

enhanced safety in pipeline transportation, and for other purposes.

S. 3962

At the request of Mr. DOMENICI, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from North Carolina (Mr. BURR) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 3962, a bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to assure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes.

S. 3971

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. 3971, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

At the request of Mr. SANTORUM, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 3971, *supra*.

S. 3984

At the request of Mr. HARKIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 3984, a bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes.

S. 3991

At the request of Mr. CONRAD, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. JEFFORDS), the Senator from Wyoming (Mr. ENZI), the Senator from Wyoming (Mr. THOMAS), the Senator from Vermont (Mr. LEAHY) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 3991, a bill to provide emergency agricultural disaster assistance, and for other purposes.

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 3991, *supra*.

S. CON. RES. 119

At the request of Mrs. LINCOLN, the names of the Senator from Colorado (Mr. SALAZAR), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Con. Res. 119, a concurrent resolution expressing the sense of Congress that public policy should continue to protect and strengthen the ability of farmers and ranchers to join together in cooperative self-help efforts.

S. RES. 549

At the request of Mr. SANTORUM, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 549, a resolution expressing the sense of the Senate regarding modern-day slavery.

AMENDMENT NO. 5022

At the request of Mr. CRAIG, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of amendment No. 5022 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 3994. A bill to extend the Iran and Libya Sanctions Act of 1996; read the first time.

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

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

S. 3994

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

Section 13(b) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking "on September 29, 2006" and inserting "on November 17, 2006"

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

S. 3995. A bill to provide education opportunity grants to low-income secondary school students; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise to speak about legislation that I am introducing today along with the Senator from Illinois, Mr. OBAMA. At this time of year, with much bitter partisanship, I really am pleased to work with Senator OBAMA for something that we think is important to the country.

The Education Opportunity Act is a bill that would significantly expand college-level opportunities for low-income high school students and teach these students that success in school can mean success in life.

In the fast-paced, technologically advanced global economy of the 21st century, old distinctions between high school and college are becoming obsolete. For our students to succeed in tomorrow's workplace, we must be innovative and allow more choices of study today.

As we look toward reauthorizing No Child Left Behind, I believe it is important to examine what has worked and where students are still falling between the cracks. While we have expanded advanced placement classes, what we call AP classes, through the President's Advanced Placement Incentives Program, I believe we are missing another vital avenue to increase college-level opportunities for low-income students. That is why I am proud to work together with Senator OBAMA to establish education opportunity grants for high school students.

Our bill is similar to the Federal Pell grant program, which funds need-based aid that does not have to be repaid by the students. These grants could be

made available for classes at community colleges or universities that would admit a high school student to enroll in classes. These grant scholarships will help keep our high school students in school by raising their expectations and showing them that they can do college-level work. They could also accumulate college-level credits while still in high school.

Our national dropout rate is at record highs, and it is on the rise. In my own home State of South Carolina, high school students are dropping out at an alarming rate, with half of all students failing to complete high school in 4 years. It is no secret that most of these at-risk students are from low-income families.

Currently, there are only two ways high school students can gain college credit. They either take the AP classes at high school or participate in dual enrollment programs. Some high schools, particularly those with a high percentage of low-income students, are not able to offer advanced placement classes, and students are required to forgo college classes that they might want to take because their families can't afford to foot the bill. The result is that students with great promise who happen to come from disadvantaged families lose interest in a school that does not offer classes tailored to their talents and interests.

Senator OBAMA and I believe if we expose students to the hundreds of classes available at their local colleges, some of which are listed on the chart behind me, many students who are not excited about high school world history classes will, instead, discover that they are interested in computer science or marketing and can learn a skill that they can see will directly apply to a future job.

Make no mistake, traditional classes in biology, English, and history are important. But if a student drops out because they don't have the flexibility to also pursue more nontraditional avenues, those classes do not do them any good.

Education opportunity grants are a cost-effective way to educate students by utilizing the preexisting infrastructure already available at local colleges. I believe this will show many students that a college degree is attainable and that they will be better prepared to start college or enter the workforce with marketable skills as a high school graduate.

As I mentioned before, I believe it is critical that we do a better job accommodating the needs of all our students and continue to create opportunities for each young person to learn in ways that make sense to them and have direct application to their goals in life.

This legislation is one more valuable option for our educational system to empower students and parents with choices and the ability to follow an educational path that meets their individual needs.

It is time we stopped forcing our kids to fit our educational system and, instead, force our educational system to fit our kids. That is the only way that success in school will mean success in life.

I thank Senator OBAMA and his great staff for working with my office on this important legislation, and I look forward to working with the Senator from Wyoming, Mr. ENZI, and the Senator from Massachusetts, Ranking Member KENNEDY, to make this legislation a reality.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OBAMA. Mr. President, I rise today to join my colleague from South Carolina, Senator JIM DEMINT, in introducing the Education Opportunity Act.

We often hear that many students who graduate from high school are not ready for the academic rigors of college. This is especially problematic for students from low-income families. For these students to succeed in the transition to college, they must have opportunity, and a continuity of classroom experiences that prepare them for success. Academic rigor in a high school curriculum is essential in establishing the momentum necessary for a student to progress toward a bachelor's degree.

The unfortunate fact is that not all students have access to a challenging high school curriculum. Low-income students are often disadvantaged by a lack of rigorous courses in their high school, especially in subjects such as the advanced mathematics courses that are so important for college success. Universities and community colleges have increasingly provided such courses to high school students. But the cost of such classes can be a barrier to low-income students, who are the very students most likely to be enrolled in high schools that provide the most limited access to challenging college preparatory curricula.

This legislation will provide a program for grant support to allow thousands of students with limited exposure to college-level programs in their high schools to earn college credit at their local university or community college. I urge my colleagues to join us in extending opportunities for college success to deserving low-income high school students.

By Mr. FEINGOLD:

S. 3998. A bill to amend the Servicemembers Civil Relief Act to provide relief for servicemembers with respect to contracts for cellular phone service, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I introduce a bill that seeks to make life a little easier for our servicemembers and their families when they are called up to duty or transferred. We all recognize the heroic service the men and women in our armed services provide the Nation each day. So when I heard stories about servicemembers and their families in Wisconsin having trouble canceling their cell phone contracts after being called up, I looked for a way to help. With the prospect of a combat assignment, the last thing our men and women in uniform should have to worry about are early termination fees or being forced to pay for a service they cannot use. I tried to have this provision adopted as an amendment to the Defense authorization bill in June and, while I was unsuccessful, I will continue to push for the adoption of this commonsense measure.

These problems with canceling cellular phone service have not been just isolated incidents. In fact, the issue has been raised by the Wisconsin National Guard. I ask unanimous consent that the full testimony of First Lieutenant Melissa Inlow of the Wisconsin Army National Guard made at a hearing on a Wisconsin State assembly bill in April be printed in the RECORD.

I just want to highlight one part of that testimony that makes the point that this is a real issue facing our servicemembers: "It's becoming increasingly difficult to get cell phone service providers to suspend the contract. Even with suspension the soldiers are still paying up to \$25 a month for a service they cannot reap the benefits of. These fees can accumulate to more than the termination fee which on average is \$200." First Lieutenant Inlow went on to specifically recommend that the Servicemembers' Civil Relief Act be amended to include a section on cellular phones.

First Lieutenant Inlow and the Wisconsin National Guard are not alone in this opinion either. The National Guard Association of the United States, the Enlisted Association of the National Guard of the United States, and the Military Officers Association of America have all expressed support for my amendment—which is virtually identical to the legislation I introduce today.

It is common now for cellular phone contracts to require a contract term of up to two years. Along with these long contracts, there are often early termination fees of several hundred dollars. When a National Guard member is called up to active duty or a soldier is transferred overseas or to a base that isn't covered by their current provider, they often face the prospect of either paying these significant fees or paying monthly fees for the remainder of the contract for a service they cannot use. While many servicemembers and their families have been able to work with telecommunications companies to eventually get the early termination

fee canceled, the account suspended, or the fees reduced, they have enough to deal with after being called up that they should not have this added burden as well.

My legislation proposes that we bring these cellular phone contracts in line with what we have already done for residential and automotive leases in the Servicemembers' Civil Relief Act—let the servicemembers cancel the contract. Under my proposal, if servicemembers are called up for more than 90 days, transferred overseas, or transferred to a U.S. duty station where they could not continue their service at the same rate, they could cancel their contract without a termination fee.

While my legislation helps to prevent servicemembers from being financially punished for volunteering to protect this country, I have also tried to make sure that the telecommunications providers are treated fairly as well. That is why I have included a provision that would allow the providers to request the return of cell phones provided as part of the contract. If the company requests the return under this provision, it would also have to give the servicemember the option of paying a prorated amount for the cell phone should he or she wish to keep it. Moreover, if the provider and servicemember mutually agree to suspend instead of terminate the contract, the bill makes sure that the reactivation fee is waived.

While this is a modest addition to the rights of servicemembers, it is important that we remove as many unfair burdens facing this country's men and women in uniform as we can. I hope my colleagues will share this view and quickly adopt this nonpartisan proposal.

TESTIMONY FOR THE RECORD OF FIRST LIEUTENANT MELISSA INLOW AT A HEARING ON WISCONSIN ASSEMBLY BILL 1174 ON APRIL 17, 2006

Thank you, chairman and members of the committee, for the opportunity to speak. The Department of Military Affairs and the Wisconsin National Guard is in support of senate bill 1174. I am First Lieutenant Melissa Inlow, a Judge Advocate General Officer with the Wisconsin Army National Guard. By granting servicemembers the right to terminate their cell phone contracts upon mobilization, you are ensuring further protections and peace of mind for our servicemembers. In August of 2005, I was brought on to provide legal assistance to our deployed servicemembers and their families. Since that time, about 3-5 percent of my time has been dedicated to assisting servicemembers in resolving issues with their cell phone service contracts. It's becoming increasingly difficult to get cell phone service providers to suspend the contract. Even with suspension the soldiers are still paying up to \$25 a month for service they cannot reap the benefits of. These fees can accumulate to more than the termination fee which on average is \$200. I've found it very difficult and sometimes impossible to reach a live person and very difficult to reach a person with decision making authority. Each time I have had to call a cellular phone service provider, I have talked to

a different customer service representative, and each has given me a different resolution to the cell phone issue. The companies are lacking significantly in internal consistency when it comes to resolving cell phone contract issues. It has been my experience that the customer service representatives of cell phone companies experience high turn over rate and are not aware of the wireless provider's policy on military suspension. It is extremely frustrating for me; I can only imagine the undue stress and strain it causes our deploying servicemembers and their families that are left behind to deal with these issues. This change will likely help ease the stress deployment places on our servicemembers allowing them to focus on their mission. I hope that the Federal Government will follow suit and amend the Servicemember's Civil Relief Act to incorporate a section on cell phone contracts.

By Mr. LUGAR:

S. 4000. A bill to amend the Internal Revenue Code of 1986 to modify the alcohol credit and the alternative fuel credit, to amend the Clean Air Act to promote the installation of fuel pumps for E-85 fuel, to amend title 49 of the United States Code to require the manufacture of dual fueled automobiles, and for other purposes; to the Committee on Finance.

Mr. LUGAR. Mr. President, I rise to introduce the National Fuels Initiative of 2006. This act presents to this Congress a plan to bring meaningful reductions in the amount of oil we consume in the United States and reduce our dependency on oil imports. Dependence on imported oil has put the United States in a position that no great power should tolerate. Our economic health is subject to forces far beyond our control, including the decisions of hostile countries. We maintain a massive military presence overseas, partly to preserve our oil lifeline. We have lost leverage on the international stage and are daily exacerbating the problem by participating in an enormous wealth transfer to authoritarian nations that happen to possess the commodity that our economy can least do without. The hundreds of billions of dollars we spend on oil imports each year weakens our economy, enriches hostile regimes, and is used by some to support terrorism.

In the absence of revolutionary changes in energy policy, we are risking multiple disasters for our country that will constrain living standards, undermine our foreign policy goals, and leave us highly vulnerable to the machinations of rogue states. There are at least six threats posed by oil dependence. First oil is vulnerable to supply disruption as a result of natural disasters, wars, and terrorist attacks. Price shocks resulting from a major supply loss can put the U.S. economy into recession. Second, global oil reserves are becoming more limited as easy supply is depleted, global demand rapidly increases, and governments exert more control over reserves. This makes oil more expensive in the short term, and creates the prospect that supplies may not be accessible in the future. Third, some oil-rich nations are using energy as an overt weapon. Ad-

versarial regimes from Venezuela, to Iran, to Russia are using energy supplies as leverage against their neighbors. Fourth, hundreds of billions of dollars in oil export revenues flowing to authoritarian regimes increase corruption and hurt democratic reform. Some oil-rich nations are using this money to invest in terrorism, instability, or demagogic appeals to populism. Fifth, the threat of global climate change has been made worse by inefficient and unclean use of non-renewable energy like oil. This could bring about drought, famine, disease, and mass migration. And finally, dependence on oil increases instability and undermines development in much of the developing world. Rising energy costs can undermine our foreign assistance and hurt stability, development, disease eradication, and efforts to combat the root causes of terrorism.

The new geo-political reality emerging from the global energy situation and United States dependence on oil imports demand that we dramatically decrease the amount of oil we consume. In March 2006, I delivered an address at the Brookings Institution in which I described "a shifting balance of realism" from those who believe in the immutability of oil's domination of our economy and a laissez faire approach to energy policy to those who recognize that our Nation has no choice but to seek a major reorientation in the way we get our energy. Marginally reducing our reliance on imported oil over the course of the next few decades via the slow progress of market forces will be welcome, but by the time a sustained energy crisis fully motivates market forces, we are likely to be well past the point where we can save ourselves from extensive suffering. We must respond to our energy vulnerability as a crisis. This is the very essence of a problem requiring Congressional action.

The heart of America's geostrategic problem is reliance on imported oil in a market that is dominated by volatile and hostile governments. We can start to break petroleum's grip right now. The key is to replace oil used in transportation with renewable fuels and to improve the fuel efficiency of our cars and trucks.

I outlined the 5 central components of this energy plan at the Richard G. Lugar—Purdue University Summit on Energy Security on August 29th, 2006. First, this bill sets a goal for the United States to expand production of renewable fuels to at least 100 billion gallons a year by 2025. Some of this added production will come from current corn-based ethanol and biodiesel, but a great majority will be from emerging cellulose technology allowing ethanol from diverse sources of renewable biomass. Second, virtually all new cars sold in America should be flex-fuel capable. These vehicles give Americans the choice to use E-85, a blend of 85 percent ethanol and 15 percent gasoline, or regular gasoline. This bill would require that virtually all ve-

hicles would be manufactured as flexible fuel vehicles within ten years. This provision was also part of the Biomass Security Act of 2006 which I joined Senator HARKIN in introducing earlier this year. Third, roughly 25 percent of our nation's fueling stations should offer E-85 within the next ten years. This provision was also part of the Biomass Security Act of 2006. This will give consumers choice and help spur investment in renewable fuel production. Fourth, the bill would enact increased mileage standards that set a target of steadily improving fuel economy every year, as well as encourage research into new advanced technology vehicles such as hybrids and coal-based transportation fuels. I joined Senator OBAMA in introducing this provision earlier this year as the Fuel Economy Reform Act of 2006. Finally, the bill would establish a revolutionary variable alternative fuel tax credit to support growth of alternative fuel production. While this novel portion of the bill should be further debated and improved, its aim is to increase investment in cellulosic ethanol, coals to liquid, and other non-petroleum based fuels by reducing risks posed by oil price manipulation of foreign regimes.

We must move now to address our energy vulnerability because sufficient investment cannot happen overnight, and it will take years to build supporting infrastructure and to change behavior. Americans need to know exactly what the plan is and how we will achieve it. We not only must understand how to bring alternatives to the market, we must establish what degree of change would improve our national security situation, then tailor national policy to achieve that goal. The energy plan presented in this bill is a package of proposals that would dramatically improve America's security posture. The plan would achieve the replacement of 6.5 million barrels of oil per day by volume—the rough equivalent of one third of the oil used in America and one half of our oil imports. It would provide more jobs for Americans instead of sending a deluge of money to hostile countries, support our farmers instead of foreign terrorists, and promote green fuels over fossil fuels.

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

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

S. 4000

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "National Fuels Initiative".

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Declaration of United States policy on the development and use of renewable alternative fuels.

Sec. 4. Modification to alcohol credit and alternative fuel credit.

- Sec. 5. Installation of E-85 fuel pumps by major oil companies at owned stations and branded stations.
- Sec. 6. Requirement to manufacture dual fueled automobiles.
- Sec. 7. Definition of automobile.
- Sec. 8. Average fuel economy standards.
- Sec. 9. Credit trading and compliance.
- Sec. 10. Consumer tax credit.
- Sec. 11. Advanced technology motor vehicles manufacturing credit.

## SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The national security and economic prosperity of the United States is threatened by our oil dependence, and the reliance of the United States on oil imports impinges on our foreign policy. Adversarial regimes rich in oil and natural gas are using their energy supplies as leverage against import-dependent countries and are using increased revenues from oil and gas exports to gain international influence, fund anti-American appeals, entrench authoritarianism, and support terrorism.

(2) Global competition for oil reserves is increasing as supply is depleted, demand increases, and foreign governments attempt to exert more control over reserves. Supplies of oil are vulnerable to disruption resulting from war, political manipulation, natural disasters, and terrorist attacks. A major loss in oil supply could result in a price shock extremely damaging to the economy of the United States and our way of life, and competition over scarce resources could create conflict.

(3) Inefficient and unclean use of oil damages the environment and worsens the threat of global climate change.

## SEC. 3. DECLARATION OF UNITED STATES POLICY ON THE DEVELOPMENT AND USE OF RENEWABLE ALTERNATIVE FUELS.

Congress declares that:

(1) It is the policy of the United States to reduce dependence on imported oil through increased efficiency and diversification of fuel sources through dramatically expanded use of clean alternative fuels. Such a reduction will increase the foreign policy flexibility of the United States, make the United States less vulnerable to oil supply disruption, and promote economic growth. The United States will continue to promote research and development of a range of alternatives fuels, and it will implement policies to accelerate the deployment and commercialization of existing efficiency and alternative fuels technologies.

(2) It is the policy goal of the United States to produce and utilize the equivalent of at least 100,000,000,000 gallons of renewable fuel per year by 2025. This amount of renewable fuel, along with innovation in fuel efficiency, will substantially reduce the need for oil imports in the United States.

(3) It is the policy of the United States to promote the development of a global biofuels market through partnerships with other nations and to reduce trade barriers for renewable fuels.

## SEC. 4. MODIFICATION TO ALCOHOL CREDIT AND ALTERNATIVE FUEL CREDIT.

(a) INCOME TAX CREDIT FOR ALCOHOL.—

(1) RATE BASED ON PRICE OF OIL.—Section 40 of the Internal Revenue Code of 1986 (relating to alcohol used as fuel) is amended by striking “60 cents” each place it appears and inserting “the applicable amount”.

(2) APPLICABLE AMOUNT.—Subsection (h) of section 40 of such Code is amended to read as follows:

“(h) APPLICABLE AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the term ‘applicable amount’ means, with respect to any quarter—

“(A) \$.05 for each \$1 (or any fraction thereof) by which \$45 exceeds—

“(i) in the case of the alcohol mixture credit, the average price of a barrel of oil for the quarter during which the qualified mixture in which the alcohol was used is sold or used, and

“(ii) in the case of the alcohol credit, the average price of a barrel of oil for the quarter during which the alcohol was sold or used, and

“(B) \$0 for any quarter in which the price of a barrel of oil is greater than \$45.

“(2) DETERMINATION OF AVERAGE PRICE.—The average price of a barrel of oil shall be determined under regulations prescribed by the Secretary.

“(3) BARREL.—For purposes of this subsection, the term ‘barrel’ means 42 United States gallons.”.

(3) ELIMINATION OF SMALL ETHANOL PRODUCER CREDIT.—

(A) Section 40(a) of such Code is amended—

(i) by striking “, plus” at the end of paragraph (2) and inserting a period, and

(ii) by striking paragraph (3).

(B) Section 40(b) of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(C)(i) Section 40(d)(3) of such Code is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(ii) Section 40(d)(3)(C) of such Code, as redesignated by clause (i), is amended by striking “subparagraph (A), (B), or (C)” and inserting “subparagraph (A) or (C)”.

(D) Section 40 of such Code is amended by striking subsection (g) and by redesignating subsection (h), as amended by paragraph (2), as subsection (g).

(4) EXTENSION OF CREDIT.—Paragraph (1) of section 40(e) of such Code is amended—

(A) in subparagraph (A), by striking “2010” and inserting “2020”, and

(B) in subparagraph (B), by striking “2011” and inserting “2021”.

(5) CONFORMING AMENDMENT.—Section 40(b) of such Code, as amended by subsection (a), is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(b) MODIFICATIONS TO EXCISE TAX CREDIT AND PAYMENTS FOR ALCOHOL.—

(1) IN GENERAL.—Paragraph (2) of section 6426(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount shall be the amount determined under section 40(g).”.

(2) EXTENSION.—

(A) ALCOHOL FUEL MIXTURE CREDIT.—Paragraph (5) of section 6426(b) of such Code is amended by striking “2010” and inserting “2020”.

(B) PAYMENTS.—Subparagraph (A) of section 6427(e)(5) of such Code is amended by striking “2010” and inserting “2020”.

(c) MODIFICATIONS TO EXCISE TAX AND PAYMENTS FOR ALTERNATIVE FUEL.—

(1) ALTERNATIVE FUEL CREDIT.—

(A) RATE.—

(i) IN GENERAL.—Paragraph (1) of section 6426(d) of the Internal Revenue Code of 1986 is amended by striking “50 cents” and inserting “the applicable amount”.

(ii) APPLICABLE AMOUNT.—Subsection (d) of section 6426 of such Code is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

“(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount shall be the amount determined under section 40(g).”.

(B) EXTENSION.—Paragraph (5) of section 6426(d) of such Code, as redesignated by para-

graph (1), is amended by striking “2009 (September 30, 2014, in the case of any sale or use involving liquified hydrogen)” and inserting “2020”.

(2) ALTERNATIVE FUEL MIXTURE CREDIT.—

(A) RATE.—

(i) IN GENERAL.—Paragraph (1) of section 6426(e) of the Internal Revenue Code of 1986 is amended by striking “50 cents” and inserting “the applicable amount”.

(ii) APPLICABLE AMOUNT.—Subsection (e) of section 6426 of such Code 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) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount shall be the amount determined under section 40(g).”.

(B) EXTENSION.—Paragraph (4) of section 6426(e) of such Code, as redesignated by paragraph (1), is amended by striking “2009 (September 30, 2014, in the case of any sale or use involving liquified hydrogen)” and inserting “2020”.

(3) PAYMENTS.—Paragraph (5) of section 6427(e) is amended by inserting “and” at the end of subparagraph (B), by striking subparagraphs (C) and (D), and by inserting after subparagraph (B) the following:

“(C) any alternative fuel or alternative fuel mixture (as defined in subsection (d)(3) or (e)(3) of section 6426) sold or used after September 30, 2020.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel used or sold in quarters beginning after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel used or sold in quarters beginning after the date of the enactment of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel used or sold in quarters beginning after the date of the enactment of this Act.

## SEC. 5. INSTALLATION OF E-85 FUEL PUMPS BY MAJOR OIL COMPANIES AT OWNED STATIONS AND BRANDED STATIONS.

Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by adding at the end the following:

“(11) INSTALLATION OF E-85 FUEL PUMPS BY MAJOR OIL COMPANIES AT OWNED STATIONS AND BRANDED STATIONS.—

“(A) DEFINITIONS.—In this paragraph:

“(i) E-85 FUEL.—The term ‘E-85 fuel’ means a blend of gasoline approximately 85 percent of the content of which is derived from ethanol produced in the United States.

“(ii) MAJOR OIL COMPANY.—The term ‘major oil company’ means any person that, individually or together with any other person with respect to which the person has an affiliate relationship or significant ownership interest, has not less than 4,500 retail station outlets according to the latest publication of the Petroleum News Annual Factbook.

“(iii) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy, acting in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Agriculture.

“(B) REGULATIONS.—The Secretary shall promulgate regulations to ensure that each major oil company that sells or introduces gasoline into commerce in the United States through wholly-owned stations or branded stations installs or otherwise makes available 1 or more pumps that dispense E-85 fuel (including any other equipment necessary, such as including tanks, to ensure that the pumps function properly) at not less than the applicable percentage of the wholly-owned stations and the branded stations of the major oil company specified in subparagraph (C).

“(C) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (B), the applicable percentage of the wholly-owned stations and the branded stations shall be determined in accordance with the following table:

“(1) WHOLLY-OWNED STATIONS.—

“(a) MAJOR OIL COMPANIES.—

“(i) IN GENERAL.—

“(A) RATE.—

(i) IN GENERAL.—

“(A) RATE.—

Calendar year:	“Applicable percentage of wholly-owned stations and branded stations (percent):”
2008	5
2009	10
2010	15
2011	20
2012	25
2013	30
2014	35
2015	40
2016	45
2017 and each calendar year thereafter.	50.

“(D) GEOGRAPHIC DISTRIBUTION.—

“(i) IN GENERAL.—Subject to clause (ii), in promulgating regulations under subparagraph (B), the Secretary shall ensure that each major oil company described in subparagraph (B) installs or otherwise makes available 1 or more pumps that dispense E-85 fuel at not less than a minimum percentage (specified in the regulations) of the wholly-owned stations and the branded stations of the major oil company in each State.

“(ii) REQUIREMENT.—In specifying the minimum percentage under clause (i), the Secretary shall ensure that each major oil company installs or otherwise makes available 1 or more pumps described in that clause in each State in which the major oil company operates.

“(E) FINANCIAL RESPONSIBILITY.—In promulgating regulations under subparagraph (B), the Secretary shall ensure that each major oil company described in that subparagraph assumes full financial responsibility for the costs of installing or otherwise making available the pumps described in that subparagraph and any other equipment necessary (including tanks) to ensure that the pumps function properly.

“(F) PRODUCTION CREDITS FOR EXCEEDING E-85 FUEL PUMPS INSTALLATION REQUIREMENT.—

“(i) EARNING AND PERIOD FOR APPLYING CREDITS.—If the percentage of the wholly-owned stations and the branded stations of a major oil company at which the major oil company installs E-85 fuel pumps in a particular calendar year exceeds the percentage required under subparagraph (C), the major oil company earns credits under this paragraph, which may be applied to any of the 3 consecutive calendar years immediately after the calendar year for which the credits are earned.

“(ii) TRADING CREDITS.—Subject to clause (iii), a major oil company that has earned credits under clause (i) may sell credits to another major oil company to enable the purchaser to meet the requirement under subparagraph (C).

“(iii) EXCEPTION.—A major oil company may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).”

**SEC. 6. REQUIREMENT TO MANUFACTURE DUAL FUELED AUTOMOBILES.**

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by inserting after section 32902 the following:

**“§ 32902A. Requirement to manufacture dual fueled automobiles**

“(a) REQUIREMENT.—Each manufacturer of new automobiles that are capable of operating on gasoline or diesel fuel shall ensure that the percentage of such automobiles, manufactured in any model year after model year 2007 and distributed in commerce for sale in the United States, which are dual fueled automobiles is equal to not less than the applicable percentage set forth in the following table:

“For the model year:”	“The percentage of dual fueled automobiles manufactured shall be not less than:”
2008	10 percent
2009	20 percent
2010	30 percent
2011	40 percent
2012	50 percent
2013	60 percent
2014	70 percent
2015	80 percent
2016	90 percent
2017 and beyond	100 percent

“(b) PRODUCTION CREDITS FOR EXCEEDING FLEXIBLE FUEL AUTOMOBILE PRODUCTION REQUIREMENT.—

“(1) EARNING AND PERIOD FOR APPLYING CREDITS.—If the number of dual fueled automobiles manufactured by a manufacturer in a particular model year exceeds the number required under subsection (a), the manufacturer earns credits under this section, which may be applied to any of the 3 consecutive model years immediately after the model year for which such credits are earned.

“(2) TRADING CREDITS.—A manufacturer that has earned credits under paragraph (1) may sell credits to another manufacturer to enable the purchaser to meet the requirement under subsection (a).”

(2) TECHNICAL AMENDMENT.—The table of sections for chapter 329 of title 49, United States Code, is amended by inserting after the item relating to section 32902 the following:

“32902A. Requirement to manufacture dual fueled automobiles.”

(b) ACTIVITIES TO PROMOTE THE USE OF CERTAIN ALTERNATIVE FUELS.—The Secretary of Transportation shall carry out activities to promote the use of fuel mixtures containing gasoline or diesel fuel and 1 or more alternative fuels, including a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels, to power automobiles in the United States.

**SEC. 7. DEFINITION OF AUTOMOBILE.**

(a) IN GENERAL.—Section 32901(a)(3) of title 49, United States Code, is amended by striking “rated at—” and all that follows through the period at the end and inserting “rated at not more than 10,000 pounds gross vehicle weight.”

(b) FUEL ECONOMY INFORMATION.—Section 32908(a) of title 49, United States Code, is amended, by striking “section—” and all that follows through “(2)” and inserting “section, the term”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to model year 2009 and each subsequent model year.

**SEC. 8. AVERAGE FUEL ECONOMY STANDARDS.**

(a) STANDARDS.—Section 32902 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the header, by inserting “MANUFACTURED BEFORE MODEL YEAR 2012” after “NON-PASSENGER AUTOMOBILES”; and

(B) by adding at the end the following: “This subsection shall not apply to automobiles manufactured after model year 2011.”;

(2) in subsection (b)—

(A) in the header, by inserting “MANUFACTURED BEFORE MODEL YEAR 2012” after “PASSENGER AUTOMOBILES”; and

(B) by inserting “and before model year 2009” after “1984”; and

(C) by adding at the end the following: “Such standard shall be increased by 4 percent per year for model years 2009 through 2011 (rounded to the nearest 1/10 mile per gallon)”;

(3) by amending subsection (c) to read as follows:

“(c) AUTOMOBILES MANUFACTURED AFTER MODEL YEAR 2011.—(1) Not later than 18 months before the beginning of each model year after model year 2011, the Secretary of Transportation shall prescribe, by regulation—

“(A) an average fuel economy standard for automobiles manufactured by a manufacturer in that model year; or

“(B) based on 1 or more vehicle attributes that relate to fuel economy—

“(i) separate standards for different classes of automobiles; or

“(ii) standards expressed in the form of a mathematical function.

“(2)(A) Except as provided under paragraphs (3) and (4) and subsection (d), standards under paragraph (1) shall attain a projected aggregate level of average fuel economy of 27.5 miles per gallon for all automobiles manufactured by all manufacturers for model year 2012.

“(B) The projected aggregate level of average fuel economy for model year 2013 and each succeeding model year shall be increased by 4 percent from the level for the prior model year (rounded to the nearest 1/10 mile per gallon).

