

States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, and for other purposes.

S. 2703

At the request of Mr. LEAHY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2803

At the request of Mr. ENZI, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2803, a bill to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

S. 2810

At the request of Mr. GRASSLEY, the names of the Senator from Maine (Ms. COLLINS), the Senator from Alabama (Mr. SHELBY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2810, a bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes.

S. 2811

At the request of Ms. STABENOW, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2811, a bill to amend title XVIII of the Social Security Act to extend the annual, coordinated election period under the Medicare part D prescription drug program through all of 2006 and to provide for a refund of excess premiums paid during 2006, and for other purposes.

S. 2854

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2854, a bill to prevent anti-competitive mergers and acquisitions in the oil and gas industry.

S. RES. 484

At the request of Mr. MCCONNELL, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Res. 484, a resolution expressing the sense of the Senate condemning the military junta in Burma for its recent campaign of terror against ethnic minorities and calling on the United Nations Security Council to adopt immediately a binding non-punitive resolution on Burma.

AMENDMENT NO. 4029

At the request of Mr. ALLEN, his name was added as a cosponsor of amendment No. 4029 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUNNING:

S. 2884. A bill to facilitate and expedite direct refunds to coal producers and exporters of the excise tax unconstitutionally imposed on coal exported from the United States; to the Committee on Finance.

Mr. BUNNING. Mr. President, today I rise to introduce legislation that will ensure fair tax treatment for domestic coal producers and coal exporters to help them receive the coal excise tax refunds due to them from an unconstitutional tax they paid.

For years the Federal Government collected the coal excise tax on coal exports from coal producers and coal exporters. In 1998, the Federal Courts declared the coal excise tax unconstitutional when applied to exported coal.

Although those that export coal are entitled to the refunds of the unconstitutional coal excise tax on exported coal, they face serious and significant obstacles to obtaining refunds of the tax with the Internal Revenue Service and the courts.

This legislation will end unnecessary litigation on this issue and simplify the IRS process that U.S. coal producers and exporters use to obtain refunds of the coal excise tax they paid. It also will ensure that the producer or exporter that actually exported the coal, and thus is entitled to the refund, receives that refund.

I urge my colleagues to join me in support of this legislation.

Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2913. A bill to amend the Internal Revenue Code of 1986 to clarify the employment tax treatment and reporting of wages paid by professional employer organizations; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today, Senator BAUCUS and I are introducing legislation that will update and clarify the tax rules for business clients and that use professional employer organizations, PEOs. This legislation will improve the efficiency of small businesses by eliminating any uncertainty about the ability of qualifying PEOs to assume liability for paying wages and collecting and remitting Federal employment taxes.

Business owners are overwhelmed with the challenges of meeting Federal and State employment and tax responsibilities. Many businesses, particularly small to mid-sized businesses are turning to professional employer organizations for assistance with these employment obligations. A PEO works with its business clients to provide comprehensive employment services. The PEO assumes responsibility for the management of human resources, employee benefits, payroll, and workers' compensation, allowing their business clients to focus on their core competencies to maintain and grow their bottom line. In short, this legislation

is about improving the efficiency of America's small businesses.

Businesses today need help with the increasingly complex employment related matters. The most important of these matters is the payment of wages and the collection and remitting of employment taxes. Increasingly, businesses are turning to PEOs to assume these responsibilities. Our legislation will eliminate any ambiguity about a PEO's ability to assume employment tax responsibility while providing important safeguards for the PEO's small business clients.

The Small Business Efficiency Act will permit PEOs that are certified by the IRS, CPEO, to collect and remit Federal employment taxes of their business clients' employees. The certification process is voluntary and was designed with significant input from all stakeholders, including the Department of the Treasury and the IRS. To be certified by the IRS, the CPEO would have to meet financial and other standards and maintain ongoing certification by the IRS. The CPEO would be required to assume full and sole responsibility for the collection of Federal employment taxes.

