.

Our legislation provides the framework and authorizes several grant programs to begin the process of funding health IT projects that are compliant with the framework established in the bill. The legislation introduced by Senators SNOWE and STABENOW and their work more broadly on this issue will be critical as we work on additional financing mechanisms. I am anxious to begin that work and am committed to working closely with them, and my colleagues on the HELP and Finance committees to ensure that physicians and hospitals are able to afford to participate in a 21st century health care system.

Mr. ENZI. I see this bill as the first step of many in improving the health care in the United States. I look forward to working with my friends on the Finance Committee as well as

working with Senators SNOWE and STABENOW to look at creative financing mechanisms to help doctors and hospitals go on line.

Mr. FRIST. Mr. President, in closing our comments on this bill, I also thank my staff who have been shepherding this for me for the last 3 years, Liz Hall, Jennifer Romans, and many others. The real significance is that patient care will be improved. It will get the waste and abuse out of the system. It makes the health care system more efficient. I am excited about it. Having interoperable standards that people begin to agree with means you will have an influx of private capital which will help with the spreading of this information technology infrastructure over time.

TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 287, S. 467.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 467) to extend the applicability of the Terrorism Risk Insurance Act of 2002.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment, as follows:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 467

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 ''Terrorism Risk Insurance Extension Act of 2005.''.

[SEC. 2. EXTENSION OF TERRORISM RISK INSURANCE PROGRAM.

[(a) EXTENSION OF PROGRAM YEARS.—Section 108(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2336) is amended by striking ''2005'' and inserting ''2007''.

[(b) CONTINUING AUTHORITY OF THE SECRETARY.—Section 108(b) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2336) is amended by striking ''arising out of'' and all that follows through ''this title''.

[SEC. 3. CONFORMING AMENDMENTS.

[(a) DEFINITIONS.—

[(1) PROGRAM YEARS.—Section 102(11) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2326) is amended by adding at the end the following:

''[(E) PROGRAM YEAR 4.—The term 'Program Year 4' means the period beginning on January 1, 2006 and ending on December 31, 2006.

''[(F) PROGRAM YEAR 5.—The term 'Program Year 5' means the period beginning on January 1, 2007 and ending on December 31, 2007.

''[(G) OTHER PROGRAM YEARS.—Except when used as provided in subparagraphs (B) through (F), the term 'Program Year' means, as the context requires, any of Program Year 1, Program Year 2, Program Year 3, Program Year 4, or Program Year 5.''.

[(2) INSURED LOSSES.—Section 102(5) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2324) is amended—

[(A) by inserting ''on or before December 31, 2007, as required by this title,'' before ''if such loss'';

[(B) by striking ''(A) occurs within'' and inserting the following:

''[(A) occurs on or before the earlier of the expiration date of the insurance policy or December 31, 2008; and

''[(B) occurs—

''[(i) within''; and

[(C) by striking ''occurs to an air carrier'' and inserting the following:

''[(ii) to an air carrier''.

[(3) CONFORMING AMENDMENTS.—Section 102 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2323) is amended—

[(A) in paragraph (1)(A)(iii)(I), by striking ''(5)(B)'' and inserting ''(5)(B)(ii)''; and

[(B) in paragraph (4), by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraph (B)''.

[(b) APPLICABLE INSURER DEDUCTIBLES.—Section 102(7) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2325) is amended—

[(1) in subparagraph (D)—

[(A) by inserting ''and each Program Year thereafter'' before '', the value''; and

[(B) by striking ''preceding Program Year 3'' and inserting ''preceding that Program Year''; and

[(2) in subparagraph (E), by striking ''for the Transition'' and all that follows through ''Program Year 3'' and inserting the following: ''for the Transition Period or any Program Year''.

[(c) CONTINUATION OF MANDATORY AVAILABILITY.—Section 103(c)(1) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2327) is amended—

[(1) by striking ''last day of Program Year 2'' and inserting ''termination date established under section 108(a)''; and

[(2) by striking the paragraph heading and inserting ''IN GENERAL.—''.

[(d) DURATION OF POLICIES.—Section 103(c) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2327) is amended—

[(1) by redesignating paragraph (2) as paragraph (3); and

[(2) by inserting after paragraph (1) the following:

''[(2) MANDATORY DURATION.—Coverage for insured losses required by paragraph (1) under a policy issued at any time during Program Year 5 shall remain in effect for not less than 1 year following the date of issuance of the policy, except that no loss occurring after the earlier of the expiration date of the subject insurance policy or December 31, 2008, shall be considered to be an insured loss for purposes of this title.''.