“(C) Notwithstanding subparagraphs (A) and (B), the fleetwide average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year for that manufacturer’s domestic fleet and for its foreign fleet as calculated under section 32904 as in effect before the date of enactment of the National Fuels Initiative shall not be less than 92 percent of the average fuel economy projected by the Secretary for the combined domestic and foreign fleets manufactured by all manufacturers in that model year.

“(3) If the actual aggregate level of average fuel economy achieved by manufacturers for each of 3 consecutive model years is at least 5 percent less than the projected aggregate level of average fuel economy for such model year, the Secretary shall make appropriate adjustments to the standards prescribed under this subsection.

“(4)(A) Notwithstanding paragraphs (1) through (3) and subsection (b), the Secretary of Transportation may prescribe a lower average fuel economy standard for 1 or more model years if the Secretary of Transportation, in consultation with the Secretary of Energy, determines that the minimum standards prescribed under paragraph (2) or (3) or subsection (b) for each model year—

“(i) are technologically unachievable;

“(ii) cannot be achieved without materially reducing the overall safety of automobiles manufactured or sold in the United States; or

“(iii) is shown, by clear and convincing evidence, not to be cost effective.

“(B) If a lower standard is prescribed for a model year under subparagraph (A), such standard shall be the maximum standard that—

“(i) is technologically achievable;

“(ii) can be achieved without materially reducing the overall safety of automobiles manufactured or sold in the United States; and

“(iii) is cost effective.

“(5) In determining cost effectiveness under paragraph (4)(A)(iii), the Secretary of Transportation shall take into account the total value to the Nation of reduced petroleum use, including the value of reducing external costs of petroleum use, using a value for such costs equal to 50 percent of the value of a gallon of gasoline saved or the

amount determined in an analysis of the external costs of petroleum use that considers—

- “(A) value to consumers;
- “(B) economic security;
- “(C) national security;
- “(D) foreign policy;
- “(E) the impact of oil use—
- “(i) on sustained cartel rents paid to foreign suppliers;
- “(ii) on long-run potential gross domestic product due to higher normal-market oil price levels, including inflationary impacts;
- “(iii) on import costs, wealth transfers, and potential gross domestic product due to increased trade imbalances;
- “(iv) on import costs and wealth transfers during oil shocks;
- “(v) on macroeconomic dislocation and adjustment costs during oil shocks;
- “(vi) on the cost of existing energy security policies, including the management of the Strategic Petroleum Reserve;
- “(vii) on the timing and severity of the oil peaking problem;
- “(viii) on the risk, probability, size, and duration of oil supply disruptions;
- “(ix) on OPEC strategic behavior and long-run oil pricing;
- “(x) on the short term elasticity of energy demand and the magnitude of price increases resulting from a supply shock;
- “(xi) on oil imports, military costs, and related security costs, including intelligence, homeland security, sea lane security and infrastructure, and other military activities;
- “(xii) on oil imports, diplomatic and foreign policy flexibility, and connections to geopolitical strife, terrorism, and international development activities;
- “(xiii) all relevant environmental hazards under the jurisdiction of the Environmental Protection Agency; and
- “(xiv) on well-to-wheels urban and local air emissions of ‘pollutants’ and their uninternalized costs;
- “(F) the impact of the oil or energy intensity of the United States economy on the sensitivity of the economy to oil price changes, including the magnitude of gross domestic product losses in response to short term price shocks or long term price increases;
- “(G) the impact of United States payments for oil imports on political, economic, and military developments in unstable or unfriendly oil exporting countries;
- “(H) the uninternalized costs of pipeline and storage oil seepage, and for risk of oil spills from production, handling, and transport, and related landscape damage; and
- “(I) additional relevant factors, as determined by the Secretary.
- “(6) When considering the value to consumers of a gallon of gasoline saved, the Secretary of Transportation may not use a value less than the greatest of—
- “(A) the average national cost of a gallon of gasoline sold in the United States during the 12-month period ending on the date on which the new fuel economy standard is proposed;
- “(B) the most recent weekly estimate by the Energy Information Administration of the Department of Energy of the average national cost of a gallon of gasoline (all grades) sold in the United States; or
- “(C) the gasoline prices projected by the Energy Information Administration for the 20-year period beginning in the year following the year in which the standards are established.
- “(7) In prescribing standards under this subsection, the Secretary may prescribe standards for 1 or more model years.
- “(8)(A) Not later than December 31, 2016, the Secretary of Transportation, the Secretary of Energy, and the Administrator of

the Environmental Protection Agency shall submit a joint report to Congress on the state of global automotive efficiency technology development, and on the accuracy of tests used to measure fuel economy of automobiles under section 32904(c), utilizing the study and assessment of the National Academy of Sciences referred to in subparagraph (B).

“(B) The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study of the technological opportunities to enhance fuel economy and an analysis and assessment of the accuracy of fuel economy tests used by the Administrator of the Environmental Protection Agency to measure fuel economy for each model under section 32904(c). Such analysis and assessment shall identify any additional factors or methods that should be included in tests to measure fuel economy for each model to more accurately reflect actual fuel economy of automobiles. The Secretary and the Administrator of the Environmental Protection Agency shall furnish, at the request of the Academy, any information which the Academy determines to be necessary to conduct the study, analysis, and assessment under this subparagraph.

“(C) The report submitted under subparagraph (A) shall include—

“(i) the study of the National Academy of Sciences referred to in subparagraph (B); and

“(ii) an assessment by the Secretary of technological opportunities to enhance fuel economy and opportunities to increase overall fleet safety.

“(D) The report submitted under subparagraph (A) shall identify and examine additional opportunities to reform the regulatory structure under this chapter, including approaches that seek to merge vehicle and fuel requirements into a single system that achieves equal or greater reduction in petroleum use and environmental benefits.

“(E) The report submitted under subparagraph (A) shall—

“(i) include conclusions reached by the Administrator of the Environmental Protection Agency, as a result of detailed analysis and public comment, on the accuracy of current fuel economy tests;

“(ii) identify any additional factors that the Administrator determines should be included in tests to measure fuel economy for each model to more accurately reflect actual fuel economy of automobiles; and

“(iii) include a description of options, formulated by the Secretary and the Administrator, to incorporate such additional factors in fuel economy tests in a manner that will not effectively increase or decrease average fuel economy for any automobile manufacturer.

“(F) There is authorized to be appropriated to the Secretary such amounts as are required to carry out the study, analysis, and assessment required by subparagraph (B).”; and

(4) in subsection (g)(2), by striking “(and submit the amendment to Congress when required under subsection (c)(2) of this section”).

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended—

(A) in section 32903—

(i) by striking “passenger” each place it appears;

(ii) by striking “section 32902(b)–(d) of this title” each place it appears and inserting “subsection (c) or (d) of section 32902”; and

(iii) by striking subsection (e); and

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

(B) in section 32904(a)—

(i) by striking “passenger” each place it appears; and

(ii) in paragraph (1), by striking “subject to” and all that follows through “section 32902(b)–(d) of this title” and inserting “subsection (c) or (d) of section 32902”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to automobiles manufactured after model year 2011.

#### SEC. 9. CREDIT TRADING AND COMPLIANCE.

(a) CREDIT TRADING.—Section 32903(a) of title 49, United States Code, is amended—

(1) by inserting “Credits earned by a manufacturer under this section may be sold to any other manufacturer and used as if earned by that manufacturer; except that credits earned by a manufacturer described in section 32904(b)(1)(A)(i) may not be sold to or purchased by a manufacturer described in section 32904(b)(1)(A)(ii).” after “earns credits.”; and

(2) by striking “3 consecutive model years immediately” each place it appears and inserting “model years”.

(b) TREATMENT OF IMPORTS.—

(1) CONFORMING AMENDMENT.—Section 32904(b) is amended by striking “passenger” each place it appears.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to automobiles manufactured after model year 2011.

(c) MULTI-YEAR COMPLIANCE PERIOD.—Section 32904(c) of such title is amended—

(1) by inserting “(1)” before “The Administrator”; and

(2) by adding at the end the following:

“(2) The Secretary, by rule, may allow a manufacturer to elect a multi-year compliance period of not more than 4 consecutive model years in lieu of the single model year compliance period otherwise applicable under this chapter.”.

#### SEC. 10. CONSUMER TAX CREDIT.

(a) ELIMINATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN BURN TECHNOLOGY VEHICLES ELIGIBLE FOR ALTERNATIVE MOTOR VEHICLE CREDIT.—

(1) IN GENERAL.—Section 30B of the Internal Revenue Code of 1986 is amended—

(A) by striking subsection (f); and

(B) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Paragraphs (4) and (6) of section 30B(h) of such Code are each amended by striking “(determined without regard to subsection (g))” and inserting “(determined without regard to subsection (f))”.

(B) Section 38(b)(25) of such Code is amended by striking “section 30B(g)(1)” and inserting “section 30B(f)(1)”.

(C) Section 55(c)(2) of such Code is amended by striking “section 30B(g)(2)” and inserting “section 30B(f)(2)”.

(D) Section 1016(a)(36) of such Code is amended by striking “section 30B(h)(4)” and inserting “section 30B(g)(4)”.

(E) Section 6501(m) of such Code is amended by striking “section 30B(h)(9)” and inserting “section 30B(g)(9)”.

(b) EXTENSION OF ALTERNATIVE VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES.—Paragraph (3) of section 30B(i) of such Code (as redesignated by subsection (a)) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

#### SEC. 11. ADVANCED TECHNOLOGY MOTOR VEHICLES MANUFACTURING CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

##### “SEC. 30D. ADVANCED TECHNOLOGY MOTOR VEHICLES MANUFACTURING CREDIT.

“(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by

this chapter for the taxable year an amount equal to 35 percent of the qualified investment of an eligible taxpayer for such taxable year.

“(b) QUALIFIED INVESTMENT.—For purposes of this section—

“(1) IN GENERAL.—The qualified investment for any taxable year is equal to the incremental costs incurred during such taxable year—

“(A) to re-equip, expand, or establish any manufacturing facility in the United States of the eligible taxpayer to produce advanced technology motor vehicles or to produce eligible components,

“(B) for engineering integration performed in the United States of such vehicles and components as described in subsection (d),

“(C) for research and development performed in the United States related to advanced technology motor vehicles and eligible components, and

“(D) for employee retraining with respect to the manufacturing of such vehicles or components (determined without regard to wages or salaries of such retrained employees).

“(2) ATTRIBUTION RULES.—In the event a facility of the eligible taxpayer produces both advanced technology motor vehicles and conventional motor vehicles, or eligible and non-eligible components, only the qualified investment attributable to production of advanced technology motor vehicles and eligible components shall be taken into account.

“(c) DEFINITIONS.—In this section:

“(1) ADVANCED TECHNOLOGY MOTOR VEHICLE.—The term ‘advanced technology motor vehicle’ means—

“(A) any qualified electric vehicle (as defined in section 30(c)(1)),

“(B) any new qualified fuel cell motor vehicle (as defined in section 30B(b)(3)),

“(C) any new advanced lean burn technology motor vehicle (as defined in section 30B(c)(3)),

“(D) any new qualified hybrid motor vehicle (as defined in section 30B(d)(2)(A) and determined without regard to any gross vehicle weight rating),

“(E) any new qualified alternative fuel motor vehicle (as defined in section 30B(e)(4), including any mixed-fuel vehicle (as defined in section 30B(e)(5)(B)), and

“(F) any other motor vehicle using electric drive transportation technology (as defined in paragraph (3)).

“(2) ELECTRIC DRIVE TRANSPORTATION TECHNOLOGY.—The term ‘electric drive transportation technology’ means technology used by vehicles that use an electric motor for all or part of their motive power and that may or may not use off-board electricity, such as battery electric vehicles, fuel cell vehicles, engine dominant hybrid electric vehicles, plug-in hybrid electric vehicles, and plug-in hybrid fuel cell vehicles.

“(3) ELIGIBLE COMPONENTS.—The term ‘eligible component’ means any component inherent to any advanced technology motor vehicle, including—

“(A) with respect to any gasoline or diesel-electric new qualified hybrid motor vehicle—

“(i) electric motor or generator;

“(ii) power split device;

“(iii) power control unit;

“(iv) power controls;

“(v) integrated starter generator; or

“(vi) battery;

“(B) with respect to any hydraulic new qualified hybrid motor vehicle—

“(i) accumulator or other energy storage device;

“(ii) hydraulic pump;

“(iii) hydraulic pump-motor assembly;

“(iv) power control unit; and

“(v) power controls;

“(C) with respect to any new advanced lean burn technology motor vehicle—

“(i) diesel engine;

“(ii) turbo charger;

“(iii) fuel injection system; or

“(iv) after-treatment system, such as a particle filter or NOx absorber; and

“(D) with respect to any advanced technology motor vehicle, any other component submitted for approval by the Secretary.

“(4) ELIGIBLE TAXPAYER.—The term ‘eligible taxpayer’ means any taxpayer if more than 20 percent of the taxpayer’s gross receipts for the taxable year is derived from the manufacture of motor vehicles or any component parts of such vehicles.

“(d) ENGINEERING INTEGRATION COSTS.—For purposes of subsection (b)(1)(B), costs for engineering integration are costs incurred prior to the market introduction of advanced technology vehicles for engineering tasks related to—

“(1) establishing functional, structural, and performance requirements for component and subsystems to meet overall vehicle objectives for a specific application,

“(2) designing interfaces for components and subsystems with mating systems within a specific vehicle application,

“(3) designing cost effective, efficient, and reliable manufacturing processes to produce components and subsystems for a specific vehicle application, and

“(4) validating functionality and performance of components and subsystems for a specific vehicle application.

“(e) 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—

“(A) the regular tax liability (as defined in section 26(b)) for such taxable year, plus

“(B) the tax imposed by section 55 for such taxable year and any prior taxable year beginning after 1986 and not taken into account under section 53 for any prior taxable year, over

“(2) the sum of the credits allowable under subpart A and sections 27, 30, and 30B for the taxable year.

“(f) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(g) NO DOUBLE BENEFIT.—

“(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in determining the amount of the credit under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

“(2) RESEARCH AND DEVELOPMENT COSTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any amount described in subsection (b)(1)(C) taken into account in determining the amount of the credit under subsection (a) for any taxable year shall not be taken into account for purposes of determining the credit under section 41 for such taxable year.

“(B) COSTS TAKEN INTO ACCOUNT IN DETERMINING BASE PERIOD RESEARCH EXPENSES.—Any amounts described in subsection (b)(1)(C) taken into account in determining the amount of the credit under subsection (a) for any taxable year which are qualified research expenses (within the meaning of section 41(b)) shall be taken into account in determining base period research expenses for purposes of applying section 41 to subsequent taxable years.

“(h) BUSINESS CARRYOVERS ALLOWED.—If the credit allowable under subsection (a) for a taxable year exceeds the limitation under subsection (e) for such taxable year, such excess (to the extent of the credit allowable with respect to property subject to the allowance for depreciation) shall be allowed as a credit carryback to each of the 15 taxable years immediately preceding the unused credit year and as a carryforward to each of the 20 taxable years immediately following the unused credit year.

“(i) SPECIAL RULES.—For purposes of this section, rules similar to the rules of section 179A(e)(4) and paragraphs (1) and (2) of section 41(f) shall apply

“(j) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

“(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

“(l) TERMINATION.—This section shall not apply to any qualified investment after December 31, 2010.”

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting “, and”, and by adding at the end the following new paragraph:

“(38) to the extent provided in section 30D(g).”

(2) Section 6501(m) of such Code is amended by inserting “30D(k),” after “30C(e)(5).”

(3) 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. Advanced technology motor vehicles manufacturing credit.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts incurred in taxable years beginning after December 31, 1999.

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

S. 4003. A bill to require the Secretary of Energy to award funds to study the feasibility of constructing 1 or more dedicated ethanol pipelines to increase the energy, economic, and environmental security of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HARKIN. Mr. President, today I am introducing the Ethanol Infrastructure Expansion Act of 2006. This bill directs the Department of Energy, DOE, to study and evaluate the feasibility of transporting ethanol by pipeline. I am pleased that my colleague, Senator LUGAR of Indiana, is joining me as a cosponsor of this bill.

There is broad recognition that we need to reduce our almost-complete dependence on oil for energy in our transportation sector. We also understand that there is not a single, simple solution to this dependence. I believe that we need to use energy more efficiently and promote alternatives to oil-based fuels in transportation.

The most promising liquid fuel alternative to conventional gasoline today is ethanol. Use of ethanol as an additive in gasoline and in the form of E85 is expanding rapidly, and for good reasons. First of all, as a domestically-

produced fuel, ethanol contributes to our national energy security. As a gasoline additive, ethanol provides air quality benefits by reducing auto tailpipe emissions of air pollutants. Because ethanol is biodegradable, its use poses no threat to surface water or groundwater. Finally, the production of ethanol provides national and regional economic and job-growth benefits by using local resources and labor to contribute to critical national transportation energy needs.

My Congressional colleagues and I have recognized the benefits and potential of ethanol and have promoted its expanded production and use in numerous bills, including most recently in the 2005 energy bill. A key provision in that legislation is the renewable fuels standard under which motor vehicle fuel sold in the United States is required to contain increasing levels of renewable fuels. Several other provisions promote the production and use of ethanol from cellulose, which is an especially attractive approach because it enables the use of a broad variety of plentiful and low-cost feedstocks including corn stover, wheat straw, forest industry wastes and woody municipal wastes.

The benefits of ethanol are reflected in the rapid expansion of its production and use, which has increased by more than 20 percent annually for the past several years. Moreover, ethanol's longer-term potential to become a very significant energy source for transportation also is gaining attention. A number of studies have concluded that ethanol can contribute 20 to 30 percent or more of our transportation fuel in the future. Several of my Senate colleagues joined me to introduce S. 2817, the Biofuels Security Act of 2006 which calls for domestic production and use of renewable fuels to reach 60 billion gallons a year by 2030. I am especially proud of the leadership role that my State of Iowa and the neighboring states of the Midwest are going to play in this expansion.

Given this outlook, it is time for us to consider the full implications of

such a transition. One issue that deserves prompt attention is that of ethanol transport. The volumes of ethanol to be shipped in the future strongly suggest that pipeline transport should be evaluated because of the potential economic and environmental advantages that alternative might offer as compared to shipment by highway, rail tanker or barge. As production volumes increase, especially in the Midwest, it is likely to be more economical to pump ethanol through pipelines than to ship it in containers across the country. Pipeline shipping also would reduce the vehicle emissions associated with rail or tanker shipment, as well as being more energy efficient.

For all of these reasons, we should begin to consider development of an ethanol pipeline network. Given the pace of ethanol's growth, it is likely that our Nation could begin to benefit from pipeline transport of ethanol as early as the 2015 to 2020 timeframe. The current state of knowledge regarding transport of ethanol by pipeline is limited. However, it is being done in Brazil, a world leader in the production and use of ethanol. Still, it is also known that the water solubility of ethanol introduces technical and operational issues bearing on shipment of ethanol in multi-product pipelines. Thus, the planning, siting, design, financing, permitting and construction of the first ethanol pipelines may well take as long as a decade, perhaps longer. For that reason, we need to begin now to develop a better understanding of this ethanol transport option.

This bill initiates that process by directing the Department of Energy to conduct ethanol pipeline feasibility studies. It calls for analyses of the technological, economic, regulatory, financial and siting issues related to transporting ethanol via pipelines. A systematic analysis of these ethanol pipeline issues will provide the substantive information necessary for assessing the costs and benefits of this transport alternative. DOE would ei-

ther fund private sector studies or conduct the studies on its own. The results of these studies will provide a clearer picture of the benefits and challenges of pipeline transport of ethanol. They will provide critical information, both for the ethanol industry as it contemplates ethanol transport alternatives, and for policy-makers seeking to understand what federal policies or programs might be appropriate to promote the most cost-effective and environmentally sound ethanol transportation in the future.

We have broad agreement on the need to do all that we can to reduce our dependence on oil. We are promoting expanding production and use of renewable fuels in many ways, but we need to consider the full range of infrastructure issues that broader ethanol use entails. Because of the rapid growth of ethanol production and use, these studies of pipeline transport of ethanol should be undertaken in the very near future. I urge my Senate colleagues to join me in passing this important and timely legislation.

By Mr. DEWINE (for himself and Mr. VOINOVICH):

S. 4004. A bill to suspend temporarily in the duty on certain structures, parts, and components for use in an isotopic separation facility in southern Ohio; to the Committee on Finance.

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

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

S. 4004

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

**SECTION 1. CERTAIN STRUCTURES, PARTS, AND COMPONENTS FOR USE IN AN ISOTOPIC SEPARATION FACILITY IN SOUTHERN OHIO.**

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.13.75	Certain structures, parts, and components for use in an isotopic separation facility (isotopic separation equipment) consisting of cold boxes, feed ovens, and feed purification systems, including their associated cooling systems, control systems, weighing systems, and cylinder handling systems, for the construction of an isotopic separation facility in southern Ohio known as the "American Centrifuge Plant" (provided for in subheading 8401.20.00).	Free	No change	No change	On or before 12/31/2009	".
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(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DOMENICI:

S. 4007. A bill to authorize the Secretary of the Interior to conduct feasibility studies to identify opportunities to increase the surface flows of the Rio Grande, Canadian, and Pecos Rivers in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, monsoons this summer provided New Mex-

ico with a brief reprieve from drought conditions that have persisted in some areas of New Mexico since 2000. We would be remiss to let our recent good fortune influence our long-term water planning. July and August this year were the wettest July and August in the past 112 years. Clearly, we cannot assume these events will become commonplace. For this reason, we must take steps to ensure we are prepared for future droughts and increasing competition for limited water supplies.

Despite summer rains, many reservoirs are still far below historical averages. According to recent reservoir

data, Heron and El Vado Reservoirs on the Chama River are 71 percent and 56 percent of average, respectively; Conchas Reservoir on the Canadian River is 50 percent of average; and Elephant Butte Reservoir on the Rio Grande is 27 percent of average. Moreover, because storage in Elephant Butte Reservoir has not reached 400,000 acre feet, the Rio Grande Compact imposes restrictions on New Mexico's ability to store water in reservoirs on the Rio Grande and Chama Rivers. As such, recent rains have not contributed significantly to storage on those rivers.

The water crisis we were facing prior to the summer rains led many to question how we will allocate this finite resource among numerous and competing needs. As witnessed on the Klamath River and the Rio Grande in New Mexico, water shortages often result in litigation that pits municipalities, agricultural producers, industry, Indians, and the environmental community against one another. In order to avoid such crises in New Mexico, the United States Congress has appropriated enormous sums in order to ensure that existing uses are not curtailed. However, unless new sources of water are found, future conflict over water is inevitable.

Recent conditions illustrate the need for us to look for ways to supplement flows of the most severely impacted regions in order to stave off the hardships and conflict that result from lean water years. It is my sincere hope that record-breaking rains this summer will not breed complacency. The bill I introduce today would authorize the United States Bureau of Reclamation to investigate ways to increase the flows of the Rio Grande, Pecos and Canadian Rivers, the three rivers that have been most devastated by long-term drought. While little can be done to increase rainfall, it is my belief that this bill will help us begin to better understand ways to increase the flows of these rivers to help mitigate the damaging effects that drought imposes on the municipalities, agricultural producers, industries and endangered species that depend on the water these rivers provide.

I thank Representative HEATHER WILSON for introducing a companion measure in the House of Representatives.

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

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

S. 4007

*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 "New Mexico Rivers Feasibility Studies Act of 2006".

#### SEC. 2. RIO GRANDE, CANADIAN, AND PECOS RIVERS FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this Act as the "Secretary"), in coordination with the State of New Mexico, shall, in accordance with this Act and any other applicable law, conduct feasibility studies to identify opportunities to increase the surface flows of the Rio Grande, Canadian, and Pecos Rivers in the State of New Mexico.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the results of the feasibility studies conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this Act \$3,000,000.

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

S. 4008. A bill to authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President. I would like to bring to the attention of the Senate a problem faced by communities in eastern New Mexico illustrative of a greater problem that will ultimately be encountered by all who depend on the Ogallala Aquifer for their water. This includes communities in New Mexico, Texas, Oklahoma, Kansas, Colorado, Nebraska, Wyoming and South Dakota. At one time, the Aquifer contained roughly the same amount of water as Lake Huron. After 65 years of mining, we are now faced with the reality that the water contained in the Ogallala Aquifer has been significantly depleted and continues to be drawn down at an alarming rate.

Many on the periphery of the Aquifer, including much of eastern New Mexico, parts of Kansas and Oklahoma have been forced to drill new wells in order to supplement existing wells that are producing water at a fraction of the volume of several decades ago. This problem is not limited to those communities overlying the Ogallala. Many other regions entirely reliant on groundwater face a similar problem. As is the case with the communities in eastern New Mexico, when the wells run dry, the only alternative for many is to ship water from long distances. In many instances, this is a very expensive proposition that exceeds the capacity of rural communities' ability to pay.

In order to address the want of a sustainable water supply in eastern New Mexico, I introduce today the Eastern New Mexico Rural Water System Act of 2006. The bill would authorize the United States Bureau of Reclamation to provide financial assistance to the Eastern New Mexico Rural Water Authority, at a 75 percent Federal cost-share, to construct a pipeline from Ute Reservoir to communities in eastern New Mexico. This project would provide them with a renewable source of water for years to come. Presently, it is unclear how many years the groundwater resources on which they rely will be available.

The communities which make up the Eastern New Mexico Rural Water Authority are due a great deal of credit for initiating engineering studies, project financing studies, and seeking support for the project from local, Federal and State governments. However, it would be misleading to suggest that securing appropriations for this or similar pipelines would be easy or that the funds will be available any time soon. The current budget of the United States Bureau of Reclamation simply

cannot accommodate the large sums of money that this or other water supply projects would require. As Chairman of the Energy and Water Development Appropriations Subcommittee, I am acutely aware of this fact and I have made this clear to the communities that would benefit from the pipeline authorized by the bill that I introduce today. However, I remain committed to advocate for the need to dedicate substantially more of the national budget to this and other western water issues with Congress and the Administration. In the interim, it is my hope that we can begin the long and difficult process of moving this bill through the Federal legislature. The members of the Eastern New Mexico Rural Water Authority fully appreciate the difficulties that lie ahead.

The problem faced by eastern New Mexico communities will become commonplace as groundwater supplies are exhausted. Approximately half of the population of the United States depends on aquifers for their domestic water needs. In the coming years, the United States Congress will have to provide succor to similar communities who have no alternative than to seek assistance from the Federal Government. Commensurate with this need for assistance, Congress will also have to make budgetary decisions that take into account this widespread problem. We would be remiss in our duties to let these communities simply dry up.

I thank Senator BINGAMAN, my friend and colleague for the past 23 years and ranking member of the Energy and Natural Resources Committee for co-sponsoring this legislation.

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

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

S. 4008

*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 "Eastern New Mexico Rural Water System Act of 2006".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term "Authority" means the Eastern New Mexico Rural Water Authority, an entity formed under State law for the purposes of planning, financing, developing, and operating the System.

(2) PLAN.—The term "plan" means the operation, maintenance, and replacement plan required by section 4(b).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of New Mexico.

(5) SYSTEM.—

(A) IN GENERAL.—The term "System" means the Eastern New Mexico Rural Water System, a water delivery project designed to deliver approximately 16,500 acre-feet of water per year from the Ute Reservoir to the cities of Clovis, Elida, Grady, Melrose, Portales, and Texico and other locations in Curry and Roosevelt Counties in the State.

(B) INCLUSIONS.—The term "System" includes—

- (i) the intake structure at Ute Reservoir;
- (ii) a water treatment, administration, and maintenance facility with—
  - (I) a 30,000,000 gallon per day average peak capacity; and
  - (II) a 15,000,000 gallon per day average capacity;
- (iii) approximately 155 miles of transmission and lateral pipelines and tunnels that range in size from 4 to 60 inches in diameter;
- (iv) 3 pumping stations, including—
  - (I) a raw water pump station at Ute Reservoir;
  - (II) a booster pump station at the "Caprock" escarpment; and
  - (III) a booster pump station to Elida; and
  - (v) any associated appurtenances.
- (6) UTE RESERVOIR.—The term "Ute Reservoir" means the impoundment of water created in 1962 by the construction of the Ute Dam on the Canadian River, located approximately 32 miles upstream of the border between New Mexico and Texas.

### SEC. 3. EASTERN NEW MEXICO RURAL WATER SYSTEM.

- (a) FINANCIAL ASSISTANCE.—
  - (1) IN GENERAL.—The Secretary may provide financial and technical assistance to the Authority to assist in planning, designing, conducting related preconstruction activities for, and constructing the System.
  - (2) USE.—
    - (A) IN GENERAL.—Any financial assistance provided under paragraph (1) shall be obligated and expended only in accordance with a cooperative agreement entered into under section 5(a)(2).
    - (B) LIMITATIONS.—Financial assistance provided under paragraph (1) shall not be used—
      - (i) for any activity that is inconsistent with constructing the System; or
      - (ii) to plan or construct facilities used to supply irrigation water for agricultural purposes.
    - (b) COST-SHARING REQUIREMENT.—
      - (1) IN GENERAL.—The Federal share of the total cost of any activity or construction carried out using amounts made available under this Act shall be not more than 75 percent of the total cost of the System.
      - (2) SYSTEM DEVELOPMENT COSTS.—For purposes of paragraph (1), the total cost of the System shall include any costs incurred by the Authority on or after October 1, 2003, for the development of the System.
      - (c) LIMITATION.—No amounts made available under this Act may be used for the construction of the System until—
        - (1) a plan is developed under section 4(b); and
        - (2) the Secretary and the Authority have complied with any requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to the System.
        - (d) TITLE TO PROJECT WORKS.—Title to the infrastructure of the System shall be held by the Authority or as may otherwise be specified under State law.

### SEC. 4. OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.

- (a) IN GENERAL.—The Authority shall be responsible for the annual operation, maintenance, and replacement costs associated with the System.
- (b) OPERATION, MAINTENANCE, AND REPLACEMENT PLAN.—The Authority, in consultation with the Secretary, shall develop an operation, maintenance, and replacement plan that establishes the rates and fees for beneficiaries of the System in the amount necessary to ensure that the System is properly maintained and capable of delivering approximately 16,500 acre-feet of water per year.

### SEC. 5. ADMINISTRATIVE PROVISIONS.

- (a) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into any contract, grant, cooperative agreement, or other agreement that is necessary to carry out this Act.

(2) COOPERATIVE AGREEMENT FOR PROVISION OF FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the Authority to provide financial assistance or any other assistance requested by the Authority for planning, design, related preconstruction activities, and construction of the System.

(B) REQUIREMENTS.—The cooperative agreement entered into under subparagraph (A) shall, at a minimum, specify the responsibilities of the Secretary and the Authority with respect to—

- (i) ensuring that the cost-share requirements established by section 3(b) are met;
- (ii) completing the planning and final design of the System;
- (iii) any environmental and cultural resource compliance activities required for the System; and
- (iv) the construction of the System.