In addition to the many benefits for business clients, the government benefits from improved employment regulatory compliance and tax administration. The IRS has stated that CPEOs would facilitate tax administration by reducing the number of returns it processes and by reducing errors in calculating and paying employment taxes. This is a win-win situation. The PEO arrangement not only reduces the governmental burden of collecting employment tax and unemployment compensation obligations, it also assures consistent compliance with complex tax laws and timely and expedited payment of taxes. This is clearly an improvement for PEOs, the business clients of PEOs, and the Federal Government.

The Small Business Efficiency Act will substantially simplify employment tax obligations for businesses that use PEOs. The legislation will provide clarity for PEOs, their business clients, and the IRS regarding the rights of a PEO to assist business client with employment tax responsibilities while significantly improving tax administration. I ask unanimous consent that the text of the bill and a section-by-section description of the bill be printed in the CONGRESSIONAL RECORD and I look forward to working with my colleagues to address this issue in a timely manner.

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

S. 2913

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 "Small Business Efficiency Act of 2006".

SEC. 2. NO INFERENCE.

Nothing contained in this Act or the amendments made by this Act shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by section 3), or

(2) for purposes of any other provision of law.

SEC. 3. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) **EMPLOYMENT TAXES.**—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

“SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

“(a) **GENERAL RULES.**—For purposes of the taxes, and other obligations, imposed by this subtitle—

“(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

“(2) the exemptions and exclusions which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

“(b) **SUCCESSOR EMPLOYER STATUS.**—For purposes of sections 3121(a) and 3306(b)(1)—

“(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer during the term of such service contract, and

“(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

“(c) **LIABILITY WITH RESPECT TO WORK SITE EMPLOYEES.**—

“(1) **GENERAL RULES.**—Solely for purposes of its liability for the taxes, and other obligations, imposed by this subtitle—

“(A) the certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (e)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2), but only with respect to remuneration remitted by such organization to such individual, and

“(B) the exemptions and exclusions which would (but for subparagraph (A)) apply shall apply with respect to such taxes imposed on such remuneration.

“(d) **SPECIAL RULE FOR RELATED PARTY.**—Subsection (a) shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting ‘10 percent’ for ‘50 percent’.

“(e) **SPECIAL RULE FOR CERTAIN INDIVIDUALS.**—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer’s trade or business (including a partner in a partnership that is a customer) is not a work site employee with respect to remuneration paid by a certified professional employer organization.

“(f) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be nec-

essary or appropriate to carry out the purposes of this section.”

(b) **CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.**—Chapter 79 of such Code (relating to definitions) is amended by adding at the end the following new section: **“SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.**

“(a) **IN GENERAL.**—For purposes of this title, the term ‘certified professional employer organization’ means a person who applies to be treated as a certified professional employer organization for purposes of section 3511 and who has been certified by the Secretary as meeting the requirements of subsection (b).

“(b) **CERTIFICATION.**—A person meets the requirements of this subsection if such person—

“(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

“(2) represents that it will satisfy the bond and independent financial review requirements of subsections (c) on an ongoing basis,

“(3) represents that it will satisfy such reporting obligations as may be imposed by the Secretary,

“(4) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

“(5) agrees to verify the continuing accuracy of representations and information which was previously provided on such periodic basis as the Secretary may prescribe, and

“(6) agrees to notify the Secretary in writing of any change that materially affects the continuing accuracy of any representation or information which was previously made or provided.

“(c) **REQUIREMENTS.**—

“(1) **IN GENERAL.**—An organization meets the requirements of this paragraph if such organization—

“(A) meets the bond requirements of paragraph (2), and

“(B) meets the independent financial review requirements of paragraph (3).

“(2) **BOND.**—

“(A) **IN GENERAL.**—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) in an amount at least equal to the amount specified in subparagraph (B).