[(e) INSURED LOSS SHARED COMPENSATION.—Section 103(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2328) is amended—

[(1) in paragraph (2)(A), by striking ''ending on'' and all that follows through ''Program Year 3'' and inserting ''ending on the termination date established under section 108(a)''; and

[(2) in paragraph (3), by striking ''ending on'' and all that follows through ''Program Year 3'' and inserting ''ending on the termination date established under section 108(a)''.

[(f) AGGREGATE RETENTION AMOUNT.—Section 103(e)(6) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2328) is amended—

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

[(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

[(3) by adding at the end the following:

''[(D) for Program Year 4, the lesser of—

''[(i) $17,500,000,000; and

''[(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

''[(E) for Program Year 5, the lesser of—

''[(i) $20,000,000,000; and

''[(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.''.

[SEC. 4. COVERAGE OF GROUP LIFE INSURANCE.

[Section 103 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2327) is amended by striking subsection (h) and inserting the following:

[''(h) APPLICABILITY TO GROUP LIFE INSURANCE.—

[''(1) IN GENERAL.—The Secretary shall, by rule, apply the provisions of this title to providers of group life insurance, in the manner determined appropriate by the Secretary, consistent with the purposes of this title.

[''(2) CONSISTENT APPLICATION.—The rules of the Secretary under this subsection shall, to the extent practicable, apply the provisions of this title to providers of group life insurance in a similar manner as those provisions apply to an insurer otherwise under this title.

[''(3) CONSIDERATIONS.—In determining the applicability of this title to providers of group life insurance, and the manner of such application, the Secretary shall consider the overall group life insurance market size, and shall consider the establishment of separate retention amounts for such providers.

[''(4) RULEMAKING REQUIRED.—Not later than 90 days after the date of enactment of the Terrorism Risk Insurance Extension Act of 2005, the Secretary shall issue final regulations to carry out this subsection.

[''(5) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect or otherwise alter the applicability of this title to any insurer, as defined in section 102.

[''(6) DEFINITION.—As used in this subsection, the term 'group life insurance' means an insurance contract that provides term life insurance coverage, accidental death coverage, or a combination thereof, for a number of persons under a single contract, on the basis of a group selection of risks.''.

[SEC. 5. RECOMMENDATIONS FOR LONG-TERM SOLUTIONS.

[Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note, 116 Stat. 2328) is amended by adding at the end the following:

[''(e) RECOMMENDATIONS FOR LONG-TERM SOLUTIONS.—The Presidential Working Group on Financial Markets shall, in consultation with the NAIC, representatives of the insurance industry, and representatives of policy holders, not later than June 30, 2006, submit a report to Congress containing recommendations for legislation to address the long-term availability and affordability of insurance for terrorism risk.''.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorism Risk Insurance Extension Act of 2005''.

SEC. 2. EXTENSION OF TERRORISM RISK INSURANCE PROGRAM.

(a) PROGRAM EXTENSION.—Section 108(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2336) is amended by striking ''2005'' and inserting ''2007''.

(b) MANDATORY AVAILABILITY.—Section 103(c) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2327) is amended—

(1) by striking paragraph (2);

(2) by striking ''AVAILABILITY.—'' and all that follows through ''each entity'' and inserting

''AVAILABILITY.—During each Program Year, each entity''; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and moving the margins 2 ems to the left.

SEC. 3. AMENDMENTS TO DEFINED TERMS.

(a) COVERED ACTS OF TERRORISM.—Section 102(1)(B)(ii) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2324) is amended by inserting before the period '', with respect to an act occurring before Program Year 4, $50,000,000 with respect to an act occurring in Program Year 4, or $100,000,000 with respect to an act occurring in Program Year 5''.

(b) PROGRAM YEARS.—Section 102(11) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended by adding at the end the following:

''(E) PROGRAM YEAR 4.—The term 'Program Year 4' means the period beginning on January 1, 2006 and ending on December 31, 2006.

''(F) PROGRAM YEAR 5.—The term 'Program Year 5' means the period beginning on January 1, 2007 and ending on December 31, 2007.''.

(c) EXCLUSIONS FROM COVERED LINES.—

(1) IN GENERAL.—Section 102(12)(B) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended—

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

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

(C) by adding at the end the following:

''(viii) commercial automobile insurance;

''(ix) burglary and theft insurance;

''(x) surety insurance;

''(xi) professional liability insurance; or

''(xii) farm owners multiple peril insurance.''.

(2) CONFORMING AMENDMENTS.—Section 102(12)(A) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended—

(A) by striking '', and surety insurance''; and

(B) by striking '', worker's'' and inserting ''and worker's''.