(b) TECHNICAL ASSISTANCE.—At the request of the Authority, the Secretary may provide to the Authority any technical assistance that is necessary to assist the Authority in planning, designing, constructing, and operating the System.

(c) BIOLOGICAL ASSESSMENT.—The Secretary shall consult with the New Mexico Interstate Stream Commission and the Authority in preparing any biological assessment under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that may be required for planning and constructing the System.

(d) EFFECT.—Nothing in this Act—

- (1) affects or preempts—
  - (A) State water law; or
  - (B) an interstate compact relating to the allocation of water; or
- (2) confers on any non-Federal entity the ability to exercise any Federal rights to—
  - (A) the water of a stream; or
  - (B) any groundwater resource.

### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.

(b) NONREIMBURSABLE AMOUNTS.—Amounts made available to the Authority in accordance with the cost-sharing requirement under section 3(b) shall be nonreimbursable and nonreturnable to the United States.

(c) AVAILABILITY OF FUNDS.—At the end of each fiscal year, any unexpended funds appropriated pursuant to this Act shall be retained for use in future fiscal years consistent with this Act.

Mr. BINGAMAN. Mr. President, I am pleased to be co-sponsoring a bill which Senator DOMENICI and I are introducing today, that would authorize the Bureau of Reclamation to help communities in eastern New Mexico develop the Eastern New Mexico Rural Water System (ENMRWS). The water supply and long-term security to be made available by this project is absolutely critical to the region's future. I look forward to working with my colleagues here in the Senate to help make this project a reality.

This bill is very similar to a bill I introduced in June 2004 which was the subject of a hearing before the Water & Power Subcommittee of the Energy & Natural Resources Committee. At that hearing, the Bureau of Reclamation raised a number of issues that needed to be addressed by the Project sponsors

prior to securing Reclamation's support. I'm happy to say that the sponsors have worked diligently to address those issues, and it is time, once again, to move this project towards authorization. I realize that there is little time left in the 109th Congress. Nonetheless, introduction of this bill now is important to ensure an ongoing dialogue with the Bureau of Reclamation and maintain progress as we head towards the 110th Congress.

The source of water for the ENMRWS is Ute Reservoir, a facility constructed by the State of New Mexico in the early 1960s. In 1966, Congress authorized Reclamation to study the feasibility of a project that would utilize Ute Reservoir to supply water to communities in eastern New Mexico (P.L. 89-561). Numerous studies were subsequently completed, but it was not until the late 1990s that several communities, concerned about their reliance on declining and degraded groundwater supplies in the area, began to plan seriously for the development of a regional water system that would make use of the renewable supply available from Ute Reservoir.

As part of that process, the Eastern New Mexico Rural Water Authority was formed to carry out the development of the ENMRWS. The Authority consists of 6 communities and 2 counties in eastern New Mexico, and has been very effective in securing local funds and State funding to support the studies and planning necessary to move the project forward. To date, the State of New Mexico has provided over \$4 million to help develop the ENMRWS.

This is a very important bill to the citizens of New Mexico. It has the broad support of the communities in the region as well as financial support from the State of New Mexico. There is no question that completion of the ENMRWS will provide communities in Curry and Roosevelt counties with a long-term renewable source of water that is needed to sustain current economic activity and support future growth and development in the region. I hope my colleagues will support this legislation, thereby helping to address pressing water needs in the rural West.

By Mr. MENENDEZ:

S. 4009. A bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes; to the Committee on the Judiciary.

Mr. MENENDEZ. Mr. President, I rise today to introduce legislation designed to protect the most vulnerable members of our society, our children, from environmental pollution. We are well aware that children are especially susceptible to toxins in the environment—they spend a good deal of time playing outside, and frequently put foreign objects into their mouths. In proportion to their body weight, they eat, drink, and breathe more than adults, meaning concentrations of pollutants that might not affect adults could have serious consequences for children. Furthermore, many of their physiological

systems are still developing, making them particularly sensitive to pollutants.

I believe that our environmental laws need to first and foremost protect the most vulnerable members of our society. Unfortunately, many of our statutes are designed with adults in mind, and may not adequately protect children. In addition, there have been a number of recent reports in New Jersey about schools and day care centers being built on contaminated sites. One site in particular, the Kiddie Kollege day care center in Franklin Township, NJ, was operating at the site of a former thermometer factory, exposing the children and employees to dangerous levels of mercury. Sadly, there was no requirement for the property to be tested for environmental contamination prior to opening as a day care center. Subsequently, we have learned about a number of day care centers either built on or adjacent to sites contaminated with volatile organic chemicals and other toxins.

That is why I am introducing this legislation today. The Environmental Protection for Children Act would create a grant program that encourages States to enact laws ensuring that properties are tested for pollution before a new day care center or school is allowed to open. The grants could be used for the testing and cleanup of existing schools and day care centers as well. Furthermore, this bill tightens the Federal programs that regulate hazardous chemicals and environmental pollutants—the Toxic Substances Control Act, Superfund law, Toxic Release Inventory, and Federal Hazardous Substances Act—so that the vulnerability of children to toxins and pollutants is taken into account when public health standards are being developed. It also provides for more research into the specific vulnerabilities of children to environmental pollutants, since in many cases we don't know how much additional risk children are under.

We as a Nation have assiduously acted to protect our children from many of the dangers that they face every day, but we have dropped the ball when it comes to making sure that the places where they spend their days are free from contamination. The Environmental Protection for Children Act will help fix that, and I urge my colleagues to join me in support of this important piece of legislation.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 4013. A bill to amend the Internal Revenue Code of 1986 to expand the resources eligible for the renewable energy credit to kinetic hydropower, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise to introduce a bill that will further our Nation's energy independence, and provide for sustainable electricity generation. This bill, which is cosponsored by

my colleague from Oregon Senator WYDEN, will make facilities that generate electricity using kinetic hydropower eligible for a production tax credit.

Under this bill, kinetic hydropower is defined as: ocean free flowing water derived from flows from tidal currents, ocean currents, waves, or estuary currents; ocean thermal energy; or free flowing water in rivers, lakes, man-made channels, or streams.

These innovative technologies are renewable, non-emitting resources that can help meet our Nation's growing demand for electricity. In Oregon, it would be possible to produce and transmit over two hundred megawatts of wave energy without any upgrades to the existing transmission system on the coast. Already a number of preliminary permits have been filed at the Federal Energy Regulatory Commission for wave energy facilities off the Oregon coast.

These facilities would be virtually invisible from shore, and could provide predictable generation that could be easily integrated with other electricity resources. In addition, according to a January 2005 report issued by the Electric Power Research Institute, "with proper siting, converting ocean wave energy to electricity is believed to be one of the most environmentally benign ways to generate electricity."

As with many emerging renewable technologies, wave and tidal energy are more costly than traditional generation using fossil fuels. Yet, for our environment and our energy security, we must provide incentives that will encourage the development and commercialization of these resources.

I urge my colleagues to support this important legislation, and to provide this production tax credit.

By Mr. LUGAR (for himself, Mr. FRIST, Mr. BIDEN, Mr. SMITH, and Mr. MCCAIN):

S. 4014. A bill to endorse further enlargement of the North Atlantic Treaty Organization (NATO) and to facilitate the timely admission of Albania, Croatia, Georgia, and Macedonia to NATO, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the "NATO Freedom Consolidation Act of 2006. I am pleased that the Majority Leader, Senator FRIST, Senator BIDEN, and Senator SMITH have joined me in proposing this important legislation.

The goal of this bill is to reaffirm United States support for continued enlargement of NATO to democracies that are able and willing to meet the responsibilities of membership. In particular, the legislation calls for the timely admission of Albania, Croatia, Georgia, and Macedonia to NATO and authorizes security assistance for these countries in Fiscal Year 2007. Each of these countries has clearly stated its desire to join NATO and is working hard to meet the specified require-

ments for membership. The bill also affirms that the United States stands ready to consider, and if all applicable criteria are satisfied, to support efforts by Ukraine to join NATO, should Ukraine decide that it wishes to meet the responsibilities of membership in the Alliance.

I believe that eventual NATO membership for these four countries would be a success for Europe, NATO, and the United States by continuing to extend the zone of peace and security. Albania, Croatia, and Macedonia have been making progress on reforms through their participation in the NATO Membership Action Plan since 2002. Unfortunately, Georgia has not yet been granted a Membership Action Plan but nevertheless has made remarkable progress. This legislation will provide important incentives and assistance to the countries to continue the implementation of democratic, defense, and economic reforms.

Since the end of the Cold War, NATO has been evolving to meet the new security needs of the 21st century. In this era, the threats to NATO members are transnational and far from its geographic borders. There is strong support among members for NATO's operation in Afghanistan, and for its training mission in Iraq. NATO's viability as an effective defense and security alliance depends on flexible, creative leadership, as well as the willingness of members to improve capabilities and address common threats.

If NATO is to continue to be the pre-eminent security Alliance and serve the defense interests of its membership, it must continue to evolve and that evolution must include enlargement. Potential NATO membership motivates emerging democracies to make important advances in areas such as the rule of law and civil society. A closer relationship with NATO will promote these values and contribute to our mutual security. Georgia is a young democracy that has made tremendous progress since the "Rose Revolution." It is situated in a critical geostrategic location and has a large portion of the Baku-Tbilisi-Ceyhan pipeline that carries important energy resources to the West from Azerbaijan and, in the future, Kazakhstan. Georgia is resisting pressure from breakaway republics backed by Moscow. In the past, border disputes have been identified as reasons a country may not be invited to join NATO. But in this case, Russia's action, not Georgia's, is frustrating Tbilisi's NATO aspirations.

Three years ago, the United States Senate unanimously voted to invite seven countries to join NATO. Today, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia are making significant contributions to NATO and are among our closest allies in the global war on terrorism. It is time again for the United States to take the lead in urging its allies to bring in new members, and to offer

timely admission of Albania, Croatia, Georgia, and Macedonia to NATO.

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

S. 4017. A bill to provide for an appeals process for hospital wage index classification under the Medicare program, and for other purposes; to the Committee on Finance.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce with Senator SANTORUM the Hospital Payment Improvement and Equity Act, which will provide an increased reimbursement for acute care hospitals and inpatient rehabilitation facilities that are disadvantaged by Medicare payments under the Medicare area wage index reclassification system.

For a considerable period of time, there have been a number of counties in Pennsylvania that have been suffering from low Medicare reimbursements, which has caused them great disadvantage because their nurses, and other medical personnel are moving to surrounding areas. I refer specifically to Luzerne County, Lackawanna County, Wyoming County, Lycoming County, and Columbia County in northeastern Pennsylvania. Those counties are surrounded by MSAs, metropolitan statistical areas, in Newport, NY, to the north; in Allentown to the southeast; and the Harrisburg MSA to the southwest. As these counties are surrounded by MSAs with higher Medicare reimbursements, a flight of very necessary medical personnel has occurred. More recently, western Pennsylvania has been faced with Medicare reimbursement that has not kept pace with the rising cost of healthcare placing a tremendous burden on these facilities to provide good jobs at competitive wages.

It has also come to my attention that inpatient rehabilitation facilities are not provided an opportunity to obtain equitable Medicare reimbursement. Inpatient rehabilitation facilities receive adjustments in their Medicare reimbursement due to geographic disadvantages within the Medicare inpatient prospective payment system. This is based on information gathered from other acute care facilities in the MSA, not from their own wage information. Inpatient Rehabilitation Facilities, further, cannot apply for reclassification to another MSA that reflects their labor costs. This has prevented those facilities from being eligible for increased funding to assist with wages like acute care facilities, while being forced to compete for employees with those facilities that have had access to increased funding.

I have worked to find a solution to this problem for a number of years. During the conference for the fiscal year 2002 Labor, Health and Human Services, and Education Appropriations bill, the conferees agreed that there should be relief for these areas in Pennsylvania that were surrounded by areas that had higher MSA ratings.

However, at the last minute, there was an objection to including language in the conference report.

To correct this problem I, with Representatives SHERWOOD and ENGLISH, brought the matter forward in the Fiscal Year 2002 Supplemental Appropriations bill. They worked to include language in the House version of the bill and I filed an amendment to the Senate bill. During conference negotiations my amendment was defeated and the provisions were not included.

As part the Fiscal Year 2004 Labor, Health and Human Services, and Education Appropriations, I provided \$7 million for hospitals in Northeast Pennsylvania that continued to be disadvantaged by the Medicare area wage index reclassification. This was provided as temporary assistance for those facilities.

During the consideration of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, I met with Finance Chairman GRASSLEY and Ranking Member BAUCUS about the bill provisions, including the need for a solution to the Medicare area wage index reclassification problem in Pennsylvania. As a result, Section 508 was included in the bill, which provides increased funding for hospitals nationally to be reclassified to locations with higher Medicare reimbursement rates for three years at \$300 million per year. The temporary program, which began in April 2004 and will expire April 2007, has and will provide Pennsylvania hospitals \$69 million over that time, \$23 million per year.

Most recently, as part of the Senate Fiscal Year 2007 Labor, Health and Human Services, and Education Appropriations bill, I provided \$4.3 million for hospitals in the Scranton/Wilkes-Barre and Williamsport areas that have been harmed by the ongoing wage index problem. Further, on June 14, 2006, 20 other Senators joined me in sending a letter to Finance Chairman GRASSLEY and Ranking Member BAUCUS in support of Senate action to extend Section 508.

As the Section 508 program is scheduled to expire on March 31, 2007, and the low Medicare area wage index reimbursement is still being unfairly placed on many Pennsylvania hospitals, the legislation I am introducing would extend the current Section 508 benefit to those who are currently receiving funding and to those who deserved funds under the previous competition for this funding.

The legislation builds on the Section 508 Medicare Prescription Drug, Improvement, and Modernization Act of 2003, by providing hospitals who continue to be disadvantaged by low Medicare reimbursement an increase in funding. The bill would allow both acute care hospitals and not-for-profit inpatient rehabilitation facilities apply for funding in a similar manner as set up under Section 508. Facilities that meet specific wage and geographic criteria will receive a three year reclassification.

Under the Section 508, program a number of hospitals meet the necessary criteria to receive reclassification, however, inadequate funding of \$300 million per year for the program was provided. As a result, 154 additional hospitals did not receive this vital funding. Under this legislation, sufficient funds would be provided to allow all facilities that meet wage and geographic criteria to receive reclassification funding.

To remedy the under-funding of inpatient rehabilitation facilities, not for profit facilities will be eligible for funding through this program. If all acute care hospitals in an MSA apply for and receive funding through this program, or have sole community hospital status, or have reclassified to another MSA through another mechanism, then non-profit inpatient rehabilitation facilities in that MSA are eligible. Those rehabilitation facilities will be reclassified to the MSA where a majority of other hospitals from the same MSA have been reclassified.

For those hospitals who received funding under the current Section 508; they will have received the benefit of a higher wage index for three years, April 1, 2004–March 1, 2007. These higher wages will be included in the hospitals' cost reports and be reflected in the data used to calculate a future wage index. It has always been the hope that this increased funding would enable these hospitals to pay higher wages and subsequently see an increase in the area wage index.

The problem with the wage index system is the use of three year-old audited cost report data for the calculation of the wage index. Therefore, a full year of Section 508 money from fiscal year 2004 will first be seen in the fiscal year 2008 wage index calculation. For hospitals that end their fiscal year on June 30, that wage data will not be included in their wage index calculation until fiscal year 2009. To reclassify, three years of data is needed to show the proper evidence for eligibility. Thus, the full effect of the Section 508 funding will flow through the wage index system by fiscal year 2011. For this reason, additional funding is needed for the next three years in order for these disadvantaged hospitals to continue paying competitive salaries to their employees.

Under Section 508, 121 hospitals have and will receive \$900 million in assistance, while this is a significant amount of funding, it did not fix the problem of low Medicare wage reimbursement. A long term solution to this problem is needed, however the current Section 508 funding will expire on March 31, 2007 and additional funding is needed for these facilities while we work to find that solution. The loss of hospitals and jobs due to unfair CMS reimbursement is unacceptable.

The hospitals which face this low Medicare reimbursement are in great financial distress. These are hospitals which are serving an aging population

in northeastern Pennsylvania and across the nation. This legislation provides Medicare reimbursement assistance for those facilities and ensures Medicare beneficiaries' access to care. I encourage my colleagues to work with Senator SANTORUM and me to move this legislation forward promptly.

By Mr. WYDEN (for himself, Mr. KERRY, and Mr. OBAMA):

S. 4018. A bill to establish a Vote by Mail grant program; to the Committee on Rules and Administration.

Mr. WYDEN. Mr. President, when many Americans think of voting, they think of long lines, malfunctioning equipment, closed polls, or even worse, fraud. That's why so many Americans don't bother to vote. But in my home State of Oregon, folks vote by mail and these sorts of problems are a thing of the past.

So today I come to the floor to talk about the sorry state of the Nation's election system and discuss my bill, the Vote by Mail Act of 2006.

There is nothing more fundamental than the right to vote. It is the foundation on which our democracy rests. Weaken the right to vote and you weaken America.

It's been almost 6 years since the 2000 Florida hanging chad debacle. And yet, problems with America's election system—and waning confidence in that system—persist.

This year's primary elections were no exception to the rule:

In Montgomery County, MD, polling places opened late because election officials forgot to distribute the access cards necessary to run the voting machines. Voters resorted to filling out provisional ballots and when those ran out, they used photocopied ballots and even scraps of paper.

Next door, in Prince George's County, MD, a handful of errors—computers incorrectly identifying voters' party affiliation, electronic voter registration lists freezing up, and voting machines failing to transmit data—delayed results of a hotly contested election and may result in a lawsuit.

Long lines, a lack of machines at certain polling places, and other irregularities cast a black mark on Ohio's 2004 Presidential election results. Unfortunately, this year's primary elections were also plagued by problems. In Cuyahoga County, Ohio's largest county, thousands of absentee ballots were incorrectly formatted for electronic scanners and had to be counted by hand. And problems with about 10 percent of the paper ballots cast meant that they couldn't be counted at all.

In Cook County, IL, new voting technology created headaches at hundreds of voting sites around the county, which delayed results in a decisive county board race.

And in Tarrant County, TX, voting machines counted ballots as many as six times, which meant that 100,000 more votes were recorded than were actually cast.

These are just a few recent examples of election system snafus that have raised concerns about voting system accuracy and reliability, concerns that have led some states to reconsider their election plans.

Last week, Maryland Governor Robert Ehrlich suggested that the state scrap its new electronic voting system and return to paper ballots. Earlier this year, Governor Bill Richardson of New Mexico got rid of his touch-screen voting machines. Connecticut's Secretary of State did the same. Both states have decided to use paper ballots and optical scanners instead of electronic machines.

But as Florida reminds us, paper isn't perfect either and right now—electronic or paper—you can expect there to be a lot of problems come November 7th.

Hopefully, these problems won't affect the outcome of any election. I sure hope they don't. But whether they do or not, the Election Day problems that I expect will plague states and counties around the nation will push voter confidence in our election system further into the basement.

It's too late for Congress to do much of anything to fix the problem before the 2006 elections. But we can do something to make sure these problems don't arise ever again.

So today, along with my esteemed colleagues, Senator JOHN KERRY of Massachusetts and Senator BARACK OBAMA of Illinois, I am introducing the Vote by Mail Act of 2006, a bill that will make Election Day problems a thing of the past and quickly and effectively reinvigorate Americans' confidence in their election system and in their democracy.

The bill creates a three year, \$110 million grant program to help interested states adopt vote by mail election systems like the one that Oregon voters have been successfully using for some time now.

It's a pretty simple system. Voters get their ballots in the mail. Wherever and whenever they would like, right up to Election Day, voters complete their ballots and return them.

With vote by mail, polls don't open late.

With vote by mail, there aren't any long lines at the polls.

With vote by mail, there's no more confusion about where you are supposed to vote.

There's no more debate about whether you are on the voting rolls—either you get the ballot in the mail, or you don't. If you don't, you have time to contact your election officials to sort it out.

Vote by mail means almost no chance of voter fraud because trained election officials match the signature on each ballot against the signature on each voter's registration card.

No ballot is processed or counted until everyone is satisfied that the two signatures match.

With vote by mail, you've got a paper trail. Each voter marks up his ballot

and sends it in. That ballot is counted and then becomes the paper record used in the event of a recount.

With vote by mail, there's much less risk of voter intimidation. That's why a 2003 study of Oregon voters showed that those groups that would likely be most vulnerable to coercion actually prefer vote by mail.

Vote by mail results in more informed voters. Because folks get their ballots weeks before the election, they have the time they need to get educated about the candidates and the issues, and deliberate in a way not possible at a polling place.

Vote by mail leads to huge election costs savings because it gets rid of the need to transport equipment to polling stations and to hire and train poll workers. Oregon has reduced its election-related costs by 30 percent since implementing vote by mail. I expect that other states that adopt vote by mail will see the same results.

Vote by mail can help make the problems of recent elections a thing of the past. In doing so, it will make our elections fairer and help reestablish faith in our democracy.

Vote by mail works. And that's why Senator KERRY and Senator OBAMA and I are introducing the Vote by Mail Act of 2006 today.

It gives States funds that they can use to make the transition away from the traditional voting methods that have led to so many problems, so many concerns, and so little confidence in the American election system.

It gives States funds that they can use to adopt Oregon-style vote by mail with the technical assistance and the guidance of the Election Assistance Commission.

I believe that the Vote by Mail Act of 2006 can fix our election system once and for all.

One final point: the Help Americans Vote Act, also known as HAVA, takes important steps to ensure equal access to voting for all Americans. HAVA's protections are particularly important to voters with disabilities, and it is our responsibility to keep building on that foundation. Nothing in this bill undermines or changes those aspects of HAVA that require vote by mail systems to be just as accessible as any other voting method.

While I think Oregon has proven that people with disabilities can benefit from vote by mail, it is important to keep working with the people who know these issues best to make sure the right to vote is protected. And Senator KERRY, Senator OBAMA, and I look forward to working with disabled and other civil rights organizations, election reform groups, community organizations and the voters themselves to ensure that the Vote by Mail Act of 2006 further promotes access to the polls for individuals with disabilities.

So I urge my colleagues to seriously consider this bill and urge them to support it. Vote by mail has been an enormous success in Oregon. I am sure that

other States that adopt it will see the same benefits. This bill helps ensure that States have that opportunity.

I asked for unanimous consent that my statement be printed into the RECORD and I ask for unanimous consent that the text of the Vote by Mail Act of 2006 be printed in the RECORD.

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

S. 4018

*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 "Vote by Mail Act of 2006".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Supreme Court declared in *Reynolds v. Sims* that "[i]t has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote . . . and to have their votes counted."

(2) In the 2000 and 2004 presidential elections, voting technology failures and procedural irregularities deprived some Americans of their fundamental right to vote.

(3) In 2000, faulty punch card ballots and other equipment failures prevented accurate vote counts nationwide. A report by the Caltech/MIT Voting Technology Project estimates that approximately 1,500,000 votes for president were intended to be cast but not counted in the 2000 election because of equipment failures.

(4) In 2004, software errors, malfunctioning electronic voting systems, and long lines at the polls prevented accurate vote counts and prevented some people from voting. For instance, voters at Kenyon College in Gambier, Ohio waited in line for up to 12 hours because there were only 2 machines available for 1,300 voters.

(5) Under the Oregon Vote by Mail system, election officials mail ballots to all registered voters at least 2 weeks before election day. Voters mark their ballots, seal the ballots in both unmarked secrecy envelopes and signed return envelopes, and return the ballots by mail or to secure drop boxes. Once a ballot is received, election officials scan the bar code on the ballot envelope, which brings up the voter's signature on a computer screen. The election official compares the signature on the screen and the signature on the ballot envelope. Only if the signature on the ballot envelope is determined to be authentic is the ballot forwarded on to be counted.

(6) Oregon's Vote by Mail system has resulted in an extremely low rate of voter fraud because the system includes numerous security measures such as the signature authentication system. Potential misconduct is also deterred by the power of the State to punish those who engage in voter fraud with up to five years in prison, \$100,000 in fines, and the loss of their vote.

(7) Vote by Mail is one factor making voter turnout in Oregon consistently higher than the average national voter turnout. For example, Oregon experienced a record voting-age-eligible population turnout of 70.6 percent in the 2004 presidential election, compared to 58.4 percent nationally. Oregon's turnout of registered voters for that election was 86.48 percent.

(8) Women, younger voters, and home-makers also report that they vote more often using Vote by Mail.

(9) Vote by Mail reduces election costs by eliminating the need to transport equipment to polling stations and to hire and train poll

workers. Oregon has reduced its election-related costs by 30 percent since implementing Vote by Mail.

(10) Vote by Mail allows voters to educate themselves because they receive ballots well before election day, which provides them with ample time to research issues, study ballots, and deliberate in a way that is not possible at a polling place.

(11) Vote by Mail is accurate—at least 2 studies comparing voting technologies show that absentee voting methods, including Vote by Mail systems, result in a more accurate vote count.

(12) Vote by Mail results in more up-to-date voter rolls, since election officials use forwarding information from the post office to update voter registration.

(13) Vote by Mail allows voters to visually verify that their votes were cast correctly and produces a paper trail for recounts.

(14) In a survey taken 5 years after Oregon implemented the Vote by Mail system, more than 8 in 10 Oregon voters said they preferred voting by mail to traditional voting.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ELECTION.—The term "election" means any general, special, primary, or runoff election.

(2) PARTICIPATING STATE.—The term "participating State" means a State receiving a grant under the Vote by Mail grant program under section 4.

(3) STATE.—The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(4) VOTING SYSTEM.—The term "voting system" has the meaning given such term under section 301(b) of the Help America Vote Act of 2002 (42 U.S.C. 15481(b)).

#### SEC. 4. VOTE BY MAIL GRANT PROGRAM.

(a) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Election Assistance Commission shall establish a Vote by Mail grant program (in this section referred to as the "program").

(b) PURPOSE.—The purpose of the program is to make implementation grants to participating States solely for the implementation of procedures for the conduct of all elections by mail at the State or local government level.

(c) LIMITATION ON USE OF FUNDS.—In no case may grants made under this section be used to reimburse a State for costs incurred in implementing mail-in voting for elections at the State or local government level if such costs were incurred prior to the date of enactment of this Act.

(d) APPLICATION.—A State seeking to participate in the program under this section shall submit an application to the Election Assistance Commission containing such information, and at such time as, the Election Assistance Commission may specify.

(e) AMOUNT AND NUMBER OF IMPLEMENTATION GRANTS; DURATION OF PROGRAM.—

(1) AMOUNT OF GRANTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount of an implementation grant made to a participating State shall be, in the case of a State that certifies that it will implement all elections by mail in accordance with the requirements of subsection (f), with respect to—

(i) the entire State, \$2,000,000; or

(ii) any single unit or multiple units of local government within the State, \$1,000,000.

(B) EXCESS FUNDS.—

(i) IN GENERAL.—The Election Assistance Commission shall establish a process to distribute excess funds to participating States. The process shall ensure that such funds are allocated among participating States in an

equitable manner, based on the number of registered voters in the area in which the State certifies that it will implement all of its elections by mail under subparagraph (A).

(ii) EXCESS FUNDS DEFINED.—For purposes of clause (i), the term "excess funds" means any amounts appropriated pursuant to the authorization under subsection (h)(1) with respect to a fiscal year that are not awarded to a participating State under an implementation grant during such fiscal year.

(C) CONTINUING AVAILABILITY OF FUNDS AFTER APPROPRIATION.—An implementation grant made to a participating State under this section shall be available to the State without fiscal year limitation.

(2) NUMBER OF IMPLEMENTATION GRANTS.—

(A) IN GENERAL.—The Election Assistance Commission shall award an implementation grant to up to 18 participating States under this section during each year in which the program is conducted.

(B) ONE GRANT PER STATE.—The Election Assistance Commission shall not award more than 1 implementation grant to any participating State under this section over the duration of the program.

(3) DURATION.—The program shall be conducted for a period of 3 years.

(f) REQUIREMENTS.—

(1) REQUIRED PROCEDURES.—A participating State shall establish and implement procedures for conducting all elections by mail in the area with respect to which it receives an implementation grant to conduct such elections, including the following:

(A) A process for recording electronically each voter's registration information and signature.

(B) A process for mailing ballots to all eligible voters.

(C) The designation of places for the deposit of ballots cast in an election.

(D) A process for ensuring the secrecy and integrity of ballots cast in the election.

(E) Procedures and penalties for preventing election fraud and ballot tampering, including procedures for the verification of the signature of the voter accompanying the ballot through comparison of such signature with the signature of the voter maintained by the State in accordance with subparagraph (A).

(F) Procedures for verifying that a ballot has been received by the appropriate authority.

(G) Procedures for obtaining a replacement ballot in the case of a ballot which is destroyed, spoiled, lost, or not received by the voter.

(H) A plan for training election workers in signature verification techniques.

(I) Plans and procedures to ensure that voters who are blind, visually-impaired, or otherwise disabled have the opportunity to participate in elections conducted by mail and to ensure compliance with the Help America Vote Act of 2002. Such plans and procedures shall be developed in consultation with disabled and other civil rights organizations, voting rights groups, State election officials, voter protection groups, and other interested community organizations.

(g) BEST PRACTICES, TECHNICAL ASSISTANCE, AND REPORTS.—The Election Assistance Commission shall—

(1) develop, periodically issue, and, as appropriate, update best practices for conducting elections by mail;

(2) provide technical assistance to participating States for the purpose of implementing procedures for conducting elections by mail; and

(3) submit to the appropriate committees of Congress—

(A) annual reports on the implementation of such procedures by participating States during each year in which the program is conducted; and

(B) upon completion of the program conducted under this section, a final report on the program, together with recommendations for such legislation or administrative action as the Election Assistance Commission determines to be appropriate.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) GRANTS.—There are authorized to be appropriated to award grants under this section, for each of fiscal years 2007 through 2009, \$36,000,000, to remain available without fiscal year limitation until expended.

(2) ADMINISTRATION.—There are authorized to be appropriated to administer the program under this section, \$2,000,000 for the period of fiscal years 2007 through 2009, to remain available without fiscal year limitation until expended.

(i) RULE OF CONSTRUCTION.—In no case shall any provision of this section be construed as affecting or replacing any provisions or requirements under the Help America Vote Act of 2002, or any other laws relating to the conduct of Federal elections.

**SEC. 5. STUDY ON IMPLEMENTATION OF MAIL-IN VOTING FOR ELECTIONS.**

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the “Comptroller General”) shall conduct a study evaluating the benefits of nationwide implementation of mail-in voting in elections, taking into consideration the annual reports submitted by the Election Assistance Commission under section 4(f)(3)(A) before November 1, 2009.

(2) SPECIFIC ISSUES STUDIED.—The study conducted under paragraph (1) shall include a comparison of traditional voting methods and mail-in voting with respect to—

(A) the likelihood of voter fraud and misconduct;

(B) accuracy of voter rolls;

(C) accuracy of election results;

(D) voter participation in urban and rural communities and by minorities, language minorities (as defined in section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a)), and individuals with disabilities; and

(E) public confidence in the election system.