“(B) **AMOUNT OF BOND.**—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of—

“(i) 5 percent of the organization’s liability under section 3511 for taxes imposed by subtitle C during the preceding calendar year (but not to exceed \$1,000,000), or

“(ii) \$50,000.

“(3) **INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.**—A certified professional employer organization meets the requirements of this paragraph if such organization—

“(A) has, as of the most recent audit date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant as to whether the certified professional employer organization’s financial statements are presented fairly in accordance with generally accepted accounting principles, and

“(B) provides, not later than the last day of the second month beginning after the end of each calendar quarter, to the Secretary from an independent certified public ac-

countant an assertion regarding Federal employment tax payments and an examination level attestation on such assertion.

Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 of the Internal Revenue Code in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

“(4) **CONTROLLED GROUP RULES.**—For purposes of the requirements of paragraphs (2) and (3), all professional employer organizations that are members of a controlled group within the meaning of sections 414(b) and (c) shall be treated as a single organization.

“(5) **FAILURE TO FILE ASSERTION AND ATTESTATION.**—If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to any calendar quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

“(6) **AUDIT DATE.**—For purposes of paragraph (3)(A), the audit date shall be six months after the completion of the organization’s fiscal year.

“(d) **SUSPENSION AND REVOCATION AUTHORITY.**—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 3511 if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

“(e) **WORK SITE EMPLOYEE.**—For purposes of this title—

“(1) **IN GENERAL.**—The term ‘work site employee’ means, with respect to a certified professional employer organization, an individual who—

“(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

“(B) performs services at a work site meeting the requirements of paragraph (3).

“(2) **SERVICE CONTRACT REQUIREMENTS.**—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

“(A) assume responsibility for payment of wages to the individual, without regard to the receipt or adequacy of payment from the customer for such services,

“(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to the individual’s wages, without regard to the receipt or adequacy of payment from the customer for such services,

“(C) assume responsibility for any employee benefits which the service contract may require the certified professional employer organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

“(D) assume responsibility for hiring, firing, and recruiting workers in addition to the customer’s responsibility for hiring, firing, and recruiting workers,

“(E) maintain employee records relating to the individual, and

“(F) agree to be treated as a certified professional employer organization for purposes of section 3511 with respect to such individual.

“(3) **WORK SITE COVERAGE REQUIREMENT.**—The requirements of this paragraph are met

with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2) (but not taking into account those individuals who are excluded employees within the meaning of section 414(q)(5)).

“(f) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 45B of such Code (relating to credit for portion of employer social security taxes paid with respect to employees with cash tips) is amended by adding at the end the following new subsection:

“(e) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of this section, in the case of a certified professional employer organization which is treated under section 3511 as the employer of a work site employee who is a tipped employee—

“(1) the credit determined under this section shall not apply to such organization but to the customer of such organization with respect to which the work site employee performs services, and

“(2) the customer shall take into account any remuneration and taxes remitted by the certified professional employer organization.”.

(2) Section 3302 of such Code is amended by adding at the end the following new subsection:

“(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705), or a client of such organization, makes a payment to the State’s unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such payment.”.

(3) Section 3303(a) of such Code is amended—

(A) by striking the period at the end of paragraph (3) and inserting “; and” and by inserting after paragraph (3) the following new paragraph:

“(4) a certified professional employer organization (as defined in section 7705) is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.”, and

(B) in the last sentence—

(i) by striking “paragraphs (1), (2), and (3)” and inserting “paragraphs (1), (2), (3), and (4)”, and

(ii) by striking “paragraph (1), (2), or (3)” and inserting “paragraph (1), (2), (3), or (4)”.

(4) Section 6053(c) of such Code (relating to reporting of tips) is amended by adding at the end the following new paragraph:

“(8) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this section, in the case of a certified professional employer organization that is treated under section 3511 as the employer of a work site employee, the customer with respect to whom a work site employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than such time as the Secretary shall prescribe.”.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

“Sec. 3511. Certified professional employer organizations.”.