(d) INSURER DEDUCTIBLES.—Section 102(7) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2325) is amended—

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

(2) by redesignating subparagraph (E) as subparagraph (G);

(3) by inserting after subparagraph (D), the following:

''(E) for Program Year 4, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 4, multiplied by 17.5 percent;

''(F) for Program Year 5, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 5, multiplied by 20 percent; and''; and

(4) in subparagraph (G), as so redesignated, by striking ''through (D)'' and all that follows through ''Year 3''and inserting the following: ''through (F), for the Transition Period or any Program Year''.

SEC. 4. INSURED LOSS SHARED COMPENSATION.

Section 103(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2328) is amended—

(1) in paragraph (1)—

(A) by inserting ''through Program Year 4'' before ''shall be equal''; and

(B) by inserting '', and during Program Year 5 shall be equal to 85 percent,'' after ''90 percent''; and

(2) in each of paragraphs (2) and (3), by striking ''Program Year 2 or Program Year 3'' each place that term appears and inserting ''any of Program Years 2 through 5''.

SEC. 5. AGGREGATE RETENTION AMOUNTS AND RECOUPMENT OF FEDERAL SHARE.

(a) AGGREGATE RETENTION AMOUNTS.—Section 103(e)(6) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2329) is amended—

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

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(D) for Program Year 4, the lesser of—

''(i) $17,500,000,000; and

''(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

''(E) for Program Year 5, the lesser of—

''(i) $20,000,000,000; and

''(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.''.

(b) RECOUPMENT OF FEDERAL SHARE.—Section 103(e)(7) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2329) is amended—

(1) in subparagraph (A), by striking '', (B), and (C)'' and inserting ''through (E)''; and

(2) in each of subparagraphs (B) and (C), by striking ''subparagraph (A), (B), or (C)'' each place that term appears and inserting ''any of subparagraphs (A) through (E)''.

SEC. 6. LITIGATION MANAGEMENT.

Section 107(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2335) is amended by adding at the end the following:

''(6) AUTHORITY OF THE SECRETARY.—Procedures and requirements established by the Secretary under section 50.82 of part 50 of title 31 of the Code of Federal Regulations (as in effect on the date of issuance of that section in final form) shall apply to any cause of action described in paragraph (1) of this subsection.''.

SEC. 7. ANALYSIS AND REPORT ON TERRORISM RISK COVERAGE CONDITIONS AND SOLUTIONS.

Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2336) is amended by adding at the end the following:

''(e) ANALYSIS OF MARKET CONDITIONS FOR TERRORISM RISK INSURANCE.—

''(1) IN GENERAL.—The President's Working Group on Financial Markets, in consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, representatives of the securities industry, and representatives of policy holders, shall perform an analysis regarding the long-term availability and affordability of insurance for terrorism risk, including—

''(A) group life coverage; and

''(B) coverage for chemical, nuclear, biological, and radiological events.

''(2) REPORT.—Not later than September 30, 2006, the President's Working Group on Financial Markets shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its findings pursuant to the analysis conducted under subsection (a).''.

Mr. SHELBY. Mr. President, I rise today in support of S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by my colleagues on the Banking Committee, Senators DODD and BENNETT and reported out unanimously by the Banking Committee.

In the wake of the events of September 11, Congress passed the Terrorism Risk Insurance Act, also known as ''TRIA.'' The law was intended to ensure the continued availability and affordability of property and casualty insurance for terrorism risk, and to provide for a transitional period to allow private markets to stabilize.

At this point in time, it seems that this program has largely achieved both of its stated objectives. Over the last 3 years, the property and casualty insurance market has rebounded and is now far more profitable and competitive. Indeed, despite the enormous losses incurred as a result of the hurricanes, insurer capital has grown tremendously and now greatly exceeds pre-September 11 levels.

While the private insurance markets have made tremendous strides during the course of the TRIA program, however, the private insurance marketplace has not yet entirely stabilized.

As a result, without some form of backstop, it is very likely that there would be gaps in some terrorism insurance coverage.

S. 467 extends the TRIA program and addresses this market dysfunction. Additionally and importantly, it also recognizes the positive developments in the insurance markets and contains reforms to the original law intended to require more private sector responsibility and to facilitate further recovery in the insurance markets. It strikes the proper balance between ensuring that terrorism insurance remains available and affordable, while also protecting the American taxpayer.

I note that I did not support enactment of TRIA when it was first considered 4 years ago. My reservations were based on concerns about the Government intruding into private markets. While my concerns are not entirely diminished, I believe that the Banking Committee has produced a responsible, targeted product that will help the marketplace smoothly transition to efficient function.

This bill, this bipartisan compromise package, could never have been achieved without the cooperation and commitment of the members of the Banking Committee. Specifically, I commend Senators DODD and BENNETT, the original cosponsors of this bill, for their leadership, their effort and their willingness to work together. I also thank Senator SARBANES, who, in his usual manner, was extremely helpful to achieving this result.