(b) REPORT.—Not later than November 1, 2009, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report on the study conducted under subsection (a), together with such recommendations for legislation or administrative action as the Comptroller General determines to be appropriate.

By Mr. INHOFE:

S. 4023. A bill to authorize the Secretary of the Interior to convey to the McGee Creek Authority certain facilities of the McGee Creek Project, Oklahoma, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. INHOFE. Mr. President, today I introduce legislation to authorize the title transfer of the McGee Creek Reservoir dam and its associated facilities, which are located approximately 20 miles southeast of Atoka, OK.

My bill transfers title from the Bureau of Reclamation to the McGee Creek Authority.

The McGee Creek Authority is a trust of the State of Oklahoma. This Oklahoma entity was established to develop, finance, operate, and maintain the water supply in the McGee Creek Reservoir. Thus, the primary purpose is to provide a dependable “municipal and industrial” water supply for Okla-

homa City, the City of Atoka, Atoka County, and the area represented by the Southern Oklahoma Development Trust. The McGee Creek Authority currently operates the dam and associated facilities.

This title transfer under this bill will allow Oklahoma City to make the necessary capital improvements and upgrades needed to assure the continued efficient operation of the Reservoir.

This bill is responsible legislation that will end requests for federal funds and will protect the federal government from legal liabilities that could be incurred in their operation.

This legislation is the result of cooperation and coordination between Oklahoma City, the McGee Creek Authority, and the Bureau of Reclamation. I thank the Bureau of Reclamation for their drafting service in preparing the legislation, as well as of course the Senate Legislative Counsel. This legislation was requested by Mayor Mick Cornett of Oklahoma City, and I am happy to assist in this worthy cause.

I ask unanimous consent to print in the RECORD the letter of request from Mayor Cornett.

I encourage my colleagues to join me in support of the bill.

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

*February 13, 2006.*

Hon. JAMES INHOFE,  
U.S. Senate,  
Washington, DC.

DEAR CHAIRMAN INHOFE: The purpose of this letter is to request your assistance in obtaining a federal legislative authorization for the title transfer of the McGee Creek Reservoir dam and associated facilities from the Bureau of Reclamation to the McGee Creek Authority. The McGee Creek Authority is a trust of the State of Oklahoma and also currently operates the dam and associated facilities.

This title and transfer is supported by the Bureau of Reclamation and will allow Oklahoma City to make capital improvements and upgrades needed to assure the continued efficient operation of the Reservoir.

Attached is a copy of the background of the Authority’s responsibility and the description of the property to be transferred.

Sincerely,

MICK CORNETT,  
Mayor.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. OBAMA, and Mr. BINGAMAN):

S. 4024. A bill to amend the Public Health Service Act to improve the health and healthcare of racial and ethnic minority and other health disparity populations; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to discuss a bill that has been very close to my heart for some time. And that is a bill that will help us better understand, and one day eliminate, the health disparities that plague this country.

Many Americans don’t realize that a problem exists. But traveling through

rural Tennessee and spending 20 years in medicine, I know that it does.

The fact of the matter is African-Americans have higher overall rates of death and are more likely to report poor health than white or other minorities. The death rate for all kinds of cancers is a third higher for African-Americans than it is for whites. And there are 8 times as many blacks as whites in the United States with HIV-AIDS.

In Tennessee, African-Americans are 32 percent more likely to die from heart disease. The stroke rate for black Tennesseans is 43 percent higher than for whites. The infant mortality rate among African-Americans in Tennessee is almost 3 times as high as it is for whites. In a State that ranks 3rd in the Nation for infant mortality—it’s a hard statistic to swallow.

Which is why we must change it.

And that is the goal of the bill before us.

The intent of this bi-partisan bill is two-fold: to understand the root causes of health disparities, and through better understanding them, wipe them away.

To help foster that fuller comprehension of the challenge we face, this legislation will direct the Secretary of Health and Human Services to collect and report healthcare data by race and ethnicity, as well as geographic location, socioeconomic status and health literacy to identify and address health care disparities.

The legislation outlines mechanisms to research the problem, to conduct educational outreach to minorities, to increase diversity among healthcare professionals, to enhance communication between patients and doctors, and to improve the delivery of health care to minorities.

Through educational outreach we can work to change patient behavior.

The top 3 causes of death among African-Americans are heart disease, cancer, and stroke. Thirteen percent of the adult African-American population has diabetes. And the risks of each of these can be minimized through healthier diet and tobacco cessation.

The bill before us establishes grants for programs that will reach out to health disparity populations, and teach healthier habits. Emphasizing the importance of preventative care is a fundamental step in the road to reducing disparities.

Fostering better communication between healthcare providers and health disparity populations can be achieved in part by encouraging more minorities to enter the healthcare profession. To that end, the bill before us reauthorizes several programs to support educational opportunities for minorities in healthcare.

We have a long history in this country of working to eliminate the inequities driven by race, ethnicity, and socioeconomic status. I believe that the bill before us today will go a long way in helping us realize a day when we are truly a Nation of equals.

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

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

S. 4024

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Minority Health Improvement and Health Disparity Elimination Act”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE I—EDUCATION AND TRAINING**

Sec. 101. Cultural competency and communication for providers.

Sec. 102. Healthcare workforce, education, and training.

Sec. 103. Workforce training to achieve diversity.

Sec. 104. Mid-career health professions scholarship program.

Sec. 105. Cultural competency training.

Sec. 106. Authorization of appropriations; reauthorizations.

**TITLE II—CARE AND ACCESS**

Sec. 201. Care and access.

Sec. 202. Authorization of appropriations.

**TITLE III—RESEARCH**

Sec. 301. Agency for healthcare research and quality.

Sec. 302. Genetic variation and health.

Sec. 303. Evaluations by the Institute of Medicine.

Sec. 304. National Center for Minority Health and Health Disparities reauthorization.

Sec. 305. Authorization of appropriations.

**TITLE IV—DATA COLLECTION, ANALYSIS, AND QUALITY**

Sec. 401. Data collection, analysis, and quality.

**TITLE V—LEADERSHIP, COLLABORATION, AND NATIONAL ACTION PLAN**

Sec. 501. Office of Minority Health and Health Disparity Elimination.

**SEC. 2. DEFINITIONS.**

In this Act and the amendments made by this Act:

(1) **CULTURAL COMPETENCY.**—The term “culturally competent”—

(A) when used to describe health-related services, means providing healthcare tailored to meet the social, cultural, and linguistic needs of patients from diverse backgrounds; and

(B) when used to describe education or training, means education or training designed to prepare those receiving the education or training to provide health-related services tailored to meet the social, cultural, and linguistic needs of patients from diverse backgrounds.

(2) **HEALTH DISPARITY POPULATION.**—The term “health disparity population” has the meaning given such term in section 903(d)(1) of the Public Health Service Act (42 U.S.C. 299a-1(d)(1)).

(3) **HEALTH LITERACY.**—The term “health literacy” means the degree to which an individual has the capacity to obtain, communicate, process, and understand health information (including the language in which the information is provided) and services in order to make appropriate health decisions.

(4) **MINORITY GROUP.**—The term “minority group” has the meaning given the term “racial and ethnic minority group” in section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) (as amended by section 501).

(5) **PRACTICE-BASED RESEARCH NETWORKS.**—The term “practice-based research network” means a group of ambulatory practices devoted principally to the primary care of patients, and affiliated in their mission to investigate questions related to community-based practice and to improve the quality of primary care

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

**TITLE I—EDUCATION AND TRAINING**

**SEC. 101. CULTURAL COMPETENCY AND COMMUNICATION FOR PROVIDERS.**

Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

**“SEC. 270. INTERNET CLEARINGHOUSE TO IMPROVE CULTURAL COMPETENCY AND COMMUNICATION BY HEALTHCARE PROVIDERS.**

“(a) **ESTABLISHMENT.**—Not later than 1 year after the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act, the Secretary, acting through the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination, shall assist providers to improve the health and healthcare of racial and ethnic minority and other health disparity populations by developing and maintaining an Internet Clearinghouse within the Office of Minority Health and Health Disparity Elimination that—

“(1) increases cultural competency;

“(2) improves communication between healthcare providers, staff, and their patients, including those patients with low functional health literacy;

“(3) improves healthcare quality and patient satisfaction;

“(4) reduces medical errors and healthcare costs; and

“(5) reduces duplication of effort regarding translation of materials.

“(b) **INTERNET CLEARINGHOUSE.**—Not later than 12 months after the date of enactment of this section the Secretary, acting through the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination, and in consultation with the Director of the Office for Civil Rights, shall carry out subsection (a) by—

“(1) developing and maintaining, through the Office of Minority Health and Health Disparity Elimination, an accessible library and database on the Internet with easily searchable, clinically-relevant information regarding culturally competent healthcare for racial and ethnic minority and other health disparity populations, including Internet links to additional resources that fulfill the purpose of this section;

“(2) developing and making templates for visual aids and standard documents with clear explanations that can help patients and consumers access and make informed decisions about healthcare, including—

“(A) administrative and legal documents, including informed consent and advanced directives;

“(B) clinical information, including information pertaining to treatment adherence, self-management training for chronic conditions, preventing transmission of disease, and discharge instructions;

“(C) patient education and outreach materials, including immunization or screening notices and health warnings; and

“(D) Federal health forms and notices;

“(3) ensuring that documents described in paragraph (2) are posted in English and non-English languages and are culturally appropriate;

“(4) encouraging healthcare providers to customize such documents for their use;

“(5) facilitating access to such documents, including distribution in both paper and electronic formats;

“(6) providing technical assistance to healthcare providers with respect to the access and use of information described in paragraph (1) including information to help healthcare providers—

“(A) understand the concept of cultural competence;

“(B) implement culturally competent practices;

“(C) care for patients with low functional health literacy, including helping such patients understand and participate in healthcare decisions;

“(D) understand and apply Federal guidance and directives regarding healthcare for racial and ethnic minority and other health disparity populations;

“(E) obtain reimbursement for provision of culturally competent services;

“(F) understand and implement bioinformatics and health information technology in order to improve healthcare for racial and ethnic minority and other health disparity populations; and

“(G) conduct other activities determined appropriate by the Secretary;

“(7) providing educational materials to patients, representatives of community-based organizations, and the public with respect to the access and use of information described in paragraph (1), including—

“(A) information to help such individuals—

“(i) understand the concept of cultural competence, and the role of cultural competence in the delivery of healthcare;

“(ii) work with healthcare providers to implement culturally competent practices; and

“(iii) understand the concept of low functional health literacy, and the barriers it presents to care; and

“(B) other material determined appropriate by the Secretary; and

“(8) supporting initiatives that the Secretary determines to be useful to fulfill the purposes of the Internet Clearinghouse.

“(c) **DEFINITIONS.**—The definitions contained in section 2 of the Minority Health Improvement and Health Disparity Elimination Act shall apply for purposes of this section.”

**SEC. 102. HEALTHCARE WORKFORCE, EDUCATION, AND TRAINING.**

(a) **IN GENERAL.**—Part F of title VII of the Public Health Service Act (42 U.S.C. 295j et seq.) is amended by inserting after section 792 the following:

**“SEC. 793. HEALTHCARE WORKFORCE, EDUCATION, AND TRAINING.**

“(a) **IN GENERAL.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination, shall establish an aggregated and disaggregated database on health professional students, including applicants, matriculates, and graduates.

“(b) **REQUIREMENT TO COLLECT DATA.**—

“(1) **IN GENERAL.**—Each health professions school described in paragraph (2) that receives Federal funds, shall collect race and ethnicity data, primary language data, and other health disparity data, as feasible and pursuant to subsection (d), concerning the students described in subsection (a), as well as intended geographical site of practice and intended discipline of practice for graduates. In collecting such data, a school shall—

“(A) at a minimum, use the categories for race and ethnicity established by the Director of the Office of Management and Budget in effect on the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act; and

“(B) if practicable, collect data on additional population groups if such data can be aggregated into the minimum race and ethnicity data categories.

“(2) HEALTH PROFESSIONS SCHOOL.—A health professions school described under this paragraph is a school of medicine or osteopathic medicine, public health, nursing, dentistry, optometry, pharmacy, allied health, podiatric medicine, or veterinary medicine, or a graduate program in mental health practice.

“(C) REPORTING.—Each school or program described under subsection (b), shall, on an annual basis, report to the Secretary data on race and ethnicity and primary language collected under this section for inclusion in the database established under subsection (a). The Secretary shall ensure that such disparity data is reported to Congress and made available to the public.

“(d) HEALTH DISPARITY MEASURES.—The Secretary shall develop, report, and disseminate measures of the other health data referenced in section 793(b)(1), to ensure uniform and consistent collection and reporting of these measures by health professions schools. In developing such measures, the Secretary shall take into consideration health disparity indicators developed pursuant to section 2901(c).

“(e) USE OF DATA.—Data reported pursuant to subsection (c) shall be used by the Secretary to conduct ongoing short- and long-term analyses of diversity within health professions schools and the health professions. The Secretary shall ensure that such analyses are reported to Congress and made available to the public.

“(f) CULTURAL COMPETENCY TRAINING.—The Secretary shall collect and report data from health professions schools regarding the extent to which cultural competency training is provided to health professions students, and conduct periodic assessments regarding the preparedness of such students to care for patients from racial and ethnic minority and other health disparity populations.

“(g) PRIVACY.—The Secretary shall ensure that all data collected under this section is protected from inappropriate internal and external use by any entity that collects, stores, or receives the data and that such data is collected without personally identifiable information.

“(h) PARTNERSHIP.—The Secretary may contract with external entities to fulfill the requirements under this section if such entities have demonstrated expertise and experience collecting, analyzing, and reporting data required under this section for health professional students.”

(b) NATIONAL HEALTH SERVICE CORPS PROGRAM.—

(1) ASSIGNMENT OF CORPS PERSONNEL.—Section 333(a)(3) of the Public Health Service Corps (42 U.S.C. 254f(a)(3)) is amended to read as follows:

“(3)(A) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against application from entities which are not receiving Federal financial assistance under this Act.

“(B) In approving such applications, the Secretary shall—

“(i) give preference to applications in which a nonprofit entity or public entity shall provide a site to which Corps members may be assigned; and

“(ii) give highest preference to applications—

“(I) from entities described in clause (i) that are federally qualified health centers as defined in section 1905(1)(2)(B) of the Social Security Act; and

“(II) from entities described in clause (i) that primarily serve racial and ethnic minority and other health disparity populations

with annual incomes at or below twice those set forth in the most recent poverty guidelines issued by the Secretary pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).”

(2) PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.—Section 333A of the Public Health Service Act (42 U.S.C. 254f-1) is amended—

(A) in subsection (a)—

(i) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(ii) by striking “shall—” and inserting “shall—

“(1) give preference to applications as set forth in subsection (a)(3) of section 333;” and

(B) by striking “subsection (a)(1)” each place it appears and inserting “subsection (a)(2)”.

(3) CONFORMING AMENDMENT.—Section 338I(c)(3)(B)(ii) of the Public Health Service Act (42 U.S.C. 254q-1(c)(3)(B)(ii)) is amended by striking “section 333A(a)(1)” and inserting “section 333A(a)(2)”.

**SEC. 103. WORKFORCE TRAINING TO ACHIEVE DIVERSITY.**

(a) CENTERS OF EXCELLENCE.—Section 736 of the Public Health Service Act (42 U.S.C. 293) is amended—

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

“(a) IN GENERAL.—The Secretary shall make grants to, and enter into contracts with, public and nonprofit private health or educational entities, including designated health professions schools described in subsection (c), for the purpose of assisting the entities in supporting programs of excellence in health professions education for underrepresented minorities in health professions.”

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

“(b) REQUIRED USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the designated health professions school involved agrees, subject to subsection (c)(1)(C), to use the funds awarded under the grant to—

“(1) develop a large competitive applicant pool through linkages with institutions of higher education, local school districts, and other community-based entities and establish an education pipeline for health professions careers;

“(2) establish, strengthen, or expand programs to enhance the academic performance of underrepresented minority in health professions students attending the school;

“(3) improve the capacity of such school to train, recruit, and retain underrepresented minority faculty members including the payment of such stipends and fellowships as the Secretary may determine appropriate;

“(4) carry out activities to improve the information resources, clinical education, curricula, and cultural and linguistic competence of the graduates of the school, as it relates to minority health and other health disparity issues;

“(5) facilitate faculty and student research on health issues particularly affecting racial and ethnic minority and other health disparity populations, including research on issues relating to the delivery of culturally competent healthcare (as defined in section 270);

“(6) carry out a program to train students of the school in providing health services to racial and ethnic minority and other health disparity populations (as defined in section 903(d)(1)) through training provided to such students at community-based health facilities that—

“(A) provide such health services; and

“(B) are located at a site remote from the main site of the teaching facilities of the school;

“(7) provide stipends as the Secretary determines appropriate, in amounts as the Secretary determines appropriate; and

“(8) conduct accountability and other reporting activities, as required by the Secretary in subsection (i).”;

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

“(1) DESIGNATED SCHOOLS.—

“(A) IN GENERAL.—The designated health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraphs (B) and (C), and that—

“(i) meet each of the conditions specified in paragraph (2)(A);

“(ii) meet each of the conditions specified in paragraph (3);

“(iii) meet each of the conditions specified in paragraph (4); or

“(iv) meet each of the conditions specified in paragraph (5).

“(B) GENERAL CONDITIONS.—The conditions specified in this subparagraph are that a designated health professions school—

“(i) has a significant number of underrepresented minority in health professions students enrolled in the school, including individuals accepted for enrollment in the school;

“(ii) has been effective in assisting such students of the school to complete the program of education and receive the degree involved;

“(iii) has been effective in recruiting such students to enroll in and graduate from the school, including providing scholarships and other financial assistance to such students and encouraging such students from all levels of the educational pipeline to pursue health professions careers; and

“(iv) has made significant recruitment efforts to increase the number of underrepresented minority in health professions individuals serving in faculty or administrative positions at the school.

“(C) CONSORTIUM.—The condition specified in this subparagraph is that, in accordance with subsection (e)(1), the designated health profession school involved has with other health profession schools (designated or otherwise) formed a consortium to carry out the purposes described in subsection (b) at the schools of the consortium.

“(D) APPLICATION OF CRITERIA TO OTHER PROGRAMS.—In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.”;

(B) by amending paragraph (2) to read as follows:

“(2) CENTERS OF EXCELLENCE AT CERTAIN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—

“(A) CONDITIONS.—The conditions specified in this subparagraph are that a designated health professions school is a school described in section 799B(1).

“(B) USE OF GRANT.—In addition to the purposes described in subsection (b), a grant under subsection (a) to a designated health professions school meeting the conditions described in subparagraph (A) may be expended—

“(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for underrepresented minority individuals; and

“(ii) to provide improved access to the library and informational resources of the school.

“(C) EXCEPTION.—The requirements of paragraph (1)(C) shall not apply to a historically black college or university that receives funding under this paragraph or paragraph (5).”; and

(C) by amending paragraphs (3) through (5) to read as follows:

“(3) HISPANIC CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that—

“(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

“(B) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that the school will, in carrying out the duties described in subsection (b) of this section, give priority to carrying out the duties with respect to Hispanic individuals; and

“(C) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that—

“(i) the school will establish an arrangement with 1 or more public or nonprofit community-based Hispanic serving organizations, or public or nonprofit private institutions of higher education, including schools of nursing, whose enrollment of students has traditionally included a significant number of Hispanic individuals, the purposes of which will be to carry out a program—

“(I) to identify Hispanic students who are interested in a career in the health profession involved; and

“(II) to facilitate the educational preparation of such students to enter the health professions school; and

“(ii) the school will make efforts to recruit Hispanic students, including students who have participated in the undergraduate or other matriculation program carried out under arrangements established by the school pursuant to clause (i)(II) and will assist Hispanic students regarding the completion of the educational requirements for a degree from the school.

“(4) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Subject to subsection (e), the conditions specified in this paragraph are that—

“(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

“(B) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that the school will, in carrying out the duties described in subsection (b) of this section, give priority to carrying out the duties with respect to Native Americans; and

“(C) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that—

“(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education, including schools of nursing, whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

“(I) to identify Native American students, from the institutions of higher education referred to in clause (i), who are interested in health professions careers; and

“(II) to facilitate the educational preparation of such students to enter the designated health professions school; and

“(ii) the designated health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to clause (i) and will assist Native American students re-

garding the completion of the educational requirements for a degree from the designated health professions school.

“(5) OTHER CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are—

“(A) with respect to other centers of excellence, the conditions described in clauses (i) through (iv) of paragraph (1)(B); and

“(B) that the health professions school involved has an enrollment of underrepresented minorities in health professions significantly above the national average for such enrollments of health professions schools.”; and

(4) by striking subsection (h) and inserting the following:

“(h) FORMULA FOR ALLOCATIONS.—

“(1) ALLOCATIONS.—Based on the amount appropriated under section 106(a) of the Minority Health Improvement and Health Disparity Elimination Act for a fiscal year, the following subparagraphs shall apply as appropriate:

“(A) IN GENERAL.—If the amounts appropriated under section 106(a) of the Minority Health Improvement and Health Disparity Elimination Act for a fiscal year are \$24,000,000 or less—

“(i) the Secretary shall make available \$12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A); and

“(ii) and available after grants are made with funds under clause (i), the Secretary shall make available—

“(I) 60 percent of such amount for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) (including meeting the conditions under subsection (e)); and

“(II) 40 percent of such amount for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5).

“(B) FUNDING IN EXCESS OF \$24,000,000.—If amounts appropriated under section 106(a) of the Minority Health Improvement and Health Disparity Elimination Act for a fiscal year exceed \$24,000,000 but are less than \$30,000,000—

“(i) 80 percent of such excess amounts shall be made available for grants under subsection (a) to health professions schools that meet the requirements described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e)); and

“(ii) 20 percent of such excess amount shall be made available for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5).

“(C) FUNDING IN EXCESS OF \$30,000,000.—If amounts appropriated under section 106(a) of the Minority Health Improvement and Health Disparity Elimination Act for a fiscal year exceed \$30,000,000 but are less than \$40,000,000, the Secretary shall make available—

“(i) not less than \$12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A);

“(ii) not less than \$12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e));

“(iii) not less than \$6,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5); and

“(iv) after grants are made with funds under clauses (i) through (iii), any remaining excess amount for grants under subsection (a) to health professions schools that meet

the conditions described in paragraph (2)(A), (3), (4), or (5) of subsection (c).

“(D) FUNDING IN EXCESS OF \$40,000,000.—If amounts appropriated under section 106(a) of the Minority Health Improvement and Health Disparity Elimination Act for a fiscal year are \$40,000,000 or more, the Secretary shall make available—

“(i) not less than \$16,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A);

“(ii) not less than \$16,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e));

“(iii) not less than \$8,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5); and

“(iv) after grants are made with funds under clauses (i) through (iii), any remaining funds for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (2)(A), (3), (4), or (5) of subsection (c).

“(2) NO LIMITATION.—Nothing in this subsection shall be construed as limiting the centers of excellence referred to in this section to the designated amount, or to preclude such entities from competing for grants under this section.

“(3) MAINTENANCE OF EFFORT.—

“(A) IN GENERAL.—With respect to activities for which a grant made under this part are authorized to be expended, the Secretary may not make such a grant to a center of excellence for any fiscal year unless the center agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the center for the fiscal year preceding the fiscal year for which the school receives such a grant.

“(B) USE OF FEDERAL FUNDS.—With respect to any Federal amounts received by a center of excellence and available for carrying out activities for which a grant under this part is authorized to be expended, the center shall, before expending the grant, expend the Federal amounts obtained from sources other than the grant, unless given prior approval from the Secretary.

“(i) EVALUATIONS.—

“(1) ADVISORY COMMITTEE.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act, the Secretary shall establish and appoint the members of an advisory committee composed of representatives of government agencies, including the Health Resources and Services Administration, the Office of Minority Health and Health Disparity Elimination, and the Indian Health Service, community stakeholders and experts in identifying and addressing the health concerns of racial and ethnic minority and other health disparity populations, and designees from health professions schools described in subsection (b).

“(B) DUTIES.—The advisory committee shall develop and recommend performance measures with which to assess, based on data to be compiled by recipients of grants or contracts under this section or section 736, 737, 738, or 739, the extent to which the program described in this section and sections 736, 737, 738, and 739 has met the purpose of this part. The advisory committee shall submit such recommendations to the Administrator of the Health Resources and Services Administration not later than 6 months after the appointment of the advisory committee.

“(C) NOTIFICATION.—Not later than 30 days after the submission of the recommendations, the Administrator of the Health Resources and Services Administration shall review the recommendations and establish performance measures described in subparagraph (B), and the Administrator shall notify recipients of grants or contracts under this section or section 736, 737, 738, or 739 of the new performance measures and make requirements related to the performance measures publicly available both on the website of the Administration and as part of any notifications of awards released to entities receiving the grants or contracts.

“(2) DATA COLLECTION AND ANNUAL EVALUATIONS.—

“(A) IN GENERAL.—The Administrator of the Health Resources and Services Administration shall collect annual data from recipients of grants or contracts under this section or section 736, 737, 738, or 739 on the performance measures established under paragraph (1).

“(B) BIENNIAL MEETING.—The Administrator of the Health Resources and Services Administration shall convene a meeting of the advisory committee established under paragraph (1) not less than twice per year. At the meeting, the advisory committee shall recommend any necessary changes to such performance measures to improve data collection and short-term evaluation with respect to the programs carried out under this section or section 736, 737, 738, or 739, and provide technical assistance as necessary.

“(3) UPDATES.—The Administrator of the Health Resources and Services Administration shall determine whether to incorporate the recommended changes as described in paragraph (2)(B) and provide technical assistance as necessary. The Administrator shall not penalize a current recipient of a grant or contract under this section or section 736, 737, 738, or 739 for failing to comply with the revised data collection or performance measure requirements if the recipient demonstrates an inability to provide additional data mandated under the requirements.

“(4) ACCOUNTABILITY.—The Administrator shall review and take into consideration performance measurement data previously collected from recipients of grants or contracts under this section or section 736, 737, 738, or 739 when deciding to renew the grants or contracts of such recipients.”

(b) COOPERATIVE AGREEMENTS FOR ONLINE DEGREE PROGRAMS AT SCHOOLS OF PUBLIC HEALTH AND SCHOOLS OF ALLIED HEALTH.—Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended by adding at the end the following:

**“SEC. 742. COOPERATIVE AGREEMENTS FOR ONLINE DEGREE PROGRAMS.**

“(a) COOPERATIVE AGREEMENTS.—The Secretary shall award cooperative agreements to accredited schools of public health, schools of allied health, and public health programs to design and implement a degree program over the Internet (referred to in this section as an ‘online degree program’).

“(b) APPLICATION.—To be eligible to receive a cooperative agreement under subsection (a), an accredited school of public health, school of allied health, or public health program shall submit an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) PRIORITY.—In awarding cooperative agreements under this section, the Secretary shall give priority to any accredited school of public health, school of allied health, or public health program that serves a disproportionate number of individuals from racial and ethnic minority and other health disparity populations.

“(d) REQUIREMENTS.—Awardees shall use an award under subsection (a) to design and implement an online degree program that meets the following conditions:

“(1) Limiting enrollment to individuals who have obtained a secondary school diploma or a recognized equivalent.

“(2) Maintaining significant enrollment and graduation of underrepresented minorities in health professions.”

(c) DEFINITION.—Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended by inserting after the part heading the following:

**“SEC. 735A. APPLICATION OF DEFINITION.**

“The definition contained in section 738(b)(5) shall apply for purposes of this part, except that such definition shall also apply in the case of references to ‘underrepresented minority students’, ‘underrepresented minority faculty members’, ‘underrepresented minority faculty administrators’, and ‘underrepresented minorities in health professions’.”

**SEC. 104. MID-CAREER HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.**

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended—

(1) in section 770, by inserting “(other than section 771)” after “this subpart”;

(2) by redesignating section 770 as section 771; and

(3) by inserting after section 769 the following:

**“SEC. 770. MID-CAREER HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.**

“(a) IN GENERAL.—The Secretary may make grants to eligible schools to award scholarships to eligible individuals to attend the school involved, for the purpose of enabling the individuals to make a career change from a non-health profession to a health profession.

“(b) APPLICATION.—To receive a grant under this section, an eligible school shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) USE OF FUNDS.—Amounts awarded as a scholarship under this section may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in the attendance of the school involved.

“(d) DEFINITIONS.—In this section:

“(1) ELIGIBLE SCHOOL.—The term ‘eligible school’ means an accredited school of medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, chiropractic, allied health, a school offering a graduate program in behavioral and mental health practice, or an entity providing programs for the training of physician assistants.

“(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means an individual who is an underrepresented minority individual who has obtained a secondary school diploma or its recognized equivalent.”

**SEC. 105. CULTURAL COMPETENCY TRAINING.**

Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.), as amended by section 104, is amended by adding at the end the following:

**“SEC. 743. CULTURAL COMPETENCY TRAINING.**

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in collaboration with the Office of Minority Health and Health Disparity Elimination and Agency for Healthcare Research and Quality, shall support the development, evaluation, and dissemination of model curricula for cultural competency training for use in

health professions schools and continuing education programs, and other purposes determined appropriate by the Secretary.

“(b) CURRICULA.—In carrying out subsection (a), the Secretary shall collaborate with health professional societies, licensing and accreditation entities, health professions schools, and experts in minority health and cultural competency, and other organizations as determined appropriate by the Secretary. Such curricula shall include a focus on cultural competency measures and cultural competency self-assessment methodology for health providers, systems and institutions.

“(c) DISSEMINATION.—

“(1) IN GENERAL.—Such model curricula should be disseminated through the Internet Clearinghouse under section 270 and other means as determined appropriate by the Secretary.

“(2) EVALUATION.—The Secretary shall evaluate adoption and the implementation of cultural competency training curricula, and facilitate inclusion of cultural competency measures in quality measurement systems as appropriate.”

**SEC. 106. AUTHORIZATION OF APPROPRIATIONS; REAUTHORIZATIONS.**

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

(1) such sums as may be necessary for each of fiscal years 2007 through 2011, to carry out the amendments made by sections 101 and 102 of this title (adding sections 270 and 793 to the Public Health Service Act);

(2) \$45,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011, to carry out the amendments made by section 103(a) (relating to centers of excellence in section 736 of the Public Health Service Act);

(3) such sums as may be necessary for each of fiscal years 2007 through 2011, to carry out the amendments made by section 103(b) (adding section 742 to the Public Health Service Act);

(4) such sums as may be necessary for each of fiscal years 2007 through 2011, to carry out the amendments made by section 104(b) (adding section 770 to the Public Health Service Act); and

(5) such sums as may be necessary for each of fiscal years 2007 through 2011, to carry out the amendment made by section 105 (adding section 743 to the Public Health Service Act).