(2) The table of sections for chapter 79 of such Code is amended by inserting after the item relating to section 7704 the following new item:

“Sec. 7705. Certified professional employer organizations.”.

(e) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this Act with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(f) USER FEES.—Subsection (b) of section 7528 of such Code (relating to Internal Revenue Service user fees) is amended by adding at the end the following new paragraph:

“(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 shall not exceed \$500.”.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the January 1st of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAM.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986 not later than 6 months before the effective date determined under paragraph (1).

THE SMALL BUSINESS EFFICIENCY ACT

SECTION-BY-SECTION DESCRIPTION

Section 1. Short Title: The Small Business Efficiency Act.

Section 2. No Inference Language: The legislation is narrowly drafted to provide expressly that except for the payment of employment taxes as provided in the bill, there is no inference regarding the determination of who is a common law employer under Federal tax laws or who is an employer under other provisions of the law.

Section 3. Certified Organizations: Creates a voluntary certification program for Professional Employer Organizations (CPEOs) by establishing basic requirements which must be met in order to be certified by the Internal Revenue Service (IRS).

Section 3(a) describes the responsibility of the CPEO with respect to the covered workers performing services at its business client’s worksite, with the CPEO being treated as the employer of those covered workers for employment tax purposes. This section provides that after certification, a CPEO assume the responsibility and liability for payment of wages and collection of Federal employment taxes for covered workers. This section also provides that a CPEO and its clients will be treated as “successor” employers for employment tax purposes with no additional taxes owed simply because a client engages or disengages a CPEO. Finally, the section imposes rules that prevent abuse.

Section 3(b) describes certification requirements which a PEO must demonstrate to the IRS by written application. As established by the Secretary of the Treasury, these could include requirements with respect to tax status, background, experience, business location, and annual financial audits, as well as verification of the continuing accuracy of representations and information on a periodic basis. In addition, this section requires CPEOs to obtain financial reviews from independent CPAs and to post a bond for the payment of employment taxes. A worksite employee is a worker who performs services at the CPEO’s business client worksite if the worker and at least 85% of the individuals working at the worksite are covered by a written service contract that provides the CPEO will (1) assume responsibility for payment, reporting and withholding of wages, employment taxes and employee benefits, without regard to the adequacy of payment by the client business. The service contract would also be required to expressly provide that the CPEO assumes shared responsibility with the business client for firing the worker or hiring or recruiting any new worker and for maintaining employee records.

Section 3(c) provides conforming amendments with respect to certain credits and reporting rules.

Section 3(d) makes certain clerical amendments.

Section 3(e) creates regulatory authority to develop appropriate reporting and recordkeeping rules.

Section 3(f) authorizes the creation of a CPEO certification user fee not to exceed \$500.

Section 3(g) provides that the provisions of the Act will take effect on January 1 of the first calendar year beginning more than 12 months after the date of enactment. This section further requires the Secretary of the Treasury to establish the certification program not later than 6 months following the effective date.

By Mr. BIDEN:

S. 2915. A bill to amend title 10, United States Code, to improve screening for colorectal cancer for TRICARE beneficiaries over the age of 50; to the Committee on Armed Services.

Mr. BIDEN. Mr. President, today I am pleased to introduce a simple bill that would give military dependents and retirees the same choices for colon cancer screening that every Medicare beneficiary and every Federal employee enjoys. This legislation requires Tricare to abandon its overly restrictive and outdated policy of limiting coverage of screening colonoscopy to a small group of high-risk individuals. By contrast, for several years both Medicare and the Federal Employees Health Benefits Program have paid for screening colonoscopy to detect cancer in average-risk people, and my bill simply applies this same standard to the Tricare program.

Why is this bill so important? Colon cancer is highly curable when detected and treated early but extremely lethal when it reaches an advanced stage. Early detection and prompt treatment are the keys to surviving colon cancer. Among those whose colon cancer has been cured by modern diagnostic and treatment methods are President Reagan, Supreme Court Justice Ginsburg, and our colleague Senator BURNS, to name just a few.