Additionally, I thank the various staffers whose hard work behind the scenes helped get this bill done. Particularly, I want to commend the efforts of Alex Sternhell from Senator DODD's staff, Sarah Kline and Steve Harris from Senator SARBANES's staff, Mike Nielsen from Senator BENNETT's staff, and Jim Johnson, Andrew Olmem, Mark Oesterle and Kathy Casey from my staff.

Mr. SARBANES. Mr. President, I join my colleagues in support of the Terrorism Risk Insurance Extension Act of 2005. Three years ago, we passed the Terrorism Risk Insurance Act to stabilize the insurance marketplace after the shock of the September 11 attacks. TRIA, as that Act became known, established a partnership between the insurance industry and the Federal Government to share the risk of significant losses from terrorism. TRIA is scheduled to expire at the end of this year. The bill that is now pending before the Senate would extend TRIA for an additional 2 years while requiring the insurance industry to take on progressively more of the terrorism risk.

This bill is the product of a great deal of effort by the Banking Committee to accommodate the widely differing views of many members on the structure of a TRIA extension. I thank the chairman of the Committee, Senator SHELBY, for his willingness to reach across the aisle in developing this bill. Under his skillful guidance, we have been able to develop a product that has won unanimous support in the Banking Committee. I also want to recognize Senator DODD for his dedication to this issue. He was instrumental in 2002 in the development and passage of the original TRIA legislation, and he has been a strong and effective leader this year as well.

The original TRIA was designed to address the adverse impact on the terrorism insurance marketplace of the sudden lack of terrorism reinsurance after the September 11 attacks. Reinsurance is a mechanism by which insurance companies spread their own risks, allowing them to write more policies. Without it, insurers' capacity to offer coverage for losses due to terrorism shrank considerably. By all accounts, the Federal backstop provided by TRIA achieved its goal of making terrorism insurance coverage available and affordable once again. The Treasury Department reported this summer, ''TRIA was effective in terms of the purposes it was designed to achieve. TRIA provided a transitional period during which insurers had enhanced financial capacity to write terrorism risk insurance coverage. . . . More generally, TRIA provided an adjustment period allowing both insurers and policyholders to adjust to the post-September 11th view of terrorism risk.''

As discussions began over a possible extension of TRIA, it became clear that there are serious disagreements as to what would be the most efficient, effective, and equitable way to assure the continued availability of terrorism insurance. A number of studies have concluded that the reinsurance market has not rebounded to any great extent since the attacks of 2001. These studies conclude that if the backstop provided by the Federal Government does not continue, insurers will write fewer terrorism policies or charge much higher prices for them, creating a drag on our nation's economy and leaving companies uninsured against a terrorist attack. On the other hand, the administration and others argue that the insurance industry is now better prepared to handle the risk of terrorism than it was three years ago, and that any extension of TRIA should therefore be significantly narrower than the current program to avoid crowding out additional private sector activity.

These are issues that deserve careful analysis, which is why this extension bill contains a requirement for a study by the President's Working Group on Financial Markets on the long-term availability and affordability of terrorism risk insurance. I hope that this requirement will result in a thorough examination of the issues which will help us answer the question of how to insure against terrorism over the longterm.

To allow time for that examination to take place, the pending legislation continues the TRIA program for two additional years, with certain modifications, which I will briefly summarize.

This bill narrows the scope of the TRIA program, further targeting the program toward the types of terrorism insurance that are the most difficult to provide. Under the terms of the extension, the Federal backstop will no longer be available for insurance policies covering commercial automobiles, professional liability, burglary and theft, farmowners' multiple peril, and surety.

Just as the original TRIA did, this exteusion places more of the risk on the insurance industry, and correspondingly less on the federal government, in each year. For example, in 2005, under the current program, the amount of terrorism losses that an insurer must cover before Federal assistance becomes available is 15 percent of the premiums collected by that insurer in lines covered by the TRIA program. Under this extension, this ''insurance company deductible'' will rise to 17.5 percent of premiums in 2006, and 20 percent of premiums in 2007. Moreover, the amount that insurers must pay above their deductible also increases, rising from 10 percent of losses in 2006, to 15 percent of losses in 2007.

In addition to the individual insurance companies' deductible, tbe insurance industry as a whole must cover a certain amount of losses before federal assistance becomes available. In 2005, the last year of the current TRIA program, that amount is $15 billion. Under this legislation, that will rise to $17.5 billion in 2006, and $20 billion in 2007.

Also, starting in 2006, no Federal assistance will be available at all under tbe program for a terrorist attack in which total losses do not exceed $50 million, a level which rises to $100 million in 2007.

Finally, I want to emphasize that the extension retains a critically important piece of the current TRIA program: the requirement that insurers make terrorism coverage available to policyholders in all of the lines covered by TRIA.