(b) REAUTHORIZATIONS.—The following programs are reauthorized as follows:

(1) EDUCATIONAL ASSISTANCE IN THE HEALTH PROFESSIONS REGARDING INDIVIDUALS FROM DISADVANTAGED BACKGROUND.—Section 740(c) of the Public Health Service Act (42 U.S.C. 293a(c)) is amended by striking the first sentence and inserting the following: “For the purpose of grants and contracts under section 739(a)(1), there is authorized to be appropriated \$60,000,000 for fiscal year 2007 and such sums as may be necessary for each of fiscal years 2008 through 2011.”

(2) SCHOLARSHIPS FOR DISADVANTAGED STUDENTS.—Section 740(a) of the Public Health Service Act (42 U.S.C. 293a(a)) is amended by striking “\$37,000,000” and all that follows through “through 2002” and inserting “\$51,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011”.

(3) LOAN REPAYMENTS AND FELLOWSHIPS.—Section 740(b) of the Public Health Service Act (42 U.S.C. 293a(b)) is amended by striking “\$1,100,000” and all that follows through “through 2002” and inserting “\$1,700,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011”.

(4) GRANTS FOR HEALTH PROFESSIONS EDUCATION.—Section 741 of the Public Health Service Act (42 U.S.C. 293e) is amended in

subsection (b), by striking “\$3,500,000” and all that follows through the period and inserting “such sums as may be necessary for each of fiscal years 2007 through 2011.”.

#### TITLE II—CARE AND ACCESS

##### SEC. 201. CARE AND ACCESS.

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

(1) redesignating the second section 3390 (as added by section 504 of the Violence Against Women and Department of Justice Reauthorization Act of 2005) as section 399P; and

(2) adding at the end the following:

##### “SEC. 399Q. ACCESS, AWARENESS, AND OUTREACH ACTIVITIES.

“(a) DEMONSTRATION PROJECTS.—The Secretary shall award multiyear contracts or competitive grants to eligible entities to support demonstration projects designed to improve the health and healthcare of racial and ethnic minority and other health disparity populations through improved access to healthcare, patient navigators, and health literacy education and services.

“(b) ELIGIBILITY.—In this section:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an organization or a community-based consortium.

“(2) ORGANIZATION.—The term ‘organization’ means—

“(A) a hospital, health plan, or clinic;

“(B) an academic institution;

“(C) a State health agency;

“(D) an Indian Health Service hospital or clinic, Indian tribal health facility, or urban Indian facility;

“(E) a nonprofit organization, including a faith-based organization or consortium, to the extent that a contract or grant awarded to such an entity is consistent with the requirements of section 1955;

“(F) a primary care practice-based research network; and

“(G) any other similar entity determined to be appropriate by the Secretary.

“(3) COMMUNITY-BASED CONSORTIUM.—The term ‘community-based consortium’ means a partnership that—

“(A) includes—

“(i) individuals who are representatives of organizations of racial and ethnic minority and other health disparity populations;

“(ii) community leaders and leaders of community-based organizations;

“(iii) healthcare providers, including providers who treat racial and ethnic minority and other health disparity populations; and

“(iv) experts in the area of social and behavioral science, who have knowledge, training, or practical experience in health policy, advocacy, cultural or linguistic competency, or other relevant areas as determined by the Secretary; and

“(B) is located within a federally- or State-designated medically underserved area, a federally designated health provider shortage area, or an area with a significant population of racial and ethnic minorities.

“(c) APPLICATION.—An eligible entity seeking a contract or grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including assurances that the eligible entity will—

“(1) target populations that are members of racial and ethnic minority groups and health disparity populations through specific outreach activities;

“(2) collaborate with appropriate community organizations and include meaningful community participation in planning, implementation, and evaluation of activities;

“(3) demonstrate capacity to promote culturally competent and appropriate care for

target populations with consideration for health literacy;

“(4) develop a plan for long-term sustainability;

“(5) evaluate the effectiveness of activities under this section, within an appropriate timeframe, which shall include a focus on quality and outcomes performance measures to ensure that the activities are meeting the intended goals, and that the entity is able to disseminate findings from such evaluations;

“(6) provide ongoing outreach and education to the health disparity populations served;

“(7) demonstrate coordination between public and private entities; and

“(8) assist individuals and groups in accessing public and private programs that will help eliminate disparities in health and healthcare.

“(d) PRIORITIES.—In awarding contracts and grants under this section, the Secretary shall give priority to applicants that are—

“(1) safety-net hospitals, defined as hospitals with a low income utilization rate (as defined in Section 1923(b)(3) of the Social Security Act (42 U.S.C. 1396r-4(b)(3))) greater than 25 percent;

“(2) community health centers, as defined in section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B)); and

“(3) other health systems that—

“(A) by legal mandate or explicitly adopted mission, provide patients with access to services regardless of their ability to pay;

“(B) provide care or treatment for a substantial number of patients who are uninsured, are receiving assistance under a State program under title XIX of the Social Security Act, or are members of vulnerable populations, as determined by the Secretary;

“(C) serve a disproportionate percentage of patients from racial and ethnic minority and other health disparity populations;

“(D) provide an assurance that amounts received under the grant or contract will be used to implement strategies that address patients’ linguistic needs, where necessary, and recruit and maintain diverse staff and leadership; and

“(E) provide an assurance that amounts received under the grant or contract will be used to support quality improvement activities for patients from racial and ethnic minority and other health disparity populations.

“(e) USE OF FUNDS.—An eligible entity shall use such amounts received under this section for demonstration projects to—

“(1) address health disparities in the United States-Mexico Border Area, as defined in section 8 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n-6), relating to health disparities in the areas of—

“(A) maternal and child health;

“(B) primary care and preventive health, including health education and promotion;

“(C) public health and public infrastructure;

“(D) oral health;

“(E) behavioral and mental health and substance abuse;

“(F) health conditions that have a disproportionate impact on racial and ethnic minorities and a high prevalence in the Border Area;

“(G) health services research;

“(H) the health impacts of exposure to environmental hazards;

“(I) workforce training and development; or

“(J) other areas determined appropriate by the Secretary;

“(2) implement the best practices in disease management, including those that address co-occurring chronic conditions, as defined by the public-private partnership es-

tablished under section 918(b), target patients with low functional health literacy, and, as feasible, incorporate health information technology;

“(3) evaluate methods for strengthening the health coverage of, and continuity of coverage of, migratory agricultural workers and seasonal agricultural workers, as such terms are defined in section 330(g), and workers in other industries with traditionally low rates of employer-sponsored health insurance;

“(4) train community health workers to educate, guide, and provide outreach in a community setting regarding problems prevalent among medically underserved populations (as defined in section 330(b)); or

“(5) identify, educate, and enroll eligible patients from racial and ethnic minorities and other health disparity populations into clinical trials.

“(f) REPORT.—Not later than 3 years after the date an entity receives a contract or grant under this section and annually thereafter, the entity shall provide to the Secretary a report containing the results of any evaluation conducted pursuant to subsection (c)(5).

“(g) DISSEMINATION OF FINDINGS.—The Secretary shall, as appropriate, disseminate to public and private entities, including Congress, the findings made in evaluations described under subsection (f).

##### “SEC. 399R. GRANTS FOR RACIAL AND ETHNIC APPROACHES TO COMMUNITY HEALTH.

“(a) PURPOSE.—It is the purpose of this section to provide for the awarding of grants to assist communities in mobilizing and organizing resources in support of effective and sustainable programs that will reduce or eliminate disparities in health and healthcare experienced by racial and ethnic minority individuals.

“(b) AUTHORITY TO AWARD GRANTS.—The Secretary, acting through the Centers for Disease Control and Prevention and the Office of Minority Health and Health Disparity Elimination, shall award planning, implementation, and evaluation grants to eligible entities to assist in designing, implementing, and evaluating culturally and linguistically appropriate, science-based and community-driven sustainable strategies to eliminate racial and ethnic health and healthcare disparities.

“(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

“(1) represent a coalition—

“(A) whose principal purpose is to develop and implement interventions to reduce or eliminate a health or healthcare disparity in a targeted racial or ethnic minority group in the community served by the coalition; and

“(B) that includes—

“(i) at least 3 members selected from among—

“(I) public health departments;

“(II) community-based organizations;

“(III) university and research organizations;

“(IV) American Indian tribal organizations, national American Indian organizations, Indian Health Service, or organizations serving Alaska Natives;

“(V) organizations serving Native Hawaiians;

“(VI) organizations serving Pacific Islanders; and

“(VII) interested public or private healthcare providers or organizations as deemed appropriate by the Secretary; and

“(ii) at least 1 member from a community-based organization that represents the targeted racial or ethnic minority group; and

“(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, which shall include—

“(A) a description of the targeted racial or ethnic population in the community to be served under the grant;

“(B) a description of at least 1 health disparity that exists in the racial or ethnic targeted population, including infant mortality, breast and cervical cancer screening and management, cardiovascular disease, diabetes, child and adult immunization levels, or HIV/AIDS; and

“(C) a demonstration of a proven record of accomplishment of the coalition members in serving and working with the targeted community.

“(d) PLANNING GRANTS.—

“(1) IN GENERAL.—The Secretary shall award one-time grants to eligible entities described in subsection (c) to support the planning and development of culturally and linguistically appropriate programs that utilize science-based and community-driven strategies to reduce or eliminate a health or healthcare disparity in the targeted population. Such grants may be used to—

“(A) expand the coalition that is represented by the eligible entity through the identification of additional partners, particularly among the targeted community, and establish linkages with national, State, tribal, or local public and private partners which may include community health workers, advocacy, and policy organizations;

“(B) establish community working groups;

“(C) conduct a needs assessment of the community and targeted population to determine a health disparity and the factors contributing to that disparity, using input from the targeted community;

“(D) participate in workshops sponsored by the Office of Minority Health and Health Disparity Elimination or the Centers for Disease Control and Prevention for technical assistance, planning, evaluation, and other programmatic issues;

“(E) identify promising intervention strategies; and

“(F) develop a plan with the input of the targeted community that includes strategies for—

“(i) implementing intervention strategies that have the greatest potential for reducing the health disparity in the target population;

“(ii) identifying other sources of revenue and integrating current and proposed funding sources to ensure long-term sustainability of the program; and

“(iii) evaluating the program, including collecting data and measuring progress toward reducing or eliminating the health disparity in the targeted population that takes into account the evaluation model developed by the Centers for Disease Control and Prevention in collaboration with the Office of Minority Health and Health Disparity Elimination.

“(2) DURATION.—The period during which payments may be made under a grant under paragraph (1) shall not exceed 1 year, except where the Secretary determines that extraordinary circumstances exist as described in section 340(c)(3).

“(e) IMPLEMENTATION GRANTS.—

“(1) IN GENERAL.—The Secretary shall award grants to eligible entities that have received a planning grant under subsection (d) to enable such entity to—

“(A) implement a plan to address the selected health disparity for the target population, in an effective and timely manner;

“(B) collect data appropriate for monitoring and evaluating the program carried out under the grant;

“(C) analyze and interpret data, or collaborate with academic or other appropriate institutions, for such analysis and collection;

“(D) participate in conferences and workshops for the purpose of informing and educating others regarding the experiences and lessons learned from the project;

“(E) collaborate with appropriate partners to publish the results of the project for the benefit of the public health community;

“(F) establish mechanisms with other public or private groups to maintain financial support for the program after the grant terminates; and

“(G) maintain relationships with local partners and continue to develop new relationships with national and State partners.

“(2) DURATION.—The period during which payments may be made under a grant under paragraph (1) shall not exceed 4 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved.

“(f) EVALUATION GRANTS.—

“(1) IN GENERAL.—The Secretary may award grants to eligible entities that have received an implementation grant under subsection (e) that require additional assistance for the purpose of rigorous data analysis, program evaluation (including process and outcome measures), or dissemination of findings.

“(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to—

“(A) entities that in previous funding cycles—

“(i) have received a planning grant under subsection (d); or

“(ii) implemented activities of the type described in subsection (e)(1); and

“(B) entities that incorporate best practices or build on successful models in their action plan, including the use of community health workers.

“(g) SUSTAINABILITY.—The Secretary shall give priority to an eligible entity under this section if the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the activities for which the grant was awarded, the entity (and each of the participating partners in the coalition represented by the entity) will maintain its expenditures of non-Federal funds for such activities at a level that is not less than the level of such expenditures during the fiscal year immediately preceding the first fiscal year for which the grant is awarded.

“(h) NONDUPLICATION.—Funds provided through this grant program should supplement, not supplant, existing Federal funding, and the funds should not be used to duplicate the activities of the other health disparity grant programs in this Act.

“(i) TECHNICAL ASSISTANCE.—The Secretary may, either directly or by grant or contract, provide any entity that receives a grant under this section with technical and other nonfinancial assistance necessary to meet the requirements of this section.

“(j) DISSEMINATION.—The Secretary shall enable grantees to share best practices, evaluation results, and reports using the Internet, conferences, and other pertinent information regarding the projects funded by this section, including the outreach efforts of the Office of Minority Health and Health Disparity Elimination.

“(k) ADMINISTRATIVE BURDENS.—The Secretary shall make every effort to minimize duplicative or unnecessary administrative burdens on grantees.

**“SEC. 399S. GRANTS FOR HEALTH DISPARITY COLLABORATIVES.**

“(a) PURPOSE.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities to assist in

implementing systems of primary care practices through which to eliminate disparities in the delivery of healthcare and improve the healthcare provided to all patients.

“(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

“(1) be a federally qualified health center as defined in section 1905(1)(2)(B) of the Social Security Act with the ability to establish and lead a collaborative partnership; and

“(2) submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, which shall include plans to implement collaboratives in one or more of the following areas:

“(A) Diabetes.

“(B) Asthma.

“(C) Depression.

“(D) Cardiovascular disease.

“(E) Cancer.

“(F) Preventive health, including screenings.

“(G) Perinatal health.

“(H) Patient safety.

“(I) Other areas as designated by the Secretary.

“(c) NONDUPLICATION.—Funds provided through this grant program should supplement, not supplant, existing Federal funding, and the funds should not be used to duplicate the activities of the other health disparity grant programs in this Act.

“(d) TECHNICAL ASSISTANCE.—The Secretary may, either directly or by grant or contract, provide any entity that receives a grant under this section with technical and other nonfinancial assistance necessary to meet the requirements of this section.

“(e) ADMINISTRATIVE BURDENS.—The Secretary shall make every effort to minimize duplicative or unnecessary administrative burdens on grantees.

**“SEC. 399T. COMMUNITY HEALTH INITIATIVES.**

“(a) PURPOSE.—The Secretary shall establish the Community Health Initiative demonstration program to support comprehensive State, tribal, or local initiatives to improve the health of racial and ethnic minority and other health disparity populations.

“(b) COMMUNITY HEALTH INITIATIVE PROGRAM.—

“(1) IN GENERAL.—The Secretary shall award Community Health Initiative Program grants to State and local public health agencies of eligible communities. Each grant shall be funded for 5 years.

“(2) ELIGIBLE COMMUNITIES.—

“(A) IDENTIFICATION.—The Secretary shall develop, after opportunity for public review and comment, and implement a metric for identifying and notifying eligible communities pursuant to subparagraph (B), and report such findings to Congress and the public.

“(B) ELIGIBILITY.—Eligible communities shall be communities that are most at risk, or at greatest disproportionate risk, for adverse health outcomes, as measured by—

“(i) overall burden of disease and health conditions;

“(ii) accessibility to and availability of health and economic resources;

“(iii) proportion of individuals from racial and ethnic minority and other health disparity populations; and

“(iv) other factors as determined appropriate by the Secretary.

“(3) AGENCY COLLABORATION.—The Secretary, in collaboration with the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination, the Director of the Centers for Disease Control and Prevention, the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, and

heads of other Federal agencies as appropriate, shall determine, with respect to the Community Health Initiative Program—

“(A) core goals, objectives and reasonable timelines for implementing, evaluating and sustaining comprehensive and effective health and healthcare improvement activities in eligible communities;

“(B) current programmatic and research initiatives in which eligible communities may participate;

“(C) existing agency resources that can be targeted to eligible communities; and

“(D) mechanisms to facilitate joint application, or establish a common application, to multiple grant programs, as appropriate.

“(4) APPLICATIONS.—

“(A) IN GENERAL.—The State and local public health agencies of eligible communities shall jointly submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including a strategic plan that shall—

“(i) describe the proposed activities pursuant to paragraph (5);

“(ii) report the extent to which local institutions and organizations and community residents have participated in the strategic plan development;

“(iii) identify established public-private partnerships, and State, local, and private resources that will be available;

“(iv) identify Federal funding needed to support the proposed activities; and

“(v) report the baselines, methods, and benchmarks for measuring the success of activities proposed in the strategic plan.

“(B) COMMUNITY ADVISORY BOARD.—

“(i) IN GENERAL.—In order to receive a Community Health Initiative Program grant under this section, an eligible community shall have a community advisory board.

“(ii) MEMBERS.—

“(I) COMMUNITY.—The majority of the members of a community advisory board under clause (i) shall be individuals that will benefit from the activities or services provided by the grants under this section.

“(II) REPRESENTATIVES.—A community advisory board shall include representatives from the State health department and county or local health department, community-based organizations, environmental and public health experts, healthcare professionals and providers, nonprofit leaders, community organizers, elected officials, private payers, employers, and consumers.

“(iii) DUTIES.—A community advisory board shall—

“(I) oversee the functions and operations of Community Health Initiative Program grant activities;

“(II) assist in the evaluation of such activities; and

“(III) prepare an annual report that describes the progress made towards achieving stated goals and recommends future courses of action.

“(5) USE OF FUNDS.—An eligible community that receives a grant under this section shall use the funding to support activities to achieve stated core goals and objectives, pursuant to paragraph (3), which may include initiatives that—

“(A) promote disease prevention and health promotion, particularly for racial and ethnic minority and other health disparity populations;

“(B) facilitate partnerships between healthcare providers, public and health agencies, academic institutions, community based or advocacy organizations, elected officials, professional societies, and other stakeholder groups;

“(C) enhance the local capacity for aggregated and disaggregated health data collection and reporting;

“(D) coordinate and integrate community-based activities including education, city planning, transportation initiatives, environmental changes, and other related activities at the local level that help improve public health and address health concerns;

“(E) mobilize financial and other resources from the public and private sector to increase local capacity to address health issues;

“(F) support the training of staff in communication and outreach to the general public, particularly those at disproportionate risk for health and healthcare disparities;

“(G) assist eligible communities in meeting Healthy People 2010 objectives; and

“(H) aid eligible communities in providing employment, and cultural and recreational resources that enable healthy lifestyles.

“(6) EVALUATION.—The Secretary, directly or through contract, shall conduct and report an evaluation of the Community Health Initiative Program that shall be available to the public.

“(7) SUPPLEMENT NOT SUPPLANT.—Grant funds received under this section shall be used to supplement, and not supplant, funding that would otherwise be used for activities described under this section.

“SEC. 399U. OUTREACH.

“(a) IN GENERAL.—The Secretary, in collaboration with the Office for Minority Health and Health Disparity Elimination, the Centers for Medicare and Medicaid Services, and the Health Resources and Services Administration, shall establish a grant program to improve outreach, participation, and enrollment by eligible entities with respect to available healthcare programs.

“(b) ELIGIBILITY.—In this section, the term ‘eligible entity’ means any of the following:

“(1) A State or local government.

“(2) A Federal health safety net organization.

“(3) A national, local, or community-based public or nonprofit private organization.

“(4) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 relating to a grant award to nongovernmental entities.

“(5) An elementary or secondary school.

“(c) DEFINITION.—In this section:

“(1) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term ‘Federal health safety net organization’ means—

“(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider;

“(B) a Federally-qualified health center (as defined in section 330);

“(C) a hospital defined as a disproportionate share hospital;

“(D) a covered entity described in section 340B(a)(4); and

“(E) any other entity or a consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9831 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), and an elementary or secondary school.

“(2) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms ‘Indian’, ‘Indian tribe’, ‘tribal organization’, and ‘urban Indian organization’ have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

“(d) PRIORITY FOR AWARD OF GRANTS.—

“(1) IN GENERAL.—In making grants under subsection (a), the Secretary shall give priority to—

“(A) eligible entities that propose to target geographic areas with high rates of—

“(i) eligible but unenrolled children, including such children who reside in rural areas; or

“(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

“(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

“(i) Federal health safety net organizations; or

“(ii) faith-based organizations or consortia.

“(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under section 202(3) of the Minority Health Improvement and Health Disparity Elimination Act to carry out this section for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.”

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) such sums as may be necessary for each of fiscal years 2007 through 2011, to carry out section 399Q of the Public Health Service Act (as added by section 201);

(2) \$52,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011, to carry out section 399R of the Public Health Service Act (as added by section 201); and

(3) such sums as necessary for each of fiscal years 2007 through 2011, to carry out sections 399S, 399T, and 399U of the Public Health Service Act (as added by section 201).

TITLE III—RESEARCH

SEC. 301. AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.

Part B of title IX of the Public Health Service Act (42 U.S.C. 299b et seq.) is amended by adding at the end the following:

“SEC. 918. ENHANCED RESEARCH WITH RESPECT TO HEALTHCARE DISPARITIES.

“(a) ACCELERATING THE ELIMINATION OF DISPARITIES.—

“(1) STRATEGIC PLAN.—The Secretary, acting through the Director, and in collaboration with the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination, shall develop a strategic plan regarding research supported by the agency to improve healthcare and eliminate healthcare disparities among racial and ethnic minority and other health disparity populations. In developing such plan, the Secretary shall—

“(A) determine which areas of research focus would have the greatest impact on healthcare improvement and elimination of disparities, taking into consideration the overall health status of various populations, disproportionate burden of diseases or health conditions, and types of interventions for which data on effectiveness is limited;

“(B) establish measurable goals and objectives which will allow assessment of progress;

“(C) solicit public review and comment from experts in healthcare, minority health and health disparities, health services research, and other areas as determined appropriate by the Secretary;

“(D) incorporate recommendations from the Institute of Medicine, pursuant to section 303 of the Minority Health Improvement and Health Disparity Elimination Act, as appropriate;

“(E) complete such plan within 12 months of enactment of the Minority Health Improvement and Health Disparity Elimination Act, and update such plan and report on progress meeting established goals and objectives not less than every 2 years;

“(F) include progress meeting plan goals and objectives in annual performance budget submissions;

“(G) ensure coordination and integration with the National Plan to Improve Minority Health and Eliminate Health Disparities, as described in section 1707(c) and other Department-wide initiatives, as feasible; and

“(H) report the plan to the Congress and make available to the public in print and electronic format.

“(2) ESTABLISHMENT OF GRANTS.—The Secretary, acting through the Director, and in collaboration with the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination, may award grants or contracts to eligible entities for research to improve the health of racial and ethnic minority and other health disparity populations (as defined in section 903(d)).

“(3) APPLICATION; ELIGIBLE ENTITIES.—

“(A) APPLICATION.—To receive a grant or contract under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant or contract under this section, an entity shall be a health center, hospital, health plan, health system, community clinic, or other health entity determined appropriate by the Secretary, that—

“(i) by legal mandate or explicitly adopted mission, provides patients with access to services regardless of their ability to pay;

“(ii) provides care or treatment for a substantial number of patients who are uninsured, are receiving assistance under a State program under title XIX of the Social Security Act, or are members of vulnerable populations, as determined by the Secretary;

“(iii) serves a disproportionate percentage of patients from racial and ethnic minority and other health disparity populations;

“(iv) provides an assurance that amounts received under the grant or contract will be used to implement strategies that address patients’ linguistic needs, where necessary, and recruit and maintain diverse staff and leadership; and

“(v) provides an assurance that amounts received under the grant or contract will be used to support quality improvement activities for patients from racial and ethnic minority and other health disparity populations.

“(C) PREFERENCE.—Consortia of 3 or more eligible entities shall be given a preference for grant or contract funding.

“(4) RESEARCH.—The research funded under paragraph (2), with respect to racial and ethnic minority and other health disparity populations, shall—

“(A) prioritize the translation of existing research into practical interventions for improving health and healthcare and reducing disparities;

“(B) target areas of need as identified in the strategic plan pursuant to subsection (a)(1), the National Healthcare Disparities Report published by the Agency for Healthcare Research and Quality, relevant reports by the Institute of Medicine, and other reports issued by Federal health agencies;

“(C) include a focus on community-based solutions and partnerships as appropriate;

“(D) expand practice-based research networks (primary care and larger delivery systems) to include networks of delivery sites

servicing large numbers of minority and health disparity populations including—

“(i) public hospitals and private non-profit hospitals;

“(ii) health centers;

“(iii) health plans; and

“(iv) other sites as determined appropriate by the Director.

“(5) DISSEMINATION OF RESEARCH FINDINGS.—To ensure that findings from the research described in paragraph (4) are disseminated and applied promptly, the Director shall—

“(A) develop outreach and training programs for healthcare providers with respect to the practical and effective interventions that result from research programs carried out with grants or contracts awarded under this section; and

“(B) provide technical assistance for the implementation of evidence-based practices that will improve health and healthcare and reduce disparities.

“(b) REALIZING THE POTENTIAL OF DISEASE MANAGEMENT.—

“(1) PUBLIC-PRIVATE SECTOR PARTNERSHIP TO ASSESS EFFECTIVENESS OF EXISTING DISEASE MANAGEMENT STRATEGIES.—

“(A) IN GENERAL.—The Secretary shall establish a public-private partnership to identify, evaluate, and disseminate effective disease management strategies, tailored to improve healthcare and health outcomes for patients from racial and ethnic minority and other health disparity populations. Such strategies shall reflect established healthcare quality standards and benchmarks and other evidence-based recommendations.

“(B) PARTNERSHIP COMPOSITION.—The partnership’s members shall include the following:

“(i) Representatives from the following:

“(I) The Office of Minority Health and Health Disparity Elimination.

“(II) The Centers for Disease Control and Prevention.

“(III) The Agency for Healthcare Research and Quality.

“(IV) The Centers for Medicare and Medicaid Services.

“(V) The Health Resources and Services Administration.

“(VI) The Indian Health Service.

“(VII) Other agencies as designated by the Secretary.

“(ii) Representatives of health plans, employers, or other private entities that have implemented disease management programs.

“(iii) Representatives of hospitals, community health centers, large, small, or solo provider groups, or other organizations that provide healthcare and have implemented disease management programs.

“(iv) Community-based representatives who have been involved with establishing, implementing, or evaluating disease management programs.

“(v) Other individuals as designated by the Secretary.

“(C) PARTNERSHIP DUTIES.—

“(i) IN GENERAL.—Not later than 18 months after the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act, the partnership shall release a best practices report, with a particular focus on the following:

“(I) Self-management training.

“(II) Increasing patient participation in and satisfaction with healthcare encounters.

“(III) Helping patients use quality performance and cost information to choose appropriate healthcare providers for their care.

“(IV) Interventions outside of a traditional healthcare environment, including the workplace, school, community, or home.

“(V) Interventions utilizing community health workers and case managers.

“(VI) Interventions that implement integrated disease management and treatment strategies to address multiple chronic co-occurring conditions.

“(VII) Other interventions as identified by the Secretary.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than September 30, 2010, the partnership shall submit to the Secretary and the relevant committees of Congress a report that describes the extent to which the activities and research funded under this section have been successful in reducing and eliminating disparities in health and healthcare in targeted populations.

“(B) AVAILABILITY.—The Secretary shall ensure that the report is made available on the Internet websites of the Office of Minority Health and Health Disparity Elimination, the Agency for Healthcare Research and Quality, and other agencies as appropriate.”

### SEC. 302. GENETIC VARIATION AND HEALTH.

(a) IN GENERAL.—The Secretary shall ensure that any current, proposed, or future research and programmatic activities regarding genomics include focus on genetic variation within and between populations, with a focus on racial and ethnic minority populations, that may affect risk of disease or response to drug therapy and other treatments, in order to ensure that all populations are able to derive full benefit from genomic tests and treatments that may improve their health and healthcare. The Secretary shall encourage, with respect to racial and ethnic minority populations, efforts to—

(1) increase access, availability, and utilization of genomic tests and treatments;

(2) determine and monitor appropriateness of use of genomic tests and treatments;

(3) increase awareness of the importance of knowing one’s family history and the relationships between genes, the social and physical environment, and health; and

(4) expand genomics research that would help to—

(A) improve tests to facilitate earlier and more accurate diagnoses;

(B) enhance the safety of drugs, particularly for drugs that pose an elevated risk for adverse drug events in such populations;

(C) increase the effectiveness of drugs, particularly for diseases and conditions that disproportionately affect such populations; and

(D) augment the current understanding of the interactions between genomic, social and physical environmental factors and their influence on the causality, prevention, and treatment of diseases common in such populations.

(b) GENETIC VARIATION, ENVIRONMENT, AND HEALTH SUMMIT.—

(1) SUMMIT.—Not later than 1 year after the date of enactment of this Act, the Director of the National Human Genome Research Institute, in collaboration with the Director of the Office of Genomics and Disease Prevention at the Centers for Disease Control and Prevention, the Director of the Office of Behavioral and Social Science Research at the National Institutes of Health, and the Deputy Assistant Secretary of the Office of Minority Health and Health Disparity Elimination, shall convene a Summit for the purpose of providing leadership and guidance to Secretary, Congress, and other public and private entities on current and future areas of focus for genomics research, including translation of findings from such research, relating to improving the health of racial and ethnic minority populations and reducing health disparities.

(2) PARTICIPATION.—The Summit shall include—

(A) representatives from the Federal health agencies, including the National Institutes of Health, the Centers for Disease Control and Prevention, the Food and Drug Administration, the Health Resources and Services Administration, and additional agencies and departments as determined appropriate by the Secretary;

(B) independent experts and stakeholders from relevant industry and academic institutions, particularly those that have demonstrated expertise in both genomics and minority health and serve a disproportionate number of racial and ethnic minority patients; and

(C) leaders of community organizations that work to reduce and eliminate health disparities.

(3) **REPORT.**—Not later than 90 days after the conclusion of the Summit, the Director of the National Human Genome Research Institute shall submit to Congress and make available to the public a report detailing recommendations on—

(A) an appropriate description of human diversity, incorporating available information on genetics, for use in genomic research and programs operated or supported by the Federal Government;

(B) guiding ethics, principles, and protocols for the inclusion and designation of racial and ethnic minority populations in genomics research, particularly clinical trials programs operated or supported by the Federal Government;

(C) ways to increase access to and utilization of effective pharmacogenomic and other genetic screening and services for racial and ethnic minority populations;

(D) research opportunities and funding support in the area of genomic variation that may improve the health and healthcare of minority populations;

(E) ways to enhance integration of Federal Government-wide efforts and activities pertaining to race, genomics, and health; and

(F) need for additional privacy protections in preventing stigmatization and inappropriate use of genetic information.