Why is access to colonoscopy so critical? At present, gastroenterologists overwhelmingly recommend colonoscopy as the preferred method to use for screening of colon cancer in average risk individuals over 50. Colonoscopy is more sensitive than other methods of screening in detecting colonic neoplasia, pre-cancerous changes or full-blown cancers, at an early stage; colonoscopy is more reliable in finding colonic neoplasia in the upper ⅔ of the colon; and colonoscopy permits biopsy and removal of abnormal tissue as soon as it is discovered, in a single procedure. In fact, medical specialists refer to colonoscopy as the "gold standard" for colon cancer screening.

Since, 2001, the Medicare Program has permitted the use of colonoscopy to screen for colon cancer in "average risk" individuals, and the Federal Employees Health Benefits Program has used the same criteria since 2003. But the Tricare medical program for military beneficiaries clings to an outmoded policy that authorizes screening colonoscopy to detect colon cancer only for only a very narrowly defined group of "high risk" people, not the much broader group of "average risk" individuals covered by the Medicare and FEHBP programs. By failing to keep up with modern medical practice, as well as with other federal health programs, Tricare seems to be inappropriately restricting access to a potentially lifesaving tool for early cancer detection. The resulting unnecessary delay in detection of colon cancer puts our military community at needless risk.

To remedy this situation, my bill requires the Tricare program to use the same criteria as the Medicare program in paying for screening colonoscopy. My bill does not mandate that screening colonoscopy be used for colon cancer detection in Tricare beneficiaries; that decision is left to Tricare patients and their doctors. Rather, this legislation simply affords Tricare participants the same options that Federal employees and Medicare beneficiaries have enjoyed for some time.

Frankly, I see no logical reason why those who have served our country in uniform for over 20 years, and the family members of those currently on active duty, should not have access to the same high-quality medical choices offered to our senior citizens and to our Federal workers. The policy on colon cancer screening that has worked well for 42 million Medicare beneficiaries and 9 million FEHBP participants, a policy that is endorsed by most medical specialists, seems totally appropriate for the Tricare population. It is time to bring the Tricare program's colon cancer screening criteria into the 21st century.

Mr. President, I encourage my colleagues to join me in supporting this commonsense legislation

By Ms. SNOWE (for herself, Mr. DORGAN, Mr. INOUE, Mr.

WYDEN, Mr. LEAHY, Mrs. BOXER, Mr. OBAMA, and Mrs. CLINTON):

S. 2917. A bill to amend the Communications Act of 1934 to ensure net neutrality; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that will preserve the open, unrestricted nature of the Internet. I want to thank my colleagues, Senator DORGAN and Senator INOUE, with whom I have worked closely to draft this bill. I also want to acknowledge Senator WYDEN, who has introduced similar net neutrality legislation, for his leadership on this issue.

Having risen from its humble beginnings as an obscure tool for a few tech-savvy enthusiasts, the Internet now stands as the epicenter of commerce today. An April 2006 Pew Internet study cites that 73 percent of adults in the U.S. now use the Internet, 45 percent of whom use it for making major financial decisions. Last year alone, over \$1.7 trillion in transactions took place on the Internet, and today 725,000 small businesses use e-commerce giant eBay as a way to reach customers. Because anyone, anywhere, can communicate and transact business with virtually any corner of the globe with an Internet connection, the benefits of the Internet on small businesses—and on rural places like my home State of Maine—cannot be overstated.

The Internet became a robust engine of economic development by enabling anyone with a good idea to connect to consumers and compete on a level playing field for consumers' business. Anyone can send an e-mail or set up a Web site at little or no cost, and the marketplace has picked winners and losers, rather than an arbitrary gatekeeper.