These provisions follow the framework of the existing TRIA program, keeping the Federal backstop in place so that insurers will continue writing terrorism policies, while placing progressively more of the costs onto the industry itself. I want to take just a moment to acknowledge the hard work that the staff has put into this bill, particularly Sarah Kline from my Banking Committee staff, Alex Sternhell with Senator DODD, Kathy Casey and Mark Oesterle with Chairman SHELBY, and Mike Nielson with Senator BENNETT. As with any compromise product, no one would say that the legislation is perfect. But it is a serious effort to address the concerns we have heard raised regarding TRIA and the potential effects of its expiration, and I urge my colleagues to join me in supporting it.

Mr. REID. Mr. President, yesterday the Senate Banking Committee reported the Terrorism Risk Insurance Extension Act of 2005, and I look forward to the full Senate passing this legislation that is so vital to the economic well-being of this country.

In 2002 I cosponsored, and Congress passed, the Terrorism Risk Insurance Act, commonly referred to as TRIA. This important legislation provided a Government backstop for the terrorism insurance market that disappeared after the attacks of September 11.

The primary purpose behind TRIA, and the reason it needs to be extended, is to make sure that the American economy and markets function in the face of a terrorist threat. September 11 proved that there needs to be a mechanism in place to allow the economy to rebound more quickly and to protect American jobs in the unfortunate event of another terrorist attack here in the United States. Since it became law, TRIA has proven to be an effective program that has made terrorism risk insurance available and provided businesses meaningful access to coverage in a post-9/11 world.

TRIA is a temporary program set to expire at the end of this year, which created significant uncertainty in the terrorism insurance market and threatened to stall construction and building projects across the country. Most lenders who finance these projects require borrowers to have terrorism risk coverage, but in the face of TRIA's looming expiration, that coverage became more difficult and expensive to get, making those projects infeasible. Recognizing these problems early in the year, Senator DODD and Senator BENNETT drafted TRIA extension legislation, which I cosponsored.

Mr. President, although slightly different from the bill that Senator DODD introduced earlier this Congress, and that I and other Democrats cosponsored, the legislation that passed out of the committee yesterday essentially maintains the structure of TRIA and extends the program through the end of 2007. I am disappointed that group life insurance will not be covered under the program and that other lines originally covered have been excluded. But my colleagues, Senators DODD, SARBANES, SHELBY, and BENNETT, worked closely with others on the Banking Committee to construct a product that all of us in the Senate should be able to support. I am hopeful the Senate action on this bill today will break the logjam over this legislation so it can be signed into law before the Congress adjourns this year.

Mr. DODD. Mr President, I rise to lend my strong support for S. 467, the Terrorism Risk Insurance Extension

Act of 2005, which I originally introduced with Senator BENNETT and 34 cosponsors earlier this year. Our legislation was amended in committee with the hard work and leadership of Banking Committee Chairman SHELBY and Ranking Member SARBANES to develop the product before the Senate today.

I would like to commend the members on the Banking Committee: Senators JOHNSON, REED, SCHUMER, BAYH, CARPER, STABENOW, CORZINE, HAGEL, BUNNING, and DOLE as well as the other cosponsors of the legislation for recognizing—very early on—how important extending the Terrorism Risk Insurance Act, TRIA, was to our Nation's economy and for their efforts on this legislation.

I would especially like to commend Chairman SHELBY for his work on this legislation. This is not the bill I would have written, nor is it the bill that he would have written. For example, it was my hope that we could have included group life as a covered line in this legislation. However, I am acutely aware that the chairman has had concerns about the TRIA program and what the role of the Federal Government should be in this area—and I would like to thank him and his staff for helping to craft a compromise that not only adheres to his principles but also satisfies the concerns of so many Members of this body who believe it is imperative to pass an extension of TRIA.

Like many bills, this legislation is a document of compromise. We have carefully taken into consideration the recommendations of policyholders, insurers, consumers, academics, think-tanks, the Treasury Department and others to craft this important extension legislation.

And I think that this product is very good one.

Let me take a few brief moments to provide my colleagues with a little background on TRIA and why it needs to be extended today.

As a result of the tragic terrorist acts of 9/11, we repeatedly heard from businesses, large and small, from labor unions and manufacturers, from hospitals to hotels, from professional sports teams to utility companies, from insurers and the insured about the need for the Federal Government to act to help them receive financial protection from future terrorist attacks.

Congress listened, and we acted—creating the Terrorism Risk Insurance Act—TRIA.

In November 2002, TRIA was passed by both the House and Senate by significant margins and was signed into law. It created 3-year program establishing a Federal backstop against catastrophic losses in the property and casualty insurance marketplace.