(c) **PHARMACOGENOMICS AND EMERGING ISSUES ADVISORY COMMITTEE.**—

(1) **IN GENERAL.**—The Secretary, under section 222 of the Public Health Service Act (42 U.S.C. 217a), shall convene and consult an advisory committee on issues relating to pharmacogenomics (referred to in this subsection as the “Advisory Committee”).

(2) **DUTIES.**—

(A) **IN GENERAL.**—The Advisory Committee shall advise and make recommendations to the Secretary, through the Commissioner of Food and Drugs and in consultation with the Director of the National Institutes of Health, on the evolving science of pharmacogenomics and interindividual variability in drug response, as it relates to the health of racial and ethnic minorities.

(B) **MATTERS CONSIDERED.**—The recommendations under subparagraph (A) shall include recommendations on—

(i) the ethics, design, and analysis of clinical trials involving racial and ethnic minorities conducted under section 351, 409I, or 499 of the Public Health Service Act or section 505(i), 505A, 505B, or 515(g) of the Federal Food, Drug, and Cosmetic Act;

(ii) general policy and guidance with respect to the development, approval or clearance, and labeling of medical products for racial and ethnic minorities;

(iii) the role of pharmacogenomics during the development of drugs, biological products, and diagnostics;

(iv) the understanding of interindividual variability in drug response;

(v) diagnostics or treatments for diseases or conditions common in racial and ethnic minorities; and

(vi) the identification of other areas of unmet medical need.

(3) **COMPOSITION.**—The Advisory Committee shall include—

(A) experts in the fields of—

(i) minority health and health disparities;

(ii) genomics;

(iii) pharmaceutical and diagnostic research and development;

(iv) ethical, legal, and social issues relating to clinical trials; and

(v) bioinformatics and information technology;

(B) representatives from minority health organizations and relevant patient organizations; and

(C) other experts as deemed appropriate by the Secretary.

(4) **COORDINATION WITH OTHER ADVISORY COMMITTEES.**—The Advisory Committee may consult and coordinate with other advisory committees of the Department of Health and Human Services as determined appropriate by the Secretary.

(5) **RECOMMENDATIONS.**—The Advisory Committee shall submit recommendations to the Secretary with respect to each of the matters described under paragraph (2)(B) prior to the development by the Secretary of the report described under paragraph (6).

(6) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary—

(A) shall, acting through the Commissioner of Food and Drugs and in consultation with the Director of the National Institutes of Health, and taking into consideration the recommendations of the Advisory Committee submitted under paragraph (5), submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on the evolving science of pharmacogenomics as it relates to racial and ethnic minorities, including a review of the guidance of the Food and Drug Administration on the participation of racial and ethnic minorities in clinical trials; and

(B) shall ensure that such report is made publicly available.

### SEC. 303. EVALUATIONS BY THE INSTITUTE OF MEDICINE.

(a) **HEALTH DISPARITIES SUMMIT.**—

(1) **IN GENERAL.**—Not later than 270 days after the date of enactment of this Act, the Institute of Medicine shall convene a summit on health disparities (referred to in this section as the “Summit”).

(2) **PURPOSE.**—The purposes of the Summit include—

(A) reviewing current activities of the Federal Government in addressing health and healthcare disparities as experienced by racial and ethnic minority populations, and other health disparity populations as practicable; and

(B) assessing progress made since the 2002 Institute of Medicine National Healthcare Disparities Report.

(3) **AREAS OF FOCUS.**—The Summit shall examine the activities of the Federal Government to reduce and eliminate health disparities, with a focus on—

(A) education and training, including health professions programs that increase minority representation in medicine and the health professions;

(B) data collection and analysis;

(C) coordination among agencies and departments in addressing healthcare disparities;

(D) research into the causes of and strategies to eliminate health disparities; and

(E) programs that increase access to care and improve health outcomes for health disparity populations.

(4) **PARTICIPATION.**—Summit participants shall include—

(A) representatives of the Federal Government;

(B) experts with research experience in identifying and addressing healthcare disparities among racial and ethnic minority and other health disparity populations; and

(C) representatives from community-based organizations and nonprofit groups that address the issues of racial and ethnic minority and other health disparity populations.

(5) **SUMMIT PROCEEDINGS.**—Not later than 180 days after the conclusion of the Summit, the Secretary shall offer to enter into a contract with the Institute of Medicine to publish a report summarizing the discussions of the Summit and review of current Federal activities to address healthcare disparities for racial and ethnic minority and other health disparity populations.

(b) **NATIONAL PLAN TO ELIMINATE DISPARITIES.**—

(1) **PLAN.**—Not later than 2 years after the date of enactment of this Act, the Institute of Medicine shall develop an evidence-based, strategic, national plan to eliminate disparities which shall—

(A) include goals, interventions, and resources needed to eliminate disparities;

(B) establish a reasonable timetable to reach selected priorities;

(C) inform and complement the National Plan to Improve Minority Health and Eliminate Health Disparities, pursuant to section 1707(c)(2) of the Public Health Service Act (as added by section 501 of this Act); and

(D) inform the development of criteria for evaluation of the effectiveness of programs authorized under this Act (and the amendments made by this Act), pursuant to subsection (c).

(2) **REPORT.**—The Secretary shall offer to enter into a contract with the Institute of Medicine to publish the National Plan to Eliminate Disparities.

(c) **INSTITUTE OF MEDICINE EVALUATION.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall offer to enter into a contract with the Institute of Medicine to evaluate the effectiveness of the programs authorized under this Act (and the amendments made by this Act) in addressing and reducing health disparities experienced by racial and ethnic minority and other health disparity populations. In making such an evaluation, the Institute of Medicine shall consult—

(A) representatives of the Federal Government;

(B) experts with research and policy experience in identifying and addressing healthcare disparities among racial and ethnic minority and other health disparity populations; and

(C) representatives from community-based organizations and nonprofit groups that address health disparity issues.

(2) **REPORT.**—Not later than 2 years after the Secretary enters into the contract under paragraph (1), the Institute of Medicine shall submit to the Secretary and relevant committees of Congress a report that contains the results of the evaluation described under such subparagraph, and any recommendations of such Institute.

(3) **RESPONSE.**—Not later than 180 days after the date the Institute of Medicine submits the report under this subsection, the Secretary shall publish a response to such recommendations, which shall be provided to the relevant committees of Congress and made publicly available through the Internet Clearinghouse under section 270 of the Public Health Service Act (as added by section 101).

(d) **HEALTH INFORMATION TECHNOLOGY.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the

Secretary, acting through the Director of the National Library of Medicine, shall offer to enter into a contract with the Institute of Medicine to study and make recommendations regarding the use of health information technology and bioinformatics to improve the health and healthcare of racial and ethnic minority and other health disparity populations.

(2) **STUDY.**—The study under paragraph (1), with respect to increasing access and quality of healthcare for racial and ethnic minority and other health disparity populations, shall assess and make recommendations regarding—

(A) effective applications of health information technology, including telemedicine and telepsychiatry;

(B) status of development of health information technology standards that will permit healthcare information of the type required to support patient care;

(C) inclusion of organizations with expertise in minority health and health disparities in the development of health information technology standards and applications;

(D) priority areas for research to improve the dissemination, management, and use of biomedical knowledge that address identified and unmet needs;

(E) educational and training needs and opportunities to assist health professionals understand and apply health information technology; and

(F) ways to increase recruitment and retention of racial and ethnic minorities into the field of medical informatics.

(3) **REPORT.**—Not later than 2 years after the Secretary enters into the contract under paragraph (1), the Institute of Medicine shall submit to the Secretary and relevant committees of Congress a report that contains the findings and recommendations of this study.

**SEC. 304. NATIONAL CENTER FOR MINORITY HEALTH AND HEALTH DISPARITIES REAUTHORIZATION.**

Section 485E of the Public Health Service Act (42 U.S.C. 287c-31) is amended—

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

“(e) **DUTIES OF THE DIRECTOR.**—

“(1) **INTERAGENCY COORDINATION OF MINORITY HEALTH AND HEALTH DISPARITIES ACTIVITIES.**—With respect to minority health and health disparities, the Director of the Center shall plan, coordinate, and evaluate research and other activities conducted or supported by the agencies of the National Institutes of Health. In carrying out the preceding sentence, the Director of the Center shall evaluate the minority health and health disparity activities of each of such agencies and shall provide for the periodic reevaluation of such activities.

“(2) **CONSULTATIONS.**—The Director of the Center shall carry out this subpart (including developing and revising the plan and budget required in subsection (f)) in consultation with the Directors of the agencies (or a designee of the Directors) of the National Institutes of Health, with the advisory councils of the agencies, and with the advisory council established under section (j).

“(3) **COORDINATION OF ACTIVITIES.**—The Director of the Center shall act as the primary Federal official with responsibility for coordinating all minority health disparities research and other health disparities research conducted or supported by the National Institutes of Health and shall—

“(A) represent the health disparities research program of the National Institutes of Health including the minority health disparities research program at all relevant executive branch task forces, committees, and planning activities;

“(B) maintain communications with all relevant Public Health Service agencies, including the Indian Health Service and various other departments of the Federal Government, to ensure the timely transmission of information concerning advances in minority health disparities research and other health disparities research between these various agencies for dissemination to affected communities and healthcare providers; and

“(C) engage with community-based organizations and health provider groups to—

“(i) increase education and awareness about the Center’s activities and areas of research focus; and

“(ii) accelerate the translation of research findings into programs including those carried out by community-based organizations.”;

(2) in subsection (f)—

(A) by striking the subsection heading and inserting the following:

“(f) **COMPREHENSIVE PLAN FOR RESEARCH; BUDGET ESTIMATE; ALLOCATION OF APPROPRIATIONS.**—”;

(B) in paragraph (1)—

(i) by striking the matter preceding subparagraph (A) and subparagraph (A) and inserting the following:

“(1) **IN GENERAL.**—Subject to the provisions of this section and other applicable law, the Director of the Center, in consultation with the Director of NIH, the Directors of the other agencies of the National Institutes of Health, and the advisory council established under subsection (j) shall—

“(A) annually review and revise a comprehensive plan (referred to in this section as ‘the Plan’) and budget for the conduct and support of all minority health and health disparities research and other health disparities research activities of the agencies of the National Institutes of Health.”;

(ii) in subparagraph (D), by striking “, with respect to amounts appropriated for activities of the Center.”;

(iii) by striking subparagraph (F) and inserting the following:

“(F) ensure that the Plan and budget are presented to and considered by the Director during the formulation of the overall annual budget for the National Institutes of Health.”;

(iv) by redesignating subparagraphs (G) and (H) as subparagraphs (I) and (J), respectively; and

(v) by inserting after subparagraph (F), the following:

“(G) annually submit to Congress a report on the progress made with respect to the Plan;

“(H) creating and implementing a plan for the systematic review of research activities supported by the National Institutes of Health that are within the mission of both the Center and other agencies of the National Institutes of Health, by establishing mechanisms for—

“(i) tracking minority health and health disparity research conducted within the agencies;

“(ii) the early identification of applications and proposals for grants, contracts, and cooperative agreements supporting extramural training, research, and development, that are submitted to the agencies and that are within the mission of the Center;

“(iii) providing the Center with the written descriptions and scientific peer review results of such applications and proposals;

“(iv) enabling the agencies to consult with the Director of the Center prior to final approval of such applications and proposals; and

“(v) reporting to the Director of the Center all such applications and proposals that are approved for funding by the agencies.”;

(C) in paragraph (2)—

(i) in subparagraph (D), by striking “and” at the end;

(ii) in subparagraph (E), by striking the period and inserting “; and”;

(iii) by adding at the end the following:

“(F) the number and type of personnel needs of the Center.”;

(3) in subsection (h)—

(A) in paragraph (1), by striking “endowments at centers of excellence under section 736.” and inserting the following: “endowments at—

“(A) centers of excellence under section 736; and

“(B) centers of excellence under section 485F.”;

(B) in paragraph (2)(A), by striking “average” and inserting “median”;

(4) by redesignating subsections (k) and (l) as subsections (m) and (n), respectively;

(5) by inserting after subsection (j), the following:

“(k) **REPRESENTATION OF MINORITIES AMONG RESEARCHERS.**—The Secretary, in collaboration with the Director of the Center, shall determine the extent to which racial and ethnic minority and other health disparity populations are represented among senior physicians and scientists of the national research institutes and among physicians and scientists conducting research with funds provided by such institutes, and as appropriate, carry out activities to increase the extent of such representation.

“(l) **CANCER RESEARCH.**—The Secretary, in collaboration with the Director of the Center, shall designate and support a cancer prevention, control, and population science center to address the significantly elevated rate of morbidity and mortality from cancer in racial and ethnic minority populations. Such designated center shall be housed within an existing, stand-alone cancer center at a historically black college and university that has a demonstrable commitment to and expertise in cancer research in the basic, clinical, and population sciences.”;

(6) in subsection (1)(1) (as so redesignated), by inserting before the semicolon the following: “, with a particular focus on evaluation of progress made toward fulfillment of the goals of the Plan”;

(7) by striking subsection (m) (as so redesignated).

**SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

(a) **SECTIONS 301, 302, AND 303.**—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011, to carry out sections 301, 302, and 303 (and the amendments made by such sections).

(b) **SECTION 304.**—

(1) **IN GENERAL.**—There are authorized to be appropriated \$240,000,000 for fiscal year 2007, such sums as may be necessary for each of fiscal years 2008 through 2011, to carry out section 304.

(2) **ALLOCATION OF FUNDS.**—Subject to section 485E of the Public Health Service Act (as amended by section 304) and other applicable law, the Director of the Center under such section 485E shall direct all amounts appropriated for activities under such section and in collaboration with the Director of National Institutes of Health and the directors of other institutes and centers of the National Institutes of Health.

(3) **MANAGEMENT OF ALLOCATIONS.**—All amounts allocated or expended for minority health and health disparities research activities under this subsection shall be reported programmatically to and approved by the Director of the Center under such section 485E, in accordance with the Plan described under such section 485E.

**TITLE IV—DATA COLLECTION, ANALYSIS, AND QUALITY****SEC. 401. DATA COLLECTION, ANALYSIS, AND QUALITY.**

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

**“TITLE XXIX—DATA COLLECTION, ANALYSIS, AND QUALITY****“SEC. 2901. DATA COLLECTION, ANALYSIS, AND QUALITY.**

“(a) DATA COLLECTION AND REPORTING.—The Secretary shall ensure that not later than 3 years after the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act any ongoing or new federally conducted or supported health programs (including surveys) result in the—

“(1) collection and reporting of data by race and ethnicity using, at a minimum, Office of Budget and Management standards in effect on the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act;

“(2) collection and reporting of data by geographic location, socioeconomic position (such as employment, income, and education), primary language, and, when determined practicable by the Secretary, health literacy; and

“(3) if practicable, collection and reporting of data on additional population groups if such data can be aggregated into the minimum race and ethnicity data categories.

“(b) DATA ANALYSIS AND DISSEMINATION.—

“(1) DATA ANALYSIS.—

“(A) IN GENERAL.—The Secretary shall analyze data collected under subsection (a) to detect and monitor trends in disparities in health and healthcare for racial and ethnic minority and other health disparity populations, and examine the interaction between various disparity indicators.

“(B) QUALITY ANALYSIS.—The Secretary shall ensure that the analyses under subparagraph (A) incorporate data reported according to quality measurement systems.

“(2) QUALITY MEASURES.—When the Secretary, by statutory or regulatory authority, adopts and implements any quality measures or any quality measurement system, the Secretary shall ensure the quality measures or quality measurement system comply with the following:

“(A) MEASURES.—Measures selected shall, to the extent practicable—

“(i) assess the effectiveness, timeliness, patient self-management, patient centeredness, equity, and efficiency of care received by patients, including patients from racial and ethnic minority and other health disparity populations;

“(ii) are evidence based, reliable, and valid; and

“(iii) include measures of clinical processes and outcomes, patient experience and efficiency.

“(B) CONSULTATION.—In selecting quality measures or a quality measurement system or systems for adoption and implementation, the Secretary shall consult with—

“(i) individuals from racial and ethnic minority and other health disparity populations; and

“(ii) experts in the identification and elimination of disparities in health and healthcare among racial and ethnic minority and other health disparity populations.

“(3) DISSEMINATION.—

“(A) IN GENERAL.—The Secretary shall make the measures, data, and analyses described in paragraph (1) and (2) available to—

“(i) the Office of Minority Health and Health Disparity Elimination;

“(ii) the National Center on Minority Health and Health Disparities;

“(iii) the Agency for Healthcare Research and Quality for inclusion in the Agency’s reports;

“(iv) the Centers for Disease Control and Prevention;

“(v) the Centers for Medicare and Medicaid Services;

“(vi) the Indian Health Service;

“(vii) other agencies within the Department of Health and Human Services; and

“(viii) other entities as determined appropriate by the Secretary.

“(B) ADDITIONAL RESEARCH.—The Secretary may, as the Secretary determines appropriate, make the measures, data, and analysis described in paragraphs (1) and (2) available for additional research, analysis, and dissemination to nongovernmental entities and the public.

“(C) RESEARCH.—

“(1) DISPARITY INDICATORS.—

“(A) IN GENERAL.—The Secretary shall award grants or contracts for research to develop appropriate methods, indicators, and measures that will enable the detection and assessment of disparities in healthcare. Such research shall prioritize research with respect to the following:

“(i) Race and ethnicity.

“(ii) Geographic location (such as geocoding).

“(iii) Socioeconomic position (such as income or education level).

“(iv) Health literacy.

“(v) Cultural competency.

“(vi) Additional measures as determined appropriate by the Secretary.

“(B) APPLIED RESEARCH.—The Secretary shall use the results of the research from grants awarded under subparagraph (A) to improve the data collection described under subsection (a).

“(2) STRATEGIC PARTNERSHIPS TO ENCOURAGE AND IMPROVE DATA COLLECTION.—

“(A) IN GENERAL.—The Secretary may award not more than 20 grants to eligible entities for the purposes of—

“(i) enhancing and improving methods for the collection, reporting, analysis, and dissemination of data, as required under the Minority Health Improvement and Health Disparity Elimination Act; and

“(ii) encouraging the collection, reporting, analysis, and dissemination of data to identify and address disparities in health and healthcare.

“(B) DEFINITION OF ELIGIBLE ENTITY.—In this paragraph, the term ‘eligible entity’ means a health plan, federally qualified health center, hospital, rural health clinic, academic institution, policy research organization, or other entity, including an Indian Health Service hospital or clinic, Indian tribal health facility, or urban Indian facility, that the Secretary determines to be appropriate.

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

“(D) PRIORITY IN AWARDING GRANTS.—In awarding grants under this paragraph, the Secretary shall give priority to eligible entities that represent collaboratives with—

“(i) hospitals, health plans, or health centers; and

“(ii) at least 1 community-based organization or patient advocacy group.

“(E) USE OF FUNDS.—An eligible entity that receives a grant under this paragraph shall use grant funds to—

“(i) collect, analyze, or report data by race, ethnicity, geographic location, socioeconomic position, health literacy, or other health disparity indicator;

“(ii) conduct and report analyses of quality of healthcare and disparities in health and healthcare for racial and ethnic minority and other health disparity populations, including disparities in diagnosis, management and treatment, and health outcomes for acute and chronic disease;

“(iii) improve health data collection, analysis, and reporting for subpopulations and categories;

“(iv) modify, implement, and evaluate use of health information technology systems that facilitate data collection, analysis and reporting for racial and ethnic minority and other health disparity populations, and support healthcare interventions;

“(v) develop educational programs to inform patients, providers, purchasers, and other individuals served about the legality and importance of the collection, analysis, and reporting of data by race, ethnicity, socioeconomic position, geographic location, and health literacy, for eliminating disparities in health; and

“(vi) evaluate the activities conducted under this paragraph.

“(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to promote compliance with the data collection and reporting requirements of the Minority Health Improvement and Health Disparity Elimination Act.

“(e) PRIVACY AND SECURITY.—The Secretary shall ensure all appropriate privacy and security protections for health data collected, reported, analyzed, and disseminated pursuant to the Minority Health Improvement and Health Disparity Elimination Act.

“(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011.”

**TITLE V—LEADERSHIP, COLLABORATION, AND NATIONAL ACTION PLAN****SEC. 501. OFFICE OF MINORITY HEALTH AND HEALTH DISPARITY ELIMINATION.**

(a) IN GENERAL.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) is amended to read as follows:

**“SEC. 1707. OFFICE OF MINORITY HEALTH AND HEALTH DISPARITY ELIMINATION.**

“(a) ESTABLISHMENT.—For the purpose of improving the health of racial and ethnic minority populations and other health disparity populations, as described in subsection (b), there is established an Office of Minority Health and Health Disparity Elimination within the Office of Public Health and Science. There shall be in the Department of Health and Human Services a Deputy Assistant Secretary for Minority Health and Health Disparity Elimination, who shall be the head of the Office of Minority Health and Health Disparity Elimination. The Secretary, acting through such Deputy Assistant Secretary, shall carry out this section.

“(b) POPULATIONS TO BE SERVED.—The Secretary shall ensure that services provided under this section are prioritized to improve the health of racial and ethnic minority groups. To the extent that services are provided to other health disparity populations, such populations, as compared to the general population, must experience a—

“(1) disproportionate burden of disease, particularly chronic conditions such as hepatitis B, diabetes, heart disease, stroke, high blood pressure, mental illness, asthma, obesity, HIV/AIDS, and cancer;

“(2) significantly elevated risk for poor health outcomes, including disability and premature mortality;

“(3) disproportionate lack of access to local health resources, including hospitals, clinics, and health professionals; and

“(4) lower socioeconomic position.

“(c) DUTIES.—With respect to racial and ethnic minority groups, and other health disparity groups, the Secretary, acting through the Deputy Assistant Secretary, shall carry out the following:

“(1) Coordinate and provide input on activities within the Public Health Service that relate to disease prevention, health promotion, health service delivery, health workforce, and research concerning racial and ethnic minority populations, and other health disparity populations. The Secretary shall ensure that the heads of each of the agencies of the Service collaborate with the Deputy Assistant Secretary on the development and conduct of such activities.

“(2) Not later than 1 year after the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act, develop and implement a comprehensive Department-wide plan to improve minority health and eliminate health disparities in the United States, to be known as the National Plan to Improve Minority Health and Eliminate Health Disparities, (referred to in this section as the ‘National Plan’). With respect to development and implementation of the National Plan, the Secretary shall carry out the following:

“(A) Consult with the following:

“(i) The Director of the Centers for Disease Control and Prevention.

“(ii) The Director of the National Institutes of Health.

“(iii) The Director of the National Center on Minority Health and Health Disparities of the National Institutes of Health.

“(iv) The Director of the Agency for Healthcare Research and Quality.

“(v) The National Coordinator for Health Information Technology.

“(vi) The Administrator of the Health Resources and Services Administration.

“(vii) The Administrator of the Centers for Medicare & Medicaid Services.

“(viii) The Director of the Office for Civil Rights.

“(ix) The Secretary of Veterans Affairs.

“(x) The Administrator of the Substance Abuse and Mental Health Services Administration.

“(xi) The Secretary of Defense.

“(xii) The Commissioner of the Food and Drug Administration.

“(xiii) The Director of the Indian Health Service.

“(xiv) The Secretary of Education.

“(xv) The Secretary of Labor.

“(xvi) The heads of other public and private entities, as determined appropriate by the Secretary.

“(B) Review and integrate existing information and recommendations as appropriate, such as Healthy People 2010, Institute of Medicine studies, and Surgeon General Reports.

“(C) Ensure inclusion of measurable short-range and long-range goals and objectives, a description of the means for achieving such goals and objectives, and a designated date by which such goals and objectives are expected to be achieved.

“(D) Ensure that all amounts appropriated for such activities are expended in accordance with the National Plan.

“(E) Review the National Plan on at least an annual basis, and report to the public and appropriate committees of Congress on progress.

“(F) Revise such Plan as appropriate.

“(G) Ensure that the National Plan will serve as a binding statement of policy with respect to the agencies’ activities related to improving health and eliminating disparities in health and healthcare.

“(3) Work with Federal agencies and departments outside of the Department of Health and Human Services as appropriate

to maximize resources available to increase understanding about why disparities exist, and effective ways to improve health and eliminate health disparities.

“(4) In cooperation with the appropriate agencies, support research, demonstrations, and evaluations to test new and innovative models for—

“(A) expanding healthcare access;

“(B) improving healthcare quality; and

“(C) increasing healthcare educational opportunity.

“(5) Develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including individuals who are members of racial or ethnic minority groups or health disparity populations.

“(6) Increase awareness of disparities in healthcare, and knowledge and understanding of health risk factors, among healthcare providers, health plans, and the public.

“(7) Advise in matters related to the development, implementation, and evaluation of health professions education on improving healthcare outcomes and decreasing disparities in healthcare outcomes, with focus on cultural competence.

“(8) Assist healthcare professionals, community and advocacy organizations, academic medical centers and other health entities and public health departments in the design and implementation of programs that will improve health outcomes by strengthening the patient-provider relationship.

“(9) Carry out programs to improve access to healthcare services and to improve the quality of healthcare services for individuals with low functional health literacy.

“(10) Facilitate the classification and collection of healthcare data to allow for ongoing analysis to identify and determine the causes of disparities and monitoring of progress toward improving health and eliminating health disparities.

“(11) Ensure that the National Center for Health Statistics collects data on the health status of each racial or ethnic minority group or health disparity population pursuant to section 2901.

“(12) Support a national minority health resource center to carry out the following:

“(A) Facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of healthcare.

“(B) Facilitate access to such information.

“(C) Assist in the analysis of issues and problems relating to such matters.

“(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance).

“(13) Support a center for linguistic and cultural competence to carry out the following:

“(A) With respect to individuals who lack proficiency in speaking the English language, enter into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of such individuals to such services by developing and carrying out programs to improve health literacy and cultural competency.

“(B) Carry out programs to improve access to healthcare services for individuals with limited proficiency in speaking the English language. Activities under this subparagraph shall include developing and evaluating model projects.

“(14) Enter into interagency agreements with other agencies of the Public Health Service, as appropriate.

“(15) Collaborate with the Office for Civil Rights to—

“(A) assist healthcare providers with application of guidance and directives regarding healthcare for racial and ethnic minority and other health disparity populations, including—

“(i) reviewing cases with the Office of Inspector General and the Office for Civil Rights which have been closed without a finding of discrimination to determine if a pattern or practice of activities that could lead to discrimination exists, and if such a pattern or practice is identified, provide technical assistance or education, as applicable, to the relevant provider or to a group of providers located within a particular geographic area;

“(ii) biannually publishing information on cases filed with the Office for Civil Rights which have resulted in a finding of discrimination, including the name and location of the entity found to have discriminated, and any findings and agreements entered into between the Office for Civil Rights and the entity; and

“(iii) monitoring and analysis of trends in cases reported to the Office for Civil Rights to ensure that the Office of Minority Health and Health Disparity Elimination acts to educate and assist healthcare providers as necessary; and

“(B) provide technical assistance or education, as applicable, to the relevant provider or to a group of providers located within a particular geographic area.

“(16) Promote and expand efforts to increase racial and ethnic minority enrollment in clinical trials.

“(17) Establish working groups—

“(A) to examine and report recommendations to the Secretary regarding—

“(i) emergency preparedness and response for underserved populations;

“(ii) development and implementation of health information technology that can assist providers to deliver culturally competent healthcare;

“(iii) outreach and education of health disparity groups about new Federal health programs, as appropriate, including the programs under Part D of title XVIII of the Social Security Act and chronic care management programs under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (and the amendments made by such Act);

“(iv) leadership development in public health; and

“(v) other emerging health issues at the discretion of the Secretary; and

“(B) that include representation from the relevant health agencies, centers and offices, as well as public and private entities as appropriate.

“(d) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Health and Health Disparities (in this subsection referred to as the ‘Committee’).

“(2) DUTIES.—The Committee shall provide advice to the Deputy Assistant Secretary carrying out this section, including advice on the development of goals and specific program activities under subsection (c) for racial and ethnic minority groups and health disparity population.

“(3) CHAIR.—The chairperson of the Committee shall be selected by the Secretary from among the members of the voting members of the Committee. The term of office of the chairperson shall be 2 years.

“(4) COMPOSITION.—

“(A) The Committee shall be composed of 12 voting members appointed in accordance with subparagraph (B), and nonvoting, ex-

officio members designated in subparagraph (C).

“(B) The voting members of the Committee shall be appointed by the Secretary from among individuals who are not officers or employees of the Federal Government and who have expertise regarding issues of minority health and health disparities. Racial and ethnic minority groups and health disparity populations shall be appropriately represented among such members.

“(C) The nonvoting, ex officio members of the Committee shall be such officials of the Department of Health and Human Services, including the Director of the Office of Minority Health and Health Disparity Elimination and the Office for Civil Rights, and other officials as the Secretary determines to be appropriate.

“(D) The Secretary shall provide an opportunity for the Chairman and Ranking Member of the Committee on Health, Education, Labor, and Pensions of the Senate to submit to the Secretary names of potential Committee members under this section for consideration.

“(5) TERMS.—Each member of the Committee shall serve for a term of 4 years, except that the Secretary shall initially appoint a portion of the members to terms of 1 year, 2 years, and 3 years.

“(6) VACANCIES.—If a vacancy occurs on the Committee, a new member shall be appointed by the Secretary within 90 days from the date that the vacancy occurs, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Committee.

“(7) COMPENSATION.—Members of the Committee who are officers or employees of the United States shall serve without additional compensation. Members of the Committee who are not officers or employees of the United States shall receive compensation, for each day (including travel time) they are engaged in the performance of the functions of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule for positions above GS-15 under title 5, United States Code.

“(e) CERTAIN REQUIREMENTS REGARDING DUTIES.—

“(1) RECOMMENDATIONS REGARDING LANGUAGE.—

“(A) PROFICIENCY IN SPEAKING ENGLISH.—The Deputy Assistant Secretary shall consult with the Director of the Office of International and Refugee Health, the Director of the Office for Civil Rights, and the Directors of other appropriate departmental entities regarding recommendations for carrying out activities under subsection (c)(9).

“(B) HEALTH PROFESSIONS EDUCATION REGARDING HEALTH DISPARITIES.—The Deputy Assistant Secretary shall carry out the duties under subsection (c)(7) in collaboration with appropriate personnel of the Department of Health and Human Services, other Federal agencies, and other offices, centers, and institutions, as appropriate, that have responsibilities under the Minority Health and Health Disparities Research and Education Act of 2000.

“(2) RESOURCE ALLOCATION.—

“(A) FUNDING.—In carrying out subsection (c), the Secretary shall ensure that such funding and other resources directed to health disparity populations that are not racial and ethnic minority populations are used to supplement, not supplant, funding and other resources currently or historically allocated for services provided to such populations.

“(B) ACTIVITIES.—When carrying out activities for health disparity populations that are not racial and ethnic minority populations, the Secretary shall ensure that such activities carried out by the Office of Minority Health and Health Disparity Elimination supplement, not supplant, the activities of other offices or agencies whose primary mission by established mandate, or current or historical practice is to serve such populations.