When users log onto the Internet, they take a lot of things for granted. They assume that they will be able to access whatever Web site they want, when they want to—and if they have a broadband connection, they expect this to happen at a high speed, regardless of what Web site they choose. They also assume that they can use any feature they like, anytime they choose—watching online videos, searching for information, making purchases, and sending e-mails and instant messages. They assume that they can attach devices to make their online experience better—things such as Web cameras, game controllers, or extra hard drives. What they are assuming is called "net neutrality," the principle at the core of the Internet's DNA. The idea is that the Internet should be open and free, restricted by no one.

Unfortunately, all this may change very soon if Congress does not take action. In August 2005, the Federal Communications Commission issued an order removing virtually all regulation of Internet facilities that connect homes and businesses to the World Wide Web. Among the regulations lifted were the long-standing non-discrimination rules that required the

owners of Internet facilities networks—in most cases cable and telephone companies—to allow delivery of all Internet content to the end user at the same speed, refraining from blocking any Web sites. These long-standing rules have enabled small businesses in Maine and across the country to have the same access to customers as giant corporations. Yet without the protections of the legislation we introduce today, those small businesses may be reduced to second-class citizen status on the Web.

Telephone and cable companies supply broadband Internet service to 98 percent of Internet subscribers in this country. Recently, executives from several of the largest of these firms publicly indicated their intention to charge fees to Web site operators before giving them access to their highspeed lines, and relegate those who do not pay up to the slower transmission lines. A Web site owned by a company who is a competitor could even be blocked entirely.

Anyone who has sat frustrated at a computer screen waiting for a file to download knows what this means for the those Web site owners not willing to pay up: their sites and applications will run at a slower pace, thus turning away consumers. These Internet companies, e-mail services, and Web site owners will be relegated to the Information "Dirt Road"—the Information Superhighway will be reserved for those companies who are willing to pay the toll. Worst of all, consumers and businesses who rely on these Internet services will be completely powerless, since it is beyond their control as to which Web site owners are willing to pay the fees.

The legislation we introduce today keeps the rules where they always have been, until last year. First, the bill bars network operators from blocking, degrading or impairing Internet traffic. Second, the bill ensures that network operators are not allowed to create a two-tiered Internet—an Internet that treats those who can afford to do business with large nationwide broadband providers more favorably than those who do not. Virtually everyone has called for more widespread deployment of broadband facilities: this bill ensures that those high-speed networks are available for all users of the Internet.

This legislation already enjoys support from a broad spectrum of groups who care about Internet freedom, such as the Consumer's Union, the Parent's Television Council, the Gun Owners of America, the American Library Association, and the Christian Coalition. Altogether over 140 organizations have backed our efforts to prevent discrimination the Internet.

If we allow companies to set up toll-booths along the Information Superhighway, we will fundamentally alter every Internet user's experience and stifle the entrepreneurship that flourishes on the world's last remaining

frontier. Network operators should not have the power to decide which Web pages load faster, which content their customers can access, and whose data has the highest priority. Network operators already enjoy near-monopolistic privileges in many markets across the country. Should this market power now be extended to messaging services, streaming video, or online shopping, just to name a few?

Consumers should decide which businesses succeed and which fail, not network providers. What has made the Internet such a remarkable success is the ability of consumers everywhere to use the connection they pay for to experience a world of their own choosing on their own terms. Earlier this month, the New York Times endorsed the legislation in an editorial when it called for "a strong net neutrality bill that would prohibit broadband providers from creating a two-tiered Internet. Senators who care about the Internet and Internet users should get behind it." I hope my colleagues join me in supporting the Internet Freedom Preservation Act.

Mr. DORGAN. Mr. President, today my colleague Senator SNOWE and I are introducing the Internet Freedom Preservation Act.

Internet freedom, known as net neutrality, is one of the most important issues facing us as the telecommunications landscape continues to change, and frankly, how this issue is resolved could determine whether our Nation continues to be a world leader in the area of innovation and technology.