And we heard an overwhelming response from policyholders across the country—TRIA has worked. It has achieved its primary goal—continued availability and affordability of insurance against future terrorist attacks.

Industries as diverse as commercial real estate, shipping, construction, manufacturing, and even ''mom and pop'' retailers require insurance to obtain credit, loans, and investments necessary for their normal business operations. TRIA was designed to do just that—restore ''business as usual'' in every State across our Nation.

I believe that the greatest indicator of the success of TRIA is what we have not heard over the past 3 years since the enactment of TRIA public outcry from businesses and workers whose livelihoods are threatened by their inability to purchase coverage against acts of terror.

Construction projects are no longer stalled, mortgages are no longer in doubt, and jobs are no longer in jeopardy as a result of the inability to receive terrorism insurance.

Insurance isn't something we think about every day, yet it is vital to the overall health of our economy. By protecting people and property, goods and services in every sector of America's $10 trillion-plus economy, insurance provides the stability and certainty required to keep our economic engine humming. Every prospective homeowner needs insurance to obtain a mortgage from a bank. Insurance of all types is a critical component of our capital markets.

Not only has TRIA been effective in ensuring that terrorism is available and affordable, and that our economy remains vibrant, it is also an incredibly important taxpayer protection law. With relatively little money necessary to fund the administration of the TRIA program, we have ensured that insurers and policyholders take the first $30 to $40 billion of losses of a potential terrorist attack.

According to a recent study conducted by the RAND Institute, ''Based on our analysis (of TRIA), the role of taxpayers is expected to be minimal, unless there is are several large events in a single year.''

TRIA has essentially provided that in the unfortunate event of a future terrorist attack a $30 to $40 billion check is written to U.S. taxpayers. TRIA has not only worked to help provide available and affordable terrorism risk insurance, it has also protected our Nation's taxpayers.

With the expiration of TRIA in less than 45 days, and this session near completion, it is essential that Congress extend TRIA immediately.

I would like to bring to your attention a letter from 28 Governors across the Nation urging us to extend the TRIA program.

There is one provision in this legislation that I believe is an important component—the mandate for the President's Working Group—our Nation's Federal financial regulators—to do an analysis of the long-term availability and affordability of terrorism risk insurance.

This legislation provides for a 2-year extension of TRIA—and in these next 2 years we need to find a long-term solution to this issue. It may be determined that this is an unwritable risk for the private sector, and that a continued Federal role is needed or we may find that insurers are able to return to underwriting this risk without a Federal backstop. But we need to start work on developing this information and potential solutions as soon as possible.

Since the enactment of TRIA, our Nation has been fortunate enough not to suffer the tremendous loss of life or destruction of property that we endured on September 11, 2001. But by no means has the political climate, either domestically or abroad, returned to a sense of normalcy. We are engaged in a violent conflict in Iraq and we have seen despicable terrorist attacks abroad in Europe and elsewhere.

We have heard repeated dire warnings that terrorism will return to U.S. soil. We must be prepared against this threat. Providing insurance against terrorist attacks, which allows our economy to function, is a critical part of our preparedness.

But we cannot fail to extend TRIA. We cannot afford—and we should do everything in our power to avoid—restoring the tremendous uncertainty and instability to businesses and workers and our economy as a whole.

The enactment of this legislation will ensure that our Nation and its economy are best prepared to deal with a future terrorist attack. I urge the my colleagues to support this legislation.

Mr. REED. Mr. President, the Senate is undertaking a long awaited debate on S. 467, Terrorism Risk Insurance Extension Act of 2005. This bill extends the important program that allows for the Federal Government to share the risk of loss from future terrorist attacks with the insurance industry for 2 more years, to 2007.

As we all know, terrorism remains a clear and present danger. The need for terrorism insurance is real, pressing, and a long-term issue. In the post-9/11 world, it is important to keep the existing TRIA program in place, while continuing to work with the private sector—both policyholders and insurers—to craft a longer term program that addresses all the needs of policyholders.

I want to particularly commend Minority Leader REID, Chairman SHELBY, Senators SARBANES, DODD, BENNETT, and their staffs for their tireless efforts in bringing this issue to the forefront of the Senate's legislative agenda.

The need for terrorism insurance coverage has been widely established as an economic issue, rather than just simply an insurance issue. In the past year, we have heard that many American businesses—policyholders—are already receiving exclusion notices from insurers informing them that they will not be covered on policies beyond TRIA's sunset date. As a result, there has been increasing uncertainty about the availability of adequate terrorism

coverage beyond 2005. Clearly, a Federal backstop is vital to ensuring the ongoing availability of terrorism risk coverage.

The other key reason to act on this issue is the fact that should another catastrophic event occur, the Federal Government will likely be on the hook for the total amount of the damage.