“(3) CULTURAL COMPETENCY OF SERVICES.—The Secretary shall ensure that information and services provided pursuant to subsection (c) consider the unique cultural or linguistic issues facing such populations and are provided in the language, educational, and cultural context that is most appropriate for the individuals for whom the information and services are intended.

“(4) AGENCY COORDINATION.—In carrying out subsection (c), the Secretary shall ensure that new or existing agency offices of minority health, or other health disparity offices, report current and proposed activities to the Deputy Assistant Secretary, and provide, to the extent practicable, an opportunity for input in the development of such activities by the Deputy Assistant Secretary.

“(f) GRANTS AND CONTRACTS REGARDING DUTIES.—

“(1) IN GENERAL.—In carrying out subsection (c), the Secretary acting through the Deputy Assistant Secretary, may make awards of grants, cooperative agreements, and contracts to public and nonprofit private entities.

“(2) PROCESS FOR MAKING AWARDS.—The Deputy Assistant Secretary shall ensure that awards under paragraph (1) are made, to the extent practical, only on a competitive basis, and that a grant is awarded for a proposal only if the proposal has been recommended for such an award through a process of peer review.

“(3) EVALUATION AND DISSEMINATION.—The Deputy Assistant Secretary, directly or through contracts with public and private entities, shall provide for evaluations of projects carried out with awards made under paragraph (1) during the preceding 2 fiscal years. The report shall be included in the report required under subsection (g) for the fiscal year involved.

“(g) STATE OFFICES OF MINORITY HEALTH.—The Deputy Assistant Secretary shall assist the voluntary establishment and functions of State offices of minority health in order to expand and coordinate State efforts to improve the health of minority and other health disparity populations.

“(1) PRIORITIES.—The Deputy Assistant Secretary may facilitate, with respect to minority and health disparity populations—

“(A) integration and coordination of State and national efforts, including those pertaining to the National Plan pursuant to subsection (b);

“(B) strategic plan development within States to assess and respond to local health concerns;

“(C) education and engagement of key stakeholders within States, including representatives from public health agencies, hospitals, clinics, provider groups, elected officials, community-based organizations, advocacy groups, media, and the private sector;

“(D) development and implementation of accepted standards, core competencies, and minimum infrastructure requirements for State offices;

“(E) access to State level health data for minority and health disparity populations, which may include State data collection and analysis;

“(F) development, implementation, and evaluation of State programs and policies, as appropriate;

“(G) communication and networking among States to share effective policies, programs and practices with respect to increasing access and quality of care;

“(H) recognition and reporting of State successes and challenges; and

“(I) identification of Federal grant programs and other funding for which States could apply to carry out health improvement activities.

“(2) RESOURCES.—The Deputy Assistant Secretary may provide grants and technical assistance for the voluntary establishment or capacity development of State offices of minority health.

“(3) COLLABORATION.—To the extent practicable, the Deputy Assistant Secretary may encourage and facilitate collaboration between State offices of minority health and State offices addressing the needs of other health disparity or disadvantaged populations, including offices of rural health.

“(4) DEFINITION.—For the purpose of this subsection, ‘State offices of minority health’ include offices, councils, commissions, or advisory panels designated by States or territories to address the health of minority populations.

“(h) REPORTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Minority Health Improvement and Health Disparity Elimination Act, the Secretary shall submit to the appropriate committees of Congress, a report on the National Plan developed under subsection (c).

“(2) REPORT ON ACTIVITIES.—Not later than February 1 of fiscal year 2008 and of each second year thereafter, the Secretary shall submit to the appropriate committees of Congress, a report describing the activities carried out under this section during the preceding 2 fiscal years and evaluating the extent to which such activities have been effective in improving the health of racial and ethnic minority groups and health disparity populations. Each such report shall include the biennial reports submitted under subsection (f)(3) for such years by the heads of the Public Health Service agencies.

“(3) AGENCY REPORTS.—Not later than February 1, 2007, and on a biannual basis thereafter, the heads of the Public Health Service shall submit to the Deputy Assistant Secretary a report that summarizes the minority health and health disparity activities of each of the respective agencies.

“(i) DEFINITIONS.—In this section:

“(1) The term ‘health disparity population’ has the meaning given the term in section 903(d)(1).

“(2) The term ‘racial and ethnic minority group’ means American Indians (including Alaska Natives, Eskimos, and Aleuts), Asian Americans, Native Hawaiians and other Pacific Islanders, Blacks, and Hispanics.

“(3) The term ‘Hispanic’ means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or of any other Spanish-speaking country.

“(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$110,000,000 for fiscal year 2007, such sums as may be necessary for each of fiscal years 2008 through 2011.”

(b) TRANSFER OF FUNCTIONS; REFERENCES.—  
(1) TRANSFER OF FUNCTIONS.—

(A) OFFICE OF MINORITY HEALTH AND HEALTH DISPARITY ELIMINATION.—The functions of the Office of Minority Health under section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) as in effect the day before the date of enactment of this Act are transferred to the

Office of Minority Health and Health Disparity Elimination under such section 1707 (as amended by subsection (a)).

(B) DEPUTY ASSISTANT SECRETARY FOR MINORITY HEALTH AND HEALTH DISPARITY ELIMINATION.—The functions of the Deputy Assistant Secretary for Minority Health of the Office of Minority Health under section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) as in effect the day before the date of enactment of this Act are transferred to the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination of the Office of Minority Health and Health Disparity Elimination under such section 1707 (as amended by subsection (a)).

(2) REFERENCES.—

(A) OFFICE OF MINORITY HEALTH AND HEALTH DISPARITY ELIMINATION.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Office of Minority Health under section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) as in effect the day before the enactment of this Act is deemed to be a reference to the Office of Minority Health and Health Disparity Elimination under such section 1707 (as amended by subsection (a)).

(B) DEPUTY ASSISTANT SECRETARY FOR MINORITY HEALTH AND HEALTH DISPARITY ELIMINATION.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Deputy Assistant Secretary for Minority Health of the Office of Minority Health under section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) as in effect the day before the enactment of this Act is deemed to be a reference to the Deputy Assistant Secretary for Minority Health and Health Disparity Elimination of the Office of Minority Health and Health Disparity Elimination under such section 1707 (as amended by subsection (a)).

Mr. KENNEDY. Mr. President, unfortunately, serious and unjustified health disparities continue to exist in our Nation today. Over 45 million Americans have no health insurance and often don't get the health care they need, or else they receive it too late. We know that persons who are uninsured are more likely to delay doctor visits and needed screenings like mammograms and other early detection tests, which can help prevent serious illness and death. The Institute of Medicine estimates that at least 18,000 Americans die prematurely each year solely because they lack health coverage.

Some of the most shameful health disparities involve racial and ethnic minorities, and typically they are more likely to be uninsured. African Americans have a lower life expectancy than whites, and are much more likely to die from stroke, and their uninsurance rates are much higher than for their white counterparts.

Many Americans—even physicians—want to believe such disparities don't exist, but ignoring them only contributes more to the widening gap between the haves and have-nots. It's a scandal that people of color have greater difficulty obtaining good health care than other Americans. Your health should not depend on the color of your skin, the size of your bank account, or where you live. In a Nation as advanced as ours and with its state-of-the-art med-

ical technology for preventing illness and caring for the sick, it's appalling that so many health disparities continue to exist.

That's the reason why I am introducing the Minority Health and Health Disparity Elimination Act as part of our effort to eliminate these unacceptable disparities.

The bill provides grants to communities to increase public awareness about access to health care and disease prevention. It writes the Centers for Disease Control's Racial and Ethnic Approaches to Community Health program into law, so that this successful program can involve all communities in closing the health care gap.

Greater diversity in the health care workforce is also a key part of ending these disparities. African Americans, Hispanic Americans, and other minorities account for only 6 percent of the nation's doctors and 7 percent of nurses and dentists, even though they are almost one-third of the U.S. population. The disparity in the health workforce must be closed, not just to fulfill our commitment to equality of opportunity, but because of the impact it has on health care. Studies demonstrate that minority health professionals are more likely to care for minority patients, including those who are low-income and uninsured.

The Minority Health and Health Disparity Elimination Act reauthorizes the Title VII healthcare workforce diversity programs, and supports the Centers of Excellence at Historically Black Colleges and Universities and institutions that educate Hispanic and Native American students.

A diverse health care workforce is essential for a healthy country. Emphasizing workforce diversity does not mean that health care workers of all races should not be prepared to work with diverse patients. We must also make a more serious effort to train culturally competent health care professionals and work towards creating a health care system that is accessible for the more than 46 million Americans who speak a language other than English at home. The bill creates an Internet clearinghouse to help increase cultural competency and improve communication between health care providers and patients. It also supports the development of curricula on cultural competence in health professions schools.

Language barriers in health care obviously contribute to reduced access and poorer care for those who have limited English proficiency or low health literacy. The legislation recognizes the importance of this issue for the quality of our health care system and provides funds for activities to improve and encourage services for such patients.

The Minority Health and Health Disparities Research and Education Act enacted into law in 2000 created the National Center for Minority Health and Health Disparities. The legislation I am introducing today reauthorizes this

important Center and strengthens its role in coordinating and planning research that focuses on minority health and health disparities. It further strengthens research in health care quality by establishing a grant program for healthcare delivery sites and public-private partnerships to evaluate and identify best practices in disease management strategies and interventions.

In addition, the bill promotes the participation of racial and ethnic minorities and other health disparity populations in clinical trials and intensifies efforts throughout the Department of Health and Human Services to increase and apply knowledge about the interaction of racial, genetic, and environmental factors that affect people's health.

Finally, the bill reinforces and clarifies the duties of the Office of Minority Health and Health Disparity Elimination and encourages greater cooperation among federal agencies and departments in meeting these serious challenges.

I look forward to working with my colleagues to enact this needed legislation when we return to session after the election recess.

Mr. OBAMA. Mr. President, for forty years the civil rights activist Fannie Lou Hamer rallied the Nation with her statement "I am sick and tired, of being sick and tired." She would be disheartened to know the extent to which her words are still resonating with millions of Americans today. Whether we are talking about African Americans, Latinos, Asians or American Indians, the fact is that minorities continue to suffer a greater burden of disease and die prematurely. African Americans are one-third more likely than all other Americans to die from cancer, and have the highest rate of new HIV infection. One in 3 Latinos has no insurance coverage. Fifty percent of Americans suffering from chronic hepatitis B are Asian. And among many American Indian tribes, the rate of diabetes has hit epidemic proportions, with rates near 50 percent in certain tribes. The state of minority health in this Nation is deplorable, and by many measures, is getting worse.

Researchers have contributed a substantial body of work that has increased our understanding of the factors contributing to poor health. Higher rates of uninsurance are one such factor. Racial and ethnic minorities, particularly African Americans and Latinos, are significantly more likely to be uninsured. This lack of access to care leads to delayed or foregone care, and according to the Institute of Medicine, is the 6th leading cause of death in this Nation for adults aged 25-64. But equally disturbing, an overwhelming number of studies have shown that regardless of insurance status, minorities are more likely to receive low quality health care, and as a consequence, suffer worse health outcomes.

The Institute of Medicine's 2002 historic report, *Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare*, documented persistent and pervasive disparities in health care for minority groups, even after adjusting for differences in insurance status and socioeconomic factors. The *American Journal of Public Health* has reported that more than 886,000 deaths could have been prevented from 1991 to 2000 if African Americans had received the same level of health care as whites. In contrast, the same study estimates that technological improvements in medicine—including better drugs, devices and procedures—prevented only 176,633 deaths during the same period.

African Americans are not the only minorities getting worse care. Data has shown, for example, that compared to white Americans, Mexican Americans receive 38 percent fewer heart medications, and American Indians get recommended care for only 40 percent of quality measures. The bottom line is that although the level of health care quality is mediocre at best for all Americans, it is much worse for minority groups. And this is unacceptable.

For these reasons, I am joining my colleagues Senator FRIST and Senator KENNEDY in introducing the Minority Health Improvement and Health Disparity Elimination Act. This critical legislation has a number of important provisions to help address the dismal health status of minority and other underserved populations. First, this bill strengthens education and training in cultural competence and communication, which is the cornerstone of quality health care for all patients. It also reauthorizes the pipeline programs in Title VII of the Public Health Service Act, which seek to increase diversity in the health professions. We all know that the door to opportunity is only half open for minority students in the health professions. The percentage of minority health professionals is shockingly low—African Americans, Hispanics and American Indians account for one-third of the Nation's population but less than 10 percent of the Nation's doctors, less than 5 percent of dentists and only 12 percent of nurses. We can do better, and we must.

Lack of workforce diversity has serious implications for both access and quality of health care. Minority physicians are significantly more likely to treat low-income patients, and their patients are disproportionately minority. Studies have also shown that minority physicians provide higher quality of care to minority patients, who are more satisfied with their care and more likely to follow their doctor's recommendations.

Second, this bill expands and supports a number of initiatives to increase access to quality care. Specifically, the legislation authorizes demonstration projects to help address health disparities in the U.S.-Mexico border region, increase health coverage and continuity of coverage, identify

and implement effective disease management strategies, train community health workers, and increase enrollment of minorities in clinical trials. The REACH program at the Centers for Disease Control and Prevention, and the Health Disparity Collaboratives at the Bureau of Primary Health Care are authorized in statute. And I am pleased that the Community Health Initiative has also been authorized. This new environmental public health program is modeled after the Health Action Zones in the Healthy Communities Act, S. 2047, that I introduced a year ago, and guides and strengthens community efforts to improve health in comprehensive and sustained fashion.

A third area of focus is expansion and acceleration of data collection and research across the agencies, including the Agency for Healthcare Research and Quality and the National Institutes of Health, with special emphasis on translational research. The tremendous advances in medical science and health technology, which have benefited millions of Americans, have remained out of reach for too many minorities, and translational research will help to remedy this problem. The National Center on Minority Health and Health Disparities, which has a leadership role in establishing the disparities research strategic plan at the National Institutes of Health, is reauthorized, and a new advisory committee has been established at the Food and Drug Administration, to focus on pharmacogenomics and its safe and appropriate application in minority populations.

Last but not least, I want to highlight that the bill reauthorizes the Office of Minority Health and Health Disparity Elimination. This Office has been critical in providing the leadership, expertise and guidance for health improvement activities within the agencies of the Department of Health and Human Services, and has helped to ensure coordination, collaboration and integration of such efforts as well.

In conclusion, I want to note that this is the first bipartisan effort on minority health and health disparities since 2000, when the Congress passed the last minority health bill. That bill accelerated the research that documented the full scope and magnitude of disparities in health and health care in this Nation, and more importantly, helped us understand why these disparities occur. But it is time for the next step. We've got to translate the knowledge we have gained into practical and effective interventions that will improve minority health and eliminate disparities, and this bill will help us do just that.

I urge my colleagues to join me in cosponsoring and passing this critical legislation. Regardless of how you measure it—whether by needless suffering, lost productivity, financial costs, or lives lost—disparities in health and health care are a tremendous problem and moral imperative for

our Nation, and one that is within our power to address right now. On behalf of the millions of Americans who continue to be sick and tired of being sick and tired, I ask you to join me in voting yes to pass this bill.

By Mr. SPECTER (for himself,  
Mr. LOTT, Mr. LEAHY, and Ms.  
LANDRIEU):

S. 4025. A bill to strengthen antitrust enforcement in the insurance industry; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Insurance Industry Antitrust Enforcement Act of 2006. This legislation would subject the insurance industry to the antitrust laws, which apply to almost every other industry in America.

Congress enacted the McCarran-Ferguson Act in 1945. It did so in response to a controversial Supreme Court case in which the Court held that the business of insurance constituted interstate commerce. The ruling opened the door to federal regulation of insurance, a business that had historically been regulated by the States. Reacting to concern from the states that they would no longer have authority to collect taxes on insurance premiums, Congress passed McCarran-Ferguson, which reaffirmed the power of the States to regulate insurance and collect taxes.

In doing so, Congress exempted insurance industry practices from the antitrust laws to the extent that such practices are "regulated by state law." Since then, the courts have liberally interpreted the phrase "regulated by state law." They have held that insurance industry practices are exempt from the antitrust laws so long as regulators have been given jurisdiction over the challenged practices—regardless of whether the regulators ever exercise that jurisdiction.

Over the years, State regulators have either chosen not to regulate, or failed to regulate, practices that would have violated the antitrust laws absent McCarran-Ferguson. With McCarran-Ferguson, such practices escape both regulatory and federal antitrust oversight. The most notorious practices to come to light involved bid-rigging and customer allocation by insurance broker, Marsh & McClellan, and several of the nation's largest insurers, including AIG and Zurich American Insurance Company. Under the scheme, Marsh steered unsuspecting clients to insurers with which it had lucrative payoff agreements. To make the scheme work, Marsh solicited fictitious bids from other complicit insurers to make the bid submitted by the selected insurer—the one that offered Marsh the highest payoff—seem competitive.

Even though the scheme eliminated competition among the insurance companies that were involved, those companies could not be prosecuted under Federal antitrust law. Several States prosecuted the insurance companies

under a variety of State laws, including antitrust laws, but federal prosecutors could not bring their significant resources to bear. There simply is no justification for that. Federal law enforcement should have the power to prosecute such blatant violations of the antitrust laws.

This is not the first attempt to subject the insurance industry to Federal antitrust law. In the wake of numerous insolvencies, mismanagement and other misconduct by insurers in the late 1980s, legislation was introduced repealing the exemption. That legislation, introduced by Congressman Brooks, faced opposition from insurers who claimed that many industry practices engaged in jointly by insurance companies were pro-competitive and necessary for smaller insurers. The legislation provided a safe harbor, specifically listing the practices of insurance companies that would be exempt from the antitrust laws. However, it proved impossible to craft a list of safe harbors for all the information that competing insurers claimed they needed to share with one another. This bill has avoided that problem.

More recently, some have argued that the answer to insurance industry ills is full federal regulation. I do not necessarily believe that stripping the States of their authority to regulate the insurance industry is the answer. This bill does not do that. It allows states to continue to regulate their insurance industries. However, the existence of state regulation is no reason to prevent the Federal Government from prosecuting violators of antitrust laws. And, there is no reason to prevent Federal prosecutors from going after those violators just because they happen to work for insurance companies.

As I've said, allowing Federal prosecutors to go after those who violate the antitrust laws will not prevent states from regulating the insurance industry. If a state is actively supervising practices by its insurance industry that might otherwise violate the antitrust laws, this legislation would exempt that practice from the antitrust laws. Antitrust law does not generally apply where a state is actively regulating an industry. This is as it should be and the legislation I introduce today, the Insurance Industry Antitrust Act of 2006, incorporates that standard.

The Judiciary Committee held a hearing on this issue in May.

During the hearing, Marc Racicot, the President of the American Insurance Association, a trade association composed of the nation's largest insurers, acknowledged that "every State provides some form of antitrust regulation of insurers." In other words, many States already enforce their State antitrust laws with respect to insurers. So, I have to ask, why have we tied the hands of federal antitrust enforcers?

The insurers will argue that repealing the antitrust exemption for insurers will create uncertainty by throwing

into question the legality of every joint practice engaged in by insurers. They will argue that the legality of each joint practice will have to be litigated in court. However, this bill has been drafted to avoid such litigation. Rather than incorporating a laundry list of safe harbors, an approach that was taken in the past, the bill would allow the Federal Trade Commission to issue guidelines identifying joint practices that do not raise antitrust concerns and would therefore not face scrutiny from antitrust enforcers.

This is a job for which the Commission is well equipped. In the past, the Commission along with the Justice Department issued "Statements of Antitrust Enforcement Policy in Health Care." The Health Care Statements identified joint conduct by health care providers that did not raise antitrust concerns and therefore would likely escape scrutiny by antitrust enforcers. The Health Care Statements were designed to give health care providers certainty about the legality of their joint conduct under the antitrust laws. Similar guidelines for the insurance industry would provide insurers with certainty, but at the same time, would ensure that joint practices that are anti-competitive receive scrutiny from the antitrust enforcement agencies.

Although insurers oppose repeal of their antitrust exemption, others support a repeal. In particular, the Antitrust Section of the American Bar Association has long supported repeal. During the Judiciary Committee's hearing, the current head of the Antitrust Section, Donald Klawiter noted the Section's nearly 20-year history of supporting repeal. Klawiter testified that "the benefits of antitrust exemptions almost never outweigh the potential harm imposed on society by the loss of competition." At the same hearing, Robert Hunter, testifying on behalf of the Consumer Federation of America, concluded that "application of the antitrust laws to the insurance industry could result in double-digit savings for America's insurance consumers."

It is my hope that this legislation will bring the benefits of competition to the insurance industry and to consumers. Too many consumers are paying too much for insurance due to the collusive atmosphere that exists in the insurance industry. This has become a particular problem along the Gulf Coast, where insurers have shared hurricane loss projections, which may result in double-digit premium increases for Gulf Coast homeowners.

I strongly urge members who are concerned about industry exemption from the antitrust laws and collusive insurance industry practices to support this important piece of legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 4025

*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 "Insurance Industry Antitrust Enforcement Act of 2006".

**SEC. 2. AMENDMENTS.**

Section 2(b) of the Act of March 9, 1945 (15 U.S.C. 1012(b)), commonly known as the McCarran-Ferguson Act, is amended by—

(1) inserting "section 5 of" after "Clayton Act, and";

(2) inserting "as section 5 relates to unfair methods of competition," after "Commission Act, as amended,";

(3) striking "to the extent that" and all that follows through "law." and inserting the following: "except to the extent—

"(1) the conduct of a person engaged in the business of insurance is undertaken pursuant to a clearly articulated policy of a State that is actively supervised by that State; or

"(2) the conduct involves a third party not engaged in the business of insurance—

"(A) that collects, compiles or disseminates aggregated historical loss data;

"(B) that develops and disseminates standardized insurance policy forms, contracts addendums or language; or

"(C) that—

"(i) facilitates other joint conduct pursuant to guidelines issued by the Federal Trade Commission or existing law; and

"(ii) does not include—

"(I) exchanging information among competitors relating to sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purposes enumerated in subparagraph (A) or (B);

"(II) entering into any agreement or engaging in any other conduct that would allocate a market with a competitor; or

"(III) entering into any agreement or conspiracy that would set or restrain prices of any good or service."; and

(4) adding at the end the following:

"Except as it relates to unfair methods of competition, the Federal Trade Commission Act shall be applicable to the business of insurance to the extent that such business is not regulated by State law."

Mr. LEAHY. Mr. President, I am pleased to join Senator SPECTER, along with Senators LANDRIEU and LOTT, in introducing the "Insurance Industry Antitrust Enforcement Act of 2006."

In 1945, Congress passed the McCarran-Ferguson Act, giving the insurance industry almost complete immunity from Federal antitrust laws. The Act acknowledges the significant role States have in the regulation of the business of insurance, and implements this policy by preempting Federal antitrust laws which would intrude upon State authority in the area.

Industry specific statutory exemptions from antitrust laws are rare, and when they are enacted, it is important that we periodically revisit them to ensure that the benefits of the exemption are not outweighed by the potential harms that could be imposed on consumers from the loss of competition. The McCarran-Ferguson Act is no exception and, for good reason, has recently been revisited by the Senate Judiciary Committee.

At a recent hearing before the Committee, it became abundantly clear that the McCarran-Ferguson Act is no

longer a justified or practical law; it is overly complex and stifles competition. Recognizing that the insurance industry has unique characteristics, including the dependence on collective claim and loss data, Senator SPECTER and I drafted a bill to accommodate those legitimate needs while still providing Federal regulators with the tools to investigate and prevent collusion and other anticompetitive behaviors. More specifically, our bill authorizes Federal enforcement agencies to police violations of antitrust laws, without weakening the States' comprehensive regulatory power.

American consumers, from sophisticated multi-national businesses to Vermonters shopping for personal insurance, have the right to be confident that the cost of their insurance reflects competitive market conditions and not collusive behavior. Yet, when consumers are continually faced with higher prices, fewer options, and declining quality of service from their insurance providers, there are no such assurances.

There is little disagreement that consumers are increasingly frustrated with the cost and quality of their insurance policies. This bill is an important step towards restoring integrity in our insurance markets. I hope it will act as a catalyst for action to ensure market forces are at work in the insurance industry.

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

S. 4026. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today Senator BAUCUS and I are pleased to introduce the Tax Technical Corrections Act of 2006.

Technical Corrections measures are routine for major tax acts, and are necessary to ensure that the provisions of the acts are working consistently with Congressional intent, or to provide clerical corrections. Because these measures carry out Congressional intent, no revenue gain or loss is scored from them.

Technical corrections are derived from a deliberative and consultative process among the Congressional and Administration tax staffs. That means the Republican and Democratic staffs of the House Ways and Means and Senate Finance Committees are involved, as is the staff of the Treasury Department. All of this work is performed with the participation and guidance of the non-partisan staff of the Joint Committee on Taxation. A technical enters the list only if all staffs agree it is appropriate.

By filing this bill, we hope interested parties and practitioners will comment and provide direction on further edits, additions, or deletions. These comments should be submitted in a timely manner, by the end of October. It is our hope that we may move this package of technicals in November if possible.

We ask unanimous consent that the text of the bill print in the RECORD.

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

S. 4026

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

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Tax Technical Corrections Act of 2006".

(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 of this Act is as follows:

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Amendments related to the Tax Increase Prevention and Reconciliation Act of 2005.
- Sec. 3. Amendment related to the Gulf Opportunity Zone Act of 2005.
- Sec. 4. Amendments related to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.
- Sec. 5. Amendments related to the Energy Policy Act of 2005.
- Sec. 6. Amendments related to the American Jobs Creation Act of 2004.
- Sec. 7. Amendment related to the Jobs and Growth Tax Relief Reconciliation Act of 2003.
- Sec. 8. Amendments related to the Economic Growth and Tax Relief Reconciliation Act of 2001.
- Sec. 9. Amendment related to the Tax Relief Extension Act of 1999.
- Sec. 10. Amendment related to the Internal Revenue Service Restructuring and Reform Act of 1998.
- Sec. 11. Clerical corrections.

**SEC. 2. AMENDMENTS RELATED TO THE TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005.**

(a) AMENDMENTS RELATED TO SECTION 103 OF THE ACT.—

(1) Subparagraph (A) of section 954(c)(6) is amended—

(A) in the first sentence, by striking "which is not subpart F income" and inserting "which is neither subpart F income nor income treated as effectively connected with the conduct of a trade or business in the United States", and

(B) by striking the last sentence and inserting the following: "The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including such regulations as may be necessary or appropriate to prevent the abuse of the purposes of this paragraph."

(2) Paragraph (6) of section 954(c) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any interest, rent, or royalty to the extent such interest, rent, or royalty creates (or increases) a deficit which under section 952(c) may reduce the subpart F income of the payor or another controlled foreign corporation."

(b) AMENDMENTS RELATED TO SECTION 202 OF THE ACT.—

(1) Subparagraph (B) of section 355(b)(3) is amended to read as follows:

"(B) AFFILIATED GROUP RULE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), all members of such corporation's separate affiliated group shall be treated as one corporation.

"(ii) SEPARATE AFFILIATED GROUP.—For purposes of clause (i), 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. Such term shall not include any corporation which became a member of—

"(I) such separate affiliated group (determined without regard to this sentence), or

"(II) any other separate affiliated group (determined without regard to this sentence) which includes any other corporation to which subparagraph (A) applies with respect to the same distribution,

during the 5-year period described in paragraph (2)(B) by reason of one or more transactions in which gain or loss was recognized in whole or in part (and shall not include any trade or business conducted by such corporation at the time it became such a member)."

(2) Paragraph (3) of section 355(b) is amended by adding at the end the following new subparagraph:

"(E) REGULATIONS.—The Secretary shall prescribe regulations which provide for the proper application of subparagraphs (B), (C), and (D) of paragraph (2) with respect to distributions to which this paragraph applies."

(c) AMENDMENTS RELATED TO SECTION 515 OF THE ACT.—Paragraph (2) of section 911(f) is amended—

(1) by striking "the tentative minimum tax under section 55" in the matter preceding subparagraph (A) and inserting "the amount determined under the first sentence of section 55(b)(1)(A)(i)", and

(2) by striking "the amount which would be such tentative minimum tax" each place it appears in subparagraphs (A) and (B) and inserting "the amount which would be determined under such sentence".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Tax Increase Prevention and Reconciliation Act of 2005 to which they relate.

**SEC. 3. AMENDMENT RELATED TO THE GULF OPPORTUNITY ZONE ACT OF 2005.**

(a) AMENDMENT RELATED TO SECTION 303 OF THE ACT.—Clause (iii) of section 903(d)(2)(B) of the American Jobs Creation Act of 2004, as amended by section 303 of the Gulf Opportunity Zone Act of 2005, is amended by inserting "or the Secretary's delegate" after "The Secretary of the Treasury".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 303 of the Gulf Opportunity Zone Act of 2005.

**SEC. 4. AMENDMENTS RELATED TO THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.**

(a) AMENDMENTS RELATED TO SECTION 11113 OF THE ACT.—Paragraph (3) of section 6427(i) is amended—

(1) by inserting "or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2))" after "section 6426" in subparagraph (A),

(2) by inserting "or (e)(2)" after "subsection (e)(1)" in subparagraphs (A)(i) and (B), and

(3) by inserting "AND ALTERNATIVE FUEL CREDIT" after "MIXTURE CREDIT" in the heading thereof.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the SAFETEA-LU to which they relate.

**SEC. 5. AMENDMENTS RELATED TO THE ENERGY POLICY ACT OF 2005.**

(a) AMENDMENT RELATED TO SECTION 1306 OF THE ACT.—Paragraph (2) of section 45J(b) is amended to read as follows:

“(2) AMOUNT OF NATIONAL LIMITATION.—The aggregate amount of national megawatt capacity limitation allocated by the Secretary under paragraph (3) shall not exceed 6,000 megawatts.”.

(b) AMENDMENT RELATED TO SECTION 1342 OF THE ACT.—So much of subsection (b) of section 30C as precedes paragraph (1) thereof is amended to read as follows:

“(b) LIMITATION.—The credit allowed under subsection (a) with respect to all alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year at a location shall not exceed—”.

(c) AMENDMENTS RELATED TO SECTION 1351 OF THE ACT.—

(1) Paragraph (3) of section 41(a) is amended by inserting “for energy research” before the period at the end.

(2) Paragraph (6) of section 41(f) is amended by adding at the end the following new subparagraph:

“(E) ENERGY RESEARCH.—The term ‘energy research’ does not include any research which is not qualified research.”.

(d) AMENDMENTS RELATED TO SECTION 1362 OF THE ACT.—

(1)(A) Paragraph (1) of section 401(d) is amended by adding at the end the following new sentence: “No tax shall be imposed under the preceding sentence on the sale or use of any liquid if tax was imposed with respect to such liquid under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.”.

(B) Paragraph (3) of section 4042(b) is amended to read as follows:

“(3) EXCEPTION FOR FUEL ON WHICH LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE SEPARATELY IMPOSED.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax was imposed with respect to such fuel under section 4041(d) or 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.”.