Consumers, businesses, and the very marketplace of ideas have benefited from the historically open nature of the Internet.

From the largest of corporations to the person working alone in a garage, all have had the ability to offer their content, services, and applications over the Internet and to reach consumers, because of this open structure of the Internet and the existence of net neutrality nondiscrimination rules.

I think it is important to point the wide variety of groups that have called for the preservation of strong net neutrality protections: groups as diverse as Consumers Union, AARP, Microsoft, Amazon, Gun Owners of America, and the National Religious Broadcasters, and over 150 organizations or companies so far have weighed in on this important issue.

The Internet, and the broadband network operators that bring the Internet to businesses and consumers, have enabled even the most rural town in my State of North Dakota to be connected to the rest of the world, and this connection has brought economic opportunities, and advances in health and education that could otherwise not have been possible.

Now, however, the open nature of the Internet is at risk. It is at risk because of actions by the Federal Communications Commission, and because of the lack of competition in the broadband market.

Non-discrimination rules that existed for years on broadband providers have been removed, leaving only the marketplace to act as a check. The problem is, however, that the broadband marketplace is highly concentrated—98 percent of consumers get their broadband from either cable modem or DSL, and up to 50 percent of consumers can only get their broadband from one broadband provider.

Thus, the situation is not a marketplace of players on an equal footing. Broadband network operators have substantial market power and the incentive to use it. There have been public statements by some of their CEOs that have made clear that they intend to use that leverage to exact payments from content providers and to operate as gatekeepers.

These broadband network operators have become more than just the pipe that carries content, services, and applications to a consumer; they now are in the business of these content, services and applications as well. Thus, they have the leverage, and the incentive to favor their own services over competition.

Until now the Internet has been driven by consumers and innovators, which have in turn, encouraged broadband deployment.

Consumers pay for their Internet connection, and expect that they can go anywhere they lawfully want to on the Internet.

But without maintaining the longstanding nondiscrimination rules that have been in place for decades, the Internet could go from being driven by consumers and innovators to being dictated by network operators.

What will be the impact on the next great application or service over the Internet if the very first thing the next start-up has to do is work out an agreement with the broadband provider?

What will be the impact on consumers if their choices are artificially limited by their broadband providers as to what VOIP or video service they can get?

I agree that broadband network operators are investing millions of dollars in building the next generation of infrastructure, and I commend them for that. Under our bill they will still be able to be compensated for their investments, as they are now, by charging for their broadband connections.

But they should not be able to put up additional tolls on the Internet, or erect barricades to competition that will change the nature of the Internet as we know it.

Our bill will preserve the freedom and the openness of the Internet that we have come to take for granted, but that is now at risk.

I ask my colleagues to support this legislation that I introduce today with Senator SNOWE.

Mr. INOUE. Mr. President, I rise today in support of the legislation introduced by my colleagues Senators SNOWE and DORGAN to preserve a found-

ing principle of communications law that is critical to the promotion of innovation and opportunity for all Americans. The preservation of the open, non-discriminatory architecture of the Internet is vital to the American economy and society. Over a relatively short timeframe, the Internet has become a robust engine for market innovation, economic growth, social discourse, and the free flow of ideas precisely because it has allowed consumer choice and control over the use of lawful content, applications and services. In turn, anyone with a good idea has been able to connect to consumers and compete on a level playing field for consumers' business. The marketplace has picked winners and losers, and not a central gatekeeper. This bedrock concept of connecting innovators and consumers without interference, known as "net neutrality," has been a hallmark feature of the Internet and is a principle reason why America leads the world in online innovation.

Regrettably, without this legislation that heritage may be at risk as traditional rules that have required communications operators to follow principles of non-discrimination no longer apply. In August 2005, the FCC refused to adopt meaningful and enforceable consumer safeguards at the time it classified DSL and cable modem as an information service. As a result, the bill that I have cosponsored with Senators SNOWE and DORGAN is necessary to ensure that consumers and content companies have the ability to use the Internet without interference or gatekeeping by the network operators.