An important aspect of this debate is making certain that terrorism insurance coverage is available in the workers' compensation market. Workers' compensation is unique insurance coverage in that law requires that it cover acts of terrorism and war. For close to a century now, workers' compensation has been a safety net available to all workers and their families, replacing lost wages, and paying for medical needs and death benefits regardless of the cause of the workplace injury or death. A strong workers' compensation system is integral to helping victims and their families rebuild their lives.

In my State of Rhode Island, the burden of providing workers' compensation falls to one mutual insurance compan, Beacon Mutual, which was created by the State to ensure that there will always be workers' compensation available to companies in the State. With less availability of reinsurance, the concern for one company conceivably underwriting the entire market for workers' compensation was significant and would have created a very tenuous situation for the company, the State, and its residents. Extending TRIA will address the various problems that employers, insurance companies, and State workers compensation pools alike have had to endure in the absence of a Federal backstop.

I would note, however, that although S. 467 is an improvement on the administration's proposal for the trigger for a terrorist incident—$50 million in the first year of the extension and $100 million in the last, down from $500 million, I remain concerned that because of the concentration of risk and their small capitalization, a higher trigger level for State fund companies put these funds uniquely at risk. A number of terrorist targets could create a result where workers' compensation losses could exceed property losses, but still not reach the proposed higher trigger. As we move towards finding a long-term solution to terrorism insurance coverage, I hope we can work to better address this issue.

There remains a great need to do something because, as it has been stated very plainly during this debate, the situation without a Federal terrorism risk insurance program could be very dire. Extending TRIA is absolutely the right thing to do to protect the economic security of our country. I urge my colleagues to support this bill, and I look forward to its speedy adoption and signature into law.

Mr. SCHUMER. Mr. President, I rise today to express my unwavering support for S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by my friend, Senator DODD of Connecticut.

I would like to commend Senators DODD, BENNETT, SHELBY and SARBANES for getting a bill done that we can all stand here and be proud to support. A bill that is good for this country and good for the State of New York.

We still live in America, and particularly in my city of New York, in the shadow of 9/11, of the terrorism that occurred. Obviously, the thousands of families who have had a loved one taken from their midst live with it every moment of their remaining lives, but the rest of us live with it, too, not only in empathy for them but also in terms of the economic consequences of terrorism.

The bottom line is very simple, and that is, because of terrorism, the insurance industry, in terms of insuring risk of large structures in America—whether it be large buildings that make us so proud of the Manhattan skyline or large arenas such as the football stadiums that dot America or larger facilities such as Disneyland, Disney World, and amusement parks—all have difficulty getting insurance.

Insurers are worried that if, God forbid, another terrorist act occurs, it will be so devastating that it will put them out of business.

So 2 years ago, the Senate, House, and the President got together at sort of the end of the day, just like today, and passed terrorism risk insurance.

It has been a large success. That, no one can dispute.

Insurance rates have come down, terrorism insurance is available, and insurance companies know, if, God forbid, the worst happens, there will be a backstop, and they are willing to issue policies.

In turn, that meant developers, builders who wanted to build new large structures in America, did so, employing thousands and thousands of people, creating profits and new businesses as well.

Well, today we are all here to do the right thing. Yesterday, the Banking Committee, of which I am member, passed unanimously a bill to extend the TRIA. In this bill, we have kept the trigger levels manageable for the policyholder community. We kept the retention levels at a responsible level for the private market, retaining the public/private nature of the program.

The bottom line is that we have made some necessary modifications to the program without losing the major protections. We did not all agree what should have been in the bill. Many of us felt strongly about including group life and protections against nuclear, biological, chemical and radiological attacks. But the beauty of the process is that it is a negotiation where we all give and take.

This bill is a good compromise.

The continuation of this program is vital to our Nation's economic stability. By passing this bill on the floor today, we will be sending a message to the world that our financial markets will be protected, that our country will be able to bounce back in the event of any disruptions or financial dislocation caused by another possible terrorist attack.

It is still my strong belief that there needs to be a long-term solution—a permanent program. The President has continued to say that we are fighting a war on terrorism.

The bombing in Jordan last week, the London bombings this past July, and the recent threat to the New York subway system are a few examples of why we must continue fighting this war on terrorism.

So it would have been my preference to get a bill that extended beyond 2 years. But I am at least pleased to know that there was a serious effort to address this concern by including a provision to create a commission that would begin to analyze the long-term availability and affordability of insurance for terrorism risk.

I would particularly like to thank Chairman DODD and SHELBY for specifically including the language I requested which directs the President's working group to analyze the long-term affordability and availability of coverage for chemical, nuclear, biological, and radiological events.

This is an issue of great importance to many New Yorkers. Many retailers and business owners in Lower Manhattan are afraid of a possible dirty bombs attack and the availability of insurance for such an event. This must be addressed and right away.