This bill responds to recent FCC decisions by preserving the openness of the Internet and thereby encourages the continued development of innovative Internet technologies, services, and content that has fueled the American economy. Specifically, under the bill, consumers will have the ability to access the content of their choosing, and Internet businesses will have the ability to compete head-to-head with network providers on the basis of the merits of their offerings.

As the father of the Internet, Vint Cerf, said to our Committee, the Internet is "innovation without permission." The proposed legislation will ensure that the Internet indeed remains a platform that spawns innovation and economic development for the benefit of all Americans.

By Mr. DODD (for himself and Mr. LOTT):

S. 2918. A bill to provide access to newspapers for blind or other persons with disabilities; to the Committee on Rules and Administration.

Mr. DODD. Mr. President, today I am introducing, along with the distinguished Chairman of the Rules Committee, legislation to ensure that the blind and those with disabilities continue to have free access to electronic editions of periodicals and newspapers. This service is an extension of the existing authorization for the Library of

Congress to provide Braille books, recordings, sound reproduction equipment, musical scores, and other materials to the blind and physically disabled individuals.

Currently, the National Federation of the Blind provides these services through its NFB-NEWSLINE program which has been funded by the Library of Congress through its Books for the Blind program. The NFB-NEWSLINE program is a telephone-based electronic audio newspaper service serving our Nation's 1.3 million blind Americans by providing 23 million minutes of on-demand service in response to 2,600 calls per day at an average cost of 2.7 cents per minute.

Congress established the Books for the Blind program within the Library of Congress in 1931. The program is administered by the National Library Service for the Blind and Physically Handicapped, NLS, which continues to be the primary source of Braille and audio books and magazines for blind adults today. However, until development of the NFB-NEWSLINE program, it was not economically feasible for NLS to provide timely access to newspapers for the blind. Under current production methods, it would require several weeks for NLS to prepare and deliver a single copy of a daily newspaper.

The NFB-NEWSLINE program, however, is designed for real time rapid distribution of the electronic text of newspapers. Under this program, the blind can access daily newspapers on the day of publication through telephone access to the digital text. The funding for this program has been provided by a public-private partnership between NFB-NEWSLINE, state sponsors, including public libraries, rehabilitation agencies, and several affiliates of NFB, and the Library of Congress. Newspaper and magazine content is contributed by many participating news organization and publishers.

The bill Senator LOTT and I are introducing today will ensure the continued Federal share of this partnership so that NFB-NEWSLINE can continue to serve as the multi-state provider of this service. Currently, NFB-NEWSLINE provides some level of service to all 50 states, the District of Columbia and Puerto Rico by providing local dialing numbers for the blind and disabled to use to access newspapers and periodicals. The annual telecommunications costs for this service is approximately \$750,000 which serves approximately 40 percent of the eligible readers.

This bill will enable NFB-NEWSLINE to continue to serve existing readers with improved services while at the same time expanding services to more readers. The bill authorizes \$750,000 for this service in fiscal year 2007 and such sums as are necessary in fiscal years 2008-2011. This is a very efficient program that for a very small Federal investment will allow the blind and disabled to more fully participate in their

communities through access to the daily news. With the current state of technology, it is simply unacceptable that the blind and disabled do not have real time access to daily newspapers and periodicals.

I commend NFB-NEWSLINE for developing this public-private partnership to serve the needs of the blind and disabled individuals and I pleased to introduce this legislation to ensure the continuation of this program.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4083. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 4084. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4083. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 167, strike lines 17 through 20.

SA 4084. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 397, strike line 21 and all that follows through page 409, line 19, and insert the following:

(7) WORK DAY.—The term "work day" means any day in which the individual is employed 8 or more hours in agriculture.

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 613. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this subtitle that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to \$1,000.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT FOR ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—