The bottom line is that financial dislocation caused by another possible terrorist attack—God forbid—is too much for our country to risk. I urge the entire Senate to pass this legislation today. It is only right that we let the markets, let the insurance world, and, most of all, let jobs and construction go forth.

Mr. FRIST. Mr. President, very briefly, I want to comment on this bill as well. This is the Terrorism Risk Insurance Extension Act of 2005. We are doing this by unanimous consent which reflects a tremendous amount of work by a range of Senators over the course of the last several months, weeks, days, and especially over the last few hours. This is a bill that has been subjected to a lot of debate, and that debate has culminated in a lot of agreement. I appreciate the great work of Senator SHELBY, Senator DODD, and so many others. The House hopefully will act on terrorism risk insurance shortly. It is a very important bill to our economy.

I ask unanimous consent that the amendment at the desk be agreed to; the committee reported amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2600) was agreed to as follows:

Modify section 3(c)(2) of the bill to read as follows:

(2) CONFORMING AMENDMENT.—Section 102(12)(A) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended by striking ''surety insurance'' and inserting ''directors and officers liability insurance''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 467), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

U.S.S. ''CARL VINSON''

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4326, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4326) to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4326) was read the third time and passed.

EXECUTIVE SESSION

AGREEMENT WITH CANADA ON PACIFIC HAKE/WHITING

CONVENTION STRENGTHENING INTER-AMERICAN TUNA COMMISSION

CONVENTION CONCERNING MIGRATORY FISH STOCK IN THE PACIFIC OCEAN

Mr. FRIST. I ask unanimous consent the Senate proceed to executive session to consider the following treaties on today's executive calendar: Nos. 4, 6 and 7. I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee conditions, declarations, or reservations be agreed to as applicable; that any statements be inserted in the RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, that when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action; and that following disposition of the treaties the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division vote is requested. Senators in favor of the resolutions of ratification please stand and be counted.

Those opposed to the resolutions of ratification please stand and be counted.

On this vote, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

AGREEMENT WITH CANADA ON PACIFIC HAKE/WHITING (TREATY DOC. 108–24)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting, done at Seattle, November 21, 2003 (Treaty Doc. 108–24).

CONVENTION STRENGTHENING INTER-AMERICAN TUNA COMMISSION (TREATY DOC. 109–2)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention Between the United States of America and the Republic of Costa Rica, with Annexes, adopted on June 27, 2003, in Antigua, Guatemala, and signed by the United States on November 14, 2003 (Treaty Doc. 109–2).

CONVENTION CONCERNING MIGRATORY FISH STOCK IN THE PACIFIC OCEAN (TREATY DOC. 109–1)

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes, adopted at Honolulu on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, and signed by the United States on that date (Treaty Doc. 109–1).

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

ORDERS FOR FRIDAY, NOVEMBER 18, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Friday, November 18. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning after we convene, we will immediately proceed to the continuing resolution. Senator HARKIN will have an amendment which will require a vote. Therefore, Senators should expect a couple votes early in the morning. Those votes will occur at approximately 9:30 in the morning.

Following those votes, we expect to have a better idea of what additional business will be available on Friday. There are a couple of appropriations conference reports that will likely be available, the PATRIOT conference report, the House message on the spending reconciliation bill, as well as other legislative and executive items we are trying to clear. Therefore, additional votes may occur and will occur, and we will try to clarify Friday's schedule as early as possible.

I remind everyone that a weekend session is expected and Senators should remain available Friday and Saturday and beyond until we finish our remaining work. I will have to say, starting now about 3 weeks ago we set out a very aggressive agenda, and to date we have stayed right on target to accomplish that agenda. The House is in session right now and is voting actually right now, and I understand they will be conducting more business tonight and in the morning that we will have to act on after they act on much of the legislation they are considering. So it will be a full day tomorrow. I expect to have a number of votes over the course of tomorrow. And again, as we have said for the last 3 weeks, it will be important for our colleagues to keep their schedules flexible through tomorrow and Saturday, Sunday, and possibly beyond that.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:58 p.m., adjourned until Friday, November 18, 2005 at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 17, 2005.

TENNESSEE VALLEY AUTHORITY

DENNIS BOTTORFF, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2011. (NEW POSITION)

ROBERT M. DUNCAN, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2011. (NEW POSITION)

WILLIAM B. SANSOM, OF TENNESSEE TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2009. (NEW POSITION)

HOWARD A. THRAILKILL, OF ALABAMA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2007. (NEW POSITION)

SUSAN RICHARDSON WILLIAMS, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE A TERM PRESCRIBED BY LAW, VICE GLENN L. MCCULLOUGH, JR., TERM EXPIRED.