(C) Notwithstanding section 6430 of the Internal Revenue Code of 1986, a refund, credit, or payment may be made under subchapter B of chapter 65 of such Code for taxes imposed with respect to any liquid after September 30, 2005, and before the date of the enactment of this Act under section 4041(d)(1) or 4042 of such Code at the Leaking Underground Storage Tank Trust Fund financing rate to the extent that tax was imposed with respect to such liquid under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

(2)(A) Paragraph (5) of section 4041(d) is amended—

(i) by striking “(other than with respect to any sale for export under paragraph (3) thereof)”, and

(ii) by adding at the end the following new sentence: “The preceding sentence shall not apply with respect to subsection (g)(3) and so much of subsection (g)(1) as relates to vessels (within the meaning of section 4221(d)(3)) employed in foreign trade or trade between the United States and any of its possessions.”

(B) Section 4082 is amended—

(i) by striking “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)” in subsection (a), and

(ii) by redesignating subsections (f) and (g) as subsections (g) and (h) and by inserting after subsection (e) the following new subsection:

“(f) EXCEPTION FOR LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—

“(1) IN GENERAL.—Subsection (a) shall not apply to the tax imposed under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

“(2) EXCEPTION FOR EXPORT, ETC.—Paragraph (1) shall not apply with respect to any fuel if the Secretary determines that such fuel is destined for export or for use by the purchaser as supplies for vessels (within the meaning of section 4221(d)(3)) employed in foreign trade or trade between the United States and any of its possessions.”.

(C) Subsection (e) of section 4082 is amended—

(i) by striking “an aircraft, the rate of tax under section 4081(a)(2)(A)(iii) shall be zero.” and inserting “an aircraft—

“(1) the rate of tax under section 4081(a)(2)(A)(iii) shall be zero, and

“(2) if such aircraft is employed in foreign trade or trade between the United States and any of its possessions, the increase in such rate under section 4081(a)(2)(B) shall be zero.”; and

(ii) by moving the last sentence flush with the margin of such subsection (following the paragraph (2) added by clause (i)).

(D) Section 6430 is amended to read as follows:

**“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.**

“No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels—

“(1) which are exempt from tax under section 4081(a) by reason of section 4081(f)(2),

“(2) which are exempt from tax under section 4041(d) by reason of the last sentence of paragraph (5) thereof, or

“(3) with respect to which the rate increase under section 4081(a)(2)(B) is zero by reason of section 4082(e)(2).”.

(3) Paragraph (5) of section 4041(d) is amended by inserting “(b)(1)(A)” after “subsections”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect as if included in the provisions of the Energy Policy Act of 2005 to which they relate.

(2) NONAPPLICATION OF EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—The amendment made by subsection (d)(3) shall apply to fuel sold for use or used after the date of the enactment of this Act.

(3) AMENDMENT MADE BY THE SAFETEA-LU.—The amendment made by subsection (d)(2)(C)(ii) shall take effect as if included in section 11161 of the SAFETEA-LU.

**SEC. 6. AMENDMENTS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.**

(a) AMENDMENTS RELATED TO SECTION 710 OF THE ACT.—

(1) Clause (ii) of section 45(c)(3)(A) is amended by striking “which is segregated from other waste materials and”.

(2) Subparagraph (B) of section 45(d)(2) is amended by inserting “and” at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(b) AMENDMENTS RELATED TO SECTION 848 OF THE ACT.—

(1) Section 470 is amended by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h) and by inserting after subsection (d) the following new subsection:

“(e) EXCEPTION FOR CERTAIN PARTNERSHIPS.—

“(1) IN GENERAL.—In the case of any property which would (but for this subsection) be tax-exempt use property solely by reason of section 168(h)(6), such property shall not be treated as tax-exempt use property for pur-

poses of this section for any taxable year of the partnership if—

“(A) such property is not property of a character subject to the allowance for depreciation,

“(B) any credit is allowable under section 42 or 47 with respect to such property, or

“(C) except as provided in regulations prescribed by the Secretary under subsection (h)(4), the requirements of paragraphs (2) and (3) are met with respect to such property for such taxable year.

“(2) AVAILABILITY OF FUNDS.—

“(A) IN GENERAL.—The requirement of this paragraph is met for any taxable year with respect to any property owned by the partnership if (at all times during the taxable year) not more than the allowable partnership amount of funds are—

“(i) subject to any arrangement referred to in subparagraph (C), or

“(ii) set aside or expected to be set aside,

to or for the benefit of any taxable partner of the partnership or any lender, or to or for the benefit of any tax-exempt partner of the partnership to satisfy any obligation of such tax-exempt partners to the partnership, any taxable partner of the partnership, or any lender.

“(B) ALLOWABLE PARTNERSHIP AMOUNT.—For purposes of this subsection, the term ‘allowable partnership amount’ means, as of any date, the greater of—

“(i) the sum of—

“(I) 20 percent of the sum of the taxable partners’ capital accounts determined as of such date under the rules of section 704(b), plus

“(II) 20 percent of the sum of the taxable partners’ share of the recourse liabilities of the partnership as determined under section 752, or

“(ii) 20 percent of the aggregate debt of the partnership as of such date.

“(iii) NO ALLOWABLE PARTNERSHIP AMOUNT FOR ARRANGEMENTS OUTSIDE THE PARTNERSHIP.—The allowable partnership amount shall be zero with respect to any set aside or arrangement under which any of the funds referred to in subparagraph (A) are not partnership property.

“(C) ARRANGEMENTS.—The arrangements referred to in this subparagraph include a loan by a tax-exempt partner or the partnership to any taxable partner, the partnership, or any lender and any arrangement referred to in subsection (d)(1)(B).

“(D) SPECIAL RULES.—

“(i) EXCEPTION FOR SHORT-TERM FUNDS.—Funds which are set aside, or subject to any arrangement, for a period of less than 12 months shall not be taken into account under subparagraph (A). Except as provided by the Secretary, all related set asides and arrangements shall be treated as 1 arrangement for purposes of this clause.

“(ii) ECONOMIC RELATIONSHIP TEST.—Funds shall not be taken into account under subparagraph (A) if such funds—

“(I) bear no connection to the economic relationships among the partners, and

“(II) bear no connection to the economic relationships among the partners and the partnership.

“(iii) REASONABLE PERSON STANDARD.—For purpose of subparagraph (A)(ii), funds shall be treated as set aside or expected to be set aside only if a reasonable person would conclude, based on the facts and circumstances, that such funds are set aside or expected to be set aside.

“(3) OPTION TO PURCHASE.—

“(A) IN GENERAL.—The requirement of this paragraph is met for any taxable year with respect to any property owned by the partnership if (at all times during such taxable year)—

“(i) each tax-exempt partner does not have an option to purchase (or compel distribution of) such property or any direct or indirect interest in the partnership at any time other than at the fair market value of such property or interest at the time of such purchase or distribution, and

“(ii) the partnership and each taxable partner does not have an option to sell (or compel distribution of) such property or any direct or indirect interest in the partnership to a tax-exempt partner at any time other than at the fair market value of such property or interest at the time of such sale or distribution.

“(B) OPTION FOR DETERMINATION OF FAIR MARKET VALUE.—Under regulations prescribed by the Secretary, a value of property determined on the basis of a formula shall be treated for purposes of subparagraph (A) as the fair market value of such property if such value is determined on the basis of objective criteria that are reasonably designed to approximate the fair market value of such property at the time of the purchase, sale, or distribution, as the case may be.”

(2) Subsection (g) of section 470, as redesignated by paragraph (1), is amended by adding at the end the following new paragraphs:

“(5) TAX-EXEMPT PARTNER.—The term ‘tax-exempt partner’ means, with respect to any partnership, any partner of such partnership which is a tax-exempt entity within the meaning of section 168(h)(6).

“(6) TAXABLE PARTNER.—The term ‘taxable partner’ means, with respect to any partnership, any partner of such partnership which is not a tax-exempt partner.”

(3) Subsection (h) of section 470, as redesignated by paragraph (1), is amended—

(A) by striking “, and” at the end of paragraph (1) and inserting “or owned by the same partnership”,

(B) by striking the period at the end of paragraph (2) and inserting a comma, and

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

“(3) provide for the application of this section to tiered and other related partnerships, and

“(4) provide for the treatment of partnership property (other than property described in subsection (e)(1)(A)) as tax-exempt use property if such property is used in an arrangement which is inconsistent with the purposes of this section determined by taking into account one or more of the following factors:

“(A) A tax-exempt partner maintains physical possession or control or holds the benefits and burdens of ownership with respect to such property.

“(B) There is insignificant equity investment in such property by any taxable partner.

“(C) The transfer of such property to the partnership does not result in a change in use of such property.

“(D) Such property is necessary for the provision of government services.

“(E) The deductions for depreciation with respect to such property are allocated disproportionately to one or more taxable partners relative to such partner’s risk of loss with respect to such property or to such partner’s allocation of other partnership items.

“(F) Such other factors as the Secretary may determine.”

(4) Paragraph (2) of section 470(c) is amended—

(A) by striking “and” at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

“(B) by treating the entire property as tax-exempt use property if any portion of such

property is treated as tax-exempt use property by reason of paragraph (6) thereof.”, and

(B) by striking the flush sentence at the end.

(5) Subparagraph (A) of section 470(d)(1) is amended by striking “(at any time during the lease term)” and inserting “(at all times during the lease term)”.

(C) AMENDMENTS RELATED TO SECTION 888 OF THE ACT.—

(1) Subparagraph (A) of section 1092(a)(2) is amended by striking “and” at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

“(iii) if the application of clause (ii) does not result in an increase in the basis of any offsetting position in the identified straddle, the basis of each of the offsetting positions in the identified straddle shall be increased in a manner which—

“(I) is reasonable, consistent with the purposes of this paragraph, and consistently applied by the taxpayer, and

“(II) results in an aggregate increase in the basis of such offsetting positions which is equal to the loss described in clause (ii), and”.

(2)(A) Subparagraph (B) of section 1092(a)(2) is amended by adding at the end the following flush sentence:

“A straddle shall be treated as clearly identified for purposes of clause (i) only if such identification includes an identification of the positions in the straddle which are offsetting with respect to other positions in the straddle.”

(B) Subparagraph (A) of section 1092(a)(2) is amended—

(i) by striking “identified positions” in clause (i) and inserting “positions”,

(ii) by striking “identified position” in clause (ii) and inserting “position”, and

(iii) by striking “identified offsetting positions” in clause (ii) and inserting “offsetting positions”.

(C) Subparagraph (B) of section 1092(a)(3) is amended by striking “identified offsetting position” and inserting “offsetting position”.

(3) Paragraph (2) of section 1092(a) is amended by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

“(C) APPLICATION TO LIABILITIES AND OBLIGATIONS.—Except as otherwise provided by the Secretary, rules similar to the rules of clauses (ii) and (iii) of subparagraph (A) shall apply for purposes of this paragraph with respect to any position which is, or has been, a liability or obligation.”

(4) Subparagraph (D) of section 1092(a)(2), as redesignated by paragraph (3), is amended by inserting “the rules for the application of this section to a position which is or has been a liability or obligation, methods of loss allocation which satisfy the requirements of subparagraph (A)(iii),” before “and the ordering rules”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

**SEC. 7. AMENDMENT RELATED TO THE JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.**

(a) AMENDMENT RELATED TO SECTION 302 OF THE ACT.—Clause (ii) of section 1(h)(11)(B) is amended by striking “and” at the end of subclause (II), by striking the period at the end of subclause (III) and inserting “, and”, and by adding at the end the following new subclause:

“(IV) any dividend received from a corporation which is a DISC or former DISC (as defined in section 992(a)) to the extent such

dividend is paid out of the corporation’s accumulated DISC income or is a deemed distribution pursuant to section 995(b)(1).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received on or after September 29, 2006, in taxable years ending after such date.

**SEC. 8. AMENDMENTS RELATED TO THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.**

(a) AMENDMENTS RELATED TO SECTION 617 OF THE ACT.—

(1) Subclause (II) of section 402(g)(7)(A)(ii) is amended by striking “for prior taxable years” and inserting “permitted for prior taxable years by reason of this paragraph”.

(2) Subparagraph (A) of section 3121(v)(1) is amended by inserting “or consisting of designated Roth contributions (as defined in section 402A(c))” before the comma at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

**SEC. 9. AMENDMENT RELATED TO THE TAX RELIEF EXTENSION ACT OF 1999.**

(a) AMENDMENT RELATED TO SECTION 507 OF THE ACT.—Clause (i) of section 45(e)(7)(A) is amended by striking “placed in service by the taxpayer” and inserting “originally placed in service”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 507 of the Tax Relief Extension Act of 1999.

**SEC. 10. AMENDMENT RELATED TO THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.**

(a) AMENDMENT RELATED TO SECTION 3509 OF THE ACT.—Paragraph (3) of section 6110(i) is amended by inserting “and related background file documents” after “Chief Counsel advice” in the matter preceding subparagraph (A).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998 to which it relates.

**SEC. 11. CLERICAL CORRECTIONS.**

(a) IN GENERAL.—

(1) Paragraph (5) of section 21(e) is amended by striking “section 152(e)(3)(A)” in the flush matter after subparagraph (B) and inserting “section 152(e)(4)(A)”.

(2) Paragraph (3) of section 25C(c) is amended by striking “section 3280” and inserting “part 3280”.

(3) Subsection (a) of section 34 is amended—

(A) in paragraph (1), by striking “with respect to gasoline used during the taxable year on a farm for farming purposes”,

(B) in paragraph (2), by striking “with respect to gasoline used during the taxable year (A) otherwise than as a fuel in a highway vehicle or (B) in vehicles while engaged in furnishing certain public passenger land transportation service”, and

(C) in paragraph (3), by striking “with respect to fuels used for nontaxable purposes or resold during the taxable year”.

(4) Paragraph (2) of section 35(d) is amended—

(A) by striking “paragraph (2) or (4) of”, and

(B) by striking “(within the meaning of section 152(e)(1))” and inserting “(as defined in section 152(e)(4)(A))”.

(5) Paragraph (24) of section 38(b) is amended by striking “and” at the end.

(6) Paragraphs (2) and (3) of section 45L(c) are each amended by striking “section 3280” and inserting “part 3280”.

(7) Clause (ii) of section 48A(d)(4)(B) is amended by striking “subsection” both places it appears.

(8) The last sentence of section 125(b)(2) is amended by striking "last sentence" and inserting "second sentence".

(9) Subclause (II) of section 167(g)(8)(C)(ii) is amended by striking "section 263A(j)(2)" and inserting "section 263A(i)(2)".

(10) Subparagraph (G) of section 1260(c)(2) is amended by adding "and" at the end.

(11) Paragraph (2) of section 1297(a) is amended by striking "subsection (e)" and inserting "subsection (f)".

(12) Paragraph (2) of section 1400 is amended by striking "under of" and inserting "under".

(13) The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new item:

"Sec. 1400T. Special rules for mortgage revenue bonds."

(14) Subsection (b) of section 4082 is amended to read as follows:

"(b) NONTAXABLE USE.—For purposes of this section, the term 'nontaxable use' means—

"(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax,

"(2) any use in a train, and

"(3) any use described in section 4041(a)(1)(C)(iii)(II).

The term 'nontaxable use' does not include the use of kerosene in an aircraft and such term shall not include any use described in section 6421(e)(2)(C)."

(15) Paragraph (4) of section 4101(a) (relating to registration in event of change of ownership) is redesignated as paragraph (5).

(16) Paragraph (6) of section 4965(c) is amended by striking "section 4457(e)(1)(A)" and inserting "section 457(e)(1)(A)".

(17) Subpart C of part II of subchapter A of chapter 51 is amended by redesignating section 5432 (relating to recordkeeping by wholesale dealers) as section 5121.

(18) Paragraph (2) of section 5732(c), as redesignated by section 11125(b)(20)(A) of the SAFETEA-LU, is amended by striking "this subpart" and inserting "this subchapter".

(19) Paragraph (3) of section 6427(e) (relating to termination), as added by section 11113 of the SAFETEA-LU, is redesignated as paragraph (5) and moved after paragraph (4).

(20) Clause (ii) of section 6427(1)(4)(A) is amended by striking "section 4081(a)(2)(iii)" and inserting "section 4081(a)(2)(A)(iii)".

(21)(A) Section 6427, as amended by section 1343(b)(1) of the Energy Policy Act of 2005, is amended by striking subsection (p) and redesignating subsection (q) as subsection (p).

(B) The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) of section 11151(a) of the SAFETEA-LU had never been enacted.

(22)(A) Paragraph (3) of section 9002 is amended by striking "section 309(a)(1)" and inserting "section 306(a)(1)".

(B) Paragraph (1) of section 9004(a) is amended by striking "section 320(b)(1)(B)" and inserting "section 315(b)(1)(B)".

(C) Paragraph (3) of section 9032 is amended by striking "section 309(a)(1)" and inserting "section 306(a)(1)".

(D) Subsection (b) of section 9034 is amended by striking "section 320(b)(1)(A)" and inserting "section 315(b)(1)(A)".

(23) Section 9006 is amended by striking "Comptroller General" each place it appears and inserting "Commission".

(24) Subsection (c) of section 9503 is amended by redesignating paragraph (7) (relating to transfers from the trust fund for certain aviation fuels taxes) as paragraph (6).

(25) Paragraph (1) of section 1301(g) of the Energy Policy Act of 2005 is amended by striking "shall take effect of the date of the enactment" and inserting "shall take effect on the date of the enactment".

(b) CLERICAL AMENDMENTS RELATED TO THE GULF OPPORTUNITY ZONE ACT OF 2005.—

(1) AMENDMENTS RELATED TO SECTION 402 OF THE ACT.—Subparagraph (B) of section 24(d)(1) is amended—

(A) by striking "the excess (if any) of" in the matter preceding clause (i) and inserting "the greater of", and

(B) by striking "section" in clause (ii)(II) and inserting "section 32".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 to which they relate.

(c) CLERICAL AMENDMENTS RELATED TO THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.—

(1) AMENDMENTS RELATED TO SECTION 11163 OF THE ACT.—Subparagraph (C) of section 6416(a)(4) is amended—

(A) by striking "ultimate vendor" and all that follows through "has certified" and inserting "ultimate vendor or credit card issuer has certified", and

(B) by striking "all ultimate purchasers of the vendor" and all that follows through "are certified" and inserting "all ultimate purchasers of the vendor or credit card issuer are certified".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to which they relate.

(d) CLERICAL AMENDMENTS RELATED TO THE ENERGY POLICY ACT OF 2005.—

(1) AMENDMENT RELATED TO SECTION 1344 OF THE ACT.—Subparagraph (B) of section 6427(e)(5), as redesignated by subsection (a)(19), is amended by striking "2006" and inserting "2008".

(2) AMENDMENTS RELATED TO SECTION 1351 OF THE ACT.—Subparagraphs (A)(ii) and (B)(ii) of section 41(f)(1) are each amended by striking "qualified research expenses and basic research payments" and inserting "qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of the Energy Policy Act of 2005 to which they relate.

By Mr. HATCH.

S. 4027. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for certain professional development and other expenses of elementary and secondary school teachers and for certain certification expenses of individuals becoming science, technology engineering, or math teachers; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce legislation designed to make the tax laws more fair for America's primary and secondary school teachers.

Our public school teachers are some of the unheralded heroes of our society.

These women and men dedicate their careers to educating the young people of America.

School teachers labor in often difficult and even dangerous circumstances. In most places, including in my home State of Utah, the salary of the average public school teacher is significantly below the national average.

A historic turnover is taking place in the teaching profession. While student enrollments are rising rapidly, more than a million veteran teachers are nearing retirement.

Experts predict that overall we will need more than two million new teachers in the next decade.

This teacher recruitment problem has reached crisis proportions in some urban and rural areas. The shortage is most acute in high-need subject areas such as math, science, and technology.

Retaining qualified teachers in the schools is only part of the puzzle. Attracting new teachers in math, science, and technology is another. It is clear that our teacher recruitment problem represents one of the biggest challenges America faces as we contemplate how we are going to prepare the next generation to take their places in our society and in our economy.

Unfortunately, these problems of retention and recruitment of public school teachers are exacerbated by the unfair tax treatment these professionals currently receive under our tax law. Specifically, teachers find themselves greatly disadvantaged by the lack of deductibility of professional development expenses and of the out-of-pocket costs of classroom materials that practically all teachers find themselves supplying. Let me explain.

As many other professionals, most elementary and secondary school teachers regularly incur expenses to keep themselves current in their field of knowledge. These include subscriptions to journals and other periodicals as well as the cost of courses and seminars designed to improve their knowledge or teaching skills. These expenditures are necessary to keep our teachers up to date on the latest ideas, techniques, and trends so that they can provide our children with the best education possible.

Furthermore, almost all teachers find themselves providing basic classroom materials for their students. Because of tight education budgets, most schools do not provide 100 percent of the material teachers need to adequately present their lessons. As a result, dedicated teachers incur personal expenses for copies, art supplies, books, puzzles and games, paper, pencils, and countless other needs. If not for the willingness of teachers to purchase these supplies themselves, many students would simply go without needed materials.

I realize that employees in many fields of endeavor incur expenses for professional development and out-of-pocket expenses. In many cases, however, these costs are fully reimbursed by the employer. This is seldom the case with school teachers. Other professionals who are self-employed are able to fully deduct these types of expenses.

Under the current tax law, unreimbursed employee expenses are deductible generally, but only as miscellaneous itemized deductions. However,

there are two practical hurdles that effectively make these expenses non-deductible for most teachers.

The first hurdle is that the total amount of a taxpayer's deductible miscellaneous deductions must exceed two percent of adjusted gross income before they begin to be deductible.

The second hurdle is that the amount in excess of the two percent floor, if any, combined with all other deductions of the taxpayer, must exceed the standard deduction before the teacher can itemize. Only about a third of taxpayers have enough deductions to itemize.

The unfortunate effect of these two limitations is that, as a practical matter, only a small proportion of teachers are able to deduct their professional development and out-of-pocket supplies expenses.

Let me illustrate this unfair situation with an example.

Let us consider the case of a fifth-year high school English teacher in Utah whom I will call Alice White Head. Alice is single and earns \$48,000 per year. Last year she incurred \$1,050 for a course she took over the summer to increase her knowledge of English literature. She also spent \$450 for classroom supplies out of her own pocket. She was not reimbursed for either of these expenses, which totaled \$1,500, by her school district. Under current law, Alice's expenditures are deductible, subject to the limitations I mentioned. The first limitation is that her expenses must exceed two percent of her income before they begin to be deductible. Two percent of \$48,000 is \$960. Thus, only \$540 of her \$1,500 total expenses is deductible, that portion that exceeds \$960.

As a single taxpayer, Alice's standard deduction for 2006 is \$5,150. Her total itemized deductions, including the \$540 in miscellaneous deductions for her professional expenses and out-of-pocket classroom supplies, fall short of the standard deduction threshold. Therefore, not even the \$540 of the original \$1,500 in professional development expenses and out-of-pocket costs are deductible for Alice. What the first limitation did not block, the second one did, and Alice gets no deduction at all under the current law.

The way I see it, this situation is just not fair. Also, the tax treatment of teacher's expenses certainly does not help solve our teacher retention and recruitment problems.

To help alleviate this long-standing problem, five years ago I introduced the Teacher Equity for School Teachers Act of 2001. This legislation would have provided an unlimited tax deduction for the out-of-pocket expenses of school teachers for classroom supplies and other needed materials to help a teacher do his or her job. The bill would have also allowed teachers to take a deduction for their professional development expenses.

Rather than being available only for those who are able to itemize their de-

ductions, this bill would have made these expenses "above-the-line" deductions, meaning they would be deductible whether or not the teacher itemized on their tax return.

Unfortunately, only a part of this bill was enacted. The 2001 tax bill included an above-the-line deduction for \$250 for the costs of classroom expenses. While this was a great step in the right direction, it did not go nearly far enough. Moreover, the provision has now expired, and it is not clear when Congress is going to extend it.

The bill I am introducing today would do three things. First, it would reinstate the above-the-line deduction for teachers' out-of-pocket expenses for classroom supplies, make it permanent, and remove the \$250 cap. Second, it would provide an unlimited deduction for the professional development expenses for school teachers. Finally, to assist in the recruitment of teachers in the most needed fields, it would provide an unlimited deduction for the cost of professionals in the fields of math, science, and technology to certify to become public school teachers.

Under my bill, the Alice of my example would be allowed to deduct all \$1,500 of her professional development and classroom supplies expenses, whether she itemized or not. This would help provide tax equity, and a measure of much-needed tax relief for an underpaid professional. It would also help retain current public school teachers and attract new ones to this vital field.

Some might argue that such a generous deduction would be giving teachers preferential treatment. I disagree.

Most organizations provide training for their employees that is fully deductible to the organization and non-taxable to the employee. Yet public teachers, who are some of the most important professionals in our society, are left to foot the bill for these needed costs on their own. Also, office supplies and instructional materials are fully deductible to businesses. Should not teachers who provide these similar materials for their classrooms be afforded the same tax treatment?

Others may question the wisdom of my bill granting an unlimited tax deduction. "Why not place a limit or a cap on the amount that may be deducted?" some might ask. Again, I respectfully disagree with such critics. It is important to keep in mind the differences between a tax deduction and a tax credit. My bill calls for tax deductions, which reduce the amount of income that is subject to tax, and not for a credit, which is a dollar-for-dollar reduction in the amount of tax that is due.

With a tax deduction, a public school teacher is not receiving a cash subsidy or reimbursement for his or her expenses. Rather, he or she is merely obtaining a reduction in the amount of income that is taxed. Thus, the most benefit the teacher would receive under my bill would be a 35 percent reduction

in the cost of the professional development, supplies, or certification expenses. This means that the teacher is still responsible for paying for the biggest portion of these costs. I do not believe that our public school teachers will abuse such an unlimited deduction. They will use their common sense and they will spend the appropriate amounts for their expenses.

Support for mathematics and science education at all levels is necessary to improve the global competitiveness of the United States in science and energy technology.

I endorse the efforts of my some of my colleagues to encourage more of our best and brightest students choose these fields of study. Support for qualified STEM teachers (Science, Technology, Engineering, and Mathematics) is equally important. If we are successful in increasing the supply for STEM students, we will need to increase the supply of STEM teachers.

This bill will provide incentives for these professionals to enter the teaching profession by allowing expenses in connection with teacher certification to be fully deductible, above-the-line, the same as the professional development and supplies expenses of teaching professionals.

Mr. President, this bill would provide modest tax equity for teachers who, for too long, have been footing the bill for improving the quality of teaching by themselves. It is time that Congress recognized this unfairness and corrected it.

I thank the Senate for the opportunity to address this issue today, and I urge my colleagues to support this legislation.

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

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

S. 4027

*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 "Tax Equity for School Teachers Act of 2006".

**SEC. 2. DEDUCTION FOR CERTAIN PROFESSIONAL DEVELOPMENT EXPENSES AND CLASSROOM SUPPLIES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS AND FOR CERTAIN CERTIFICATION EXPENSES OF SCIENCE, TECHNOLOGY, ENGINEERING, OR MATH TEACHERS.**

(a) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subparagraph (D) of section 62(a)(2) of the Internal Revenue Code of 1986 (relating to certain expenses of elementary and secondary school teachers) is amended to read as follows:

"(D) CERTAIN PROFESSIONAL DEVELOPMENT EXPENSES, CLASSROOM SUPPLIES, AND OTHER EXPENSES FOR ELEMENTARY AND SECONDARY TEACHERS.—The sum of the deductions allowed by section 162 with respect to the following expenses:

"(i) Expenses paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for

courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.

“(ii) Expenses paid or incurred by an eligible educator which constitute qualified professional development expenses.

“(iii) Expenses which are related to the initial certification of an individual (in the individual’s State licensing system) as a qualified science, technology, engineering or math teacher.”

(b) DEFINITIONS AND SPECIAL RULES.—Section 62(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules is amended by redesignating paragraph (2) as paragraph (5) and by adding after paragraph (1) the following new paragraphs:

“(2) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—For purposes of subsection (a)(2)(D)—

“(A) IN GENERAL.—The term ‘qualified professional development expenses’ means expenses for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction.

“(B) QUALIFIED COURSE OF INSTRUCTION.—The term ‘qualified course of instruction’ means a course of instruction which—

“(i) is—

“(I) directly related to the curriculum and academic subjects in which an eligible educator provides instruction,

“(II) designed to enhance the ability of an eligible educator to understand and use State standards for the academic subjects in which such teacher provides instruction, or

“(III) designed to enable an eligible educator to meet the highly qualified teacher requirements under the No Child Left Behind Act of 2001,

“(ii) may provide instruction to an eligible educator—

“(I) in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented), or

“(II) in how best to discipline children in the classroom and identify early and appropriate interventions to help children described in subclause (I) to learn,

“(iii) is tied to the ability of an eligible educator to enable students to meet challenging State or local content standards and student performance standards,

“(iv) is tied to strategies and programs that demonstrate effectiveness in assisting an eligible educator in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of an eligible educator, and

“(v) is part of a program of professional development for eligible educators which is approved and certified by the appropriate local educational agency as furthering the goals of the preceding clauses.

“(C) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as in effect on the date of the enactment of this subsection.

“(3) QUALIFIED SCIENCE, TECHNOLOGY, ENGINEERING, OR MATH TEACHER.—For purposes of subsection (a)(2)(D), the term ‘qualified science, technology, engineering, or math teacher’ means, with respect to a taxable year, an individual who—

“(A) has a bachelor’s degree or other advanced degree in a field related to science, technology, engineering, or math,

“(B) was employed as a nonteaching professional in a field related to science, tech-

nology, engineering, or math for not less than 3 taxable years during the 10-taxable-year period ending with the taxable year,

“(C) is certified as a teacher of science, technology, engineering, or math in the individual’s State licensing system for the first time during such taxable year, and

“(D) is employed at least part-time as a teacher of science, technology, engineering, or math in an elementary or secondary school during such taxable year.

“(4) EXEMPTION FROM MINIMUM EDUCATION OR NEW TRADE OR BUSINESS EXCEPTION.—For purposes of applying subsection (a)(2)(D) and this subsection, the determination as to whether qualified professional development expenses, or expenses for the initial certification described in subsection (a)(2)(D)(iii), are deductible under section 162 shall be made without regard to any disallowance of such a deduction under such section for such expenses because such expenses are necessary to meet the minimum educational requirements for qualification for employment or qualify the individual for a new trade or business.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

By Mr. MENENDEZ:

S. 4028. A bill to fight criminal gangs; to the Committee on the Judiciary.

Mr. MENENDEZ. Mr. President, today, all across America, organized criminal gangs plague our communities, destroying the lives of thousands of young children each and every year. Unfortunately, this plague is currently not being treated effectively, and as a result has grown in size and power in almost every State in the Nation. Indeed, gang violence is no longer a State and local issue that predominantly occurs in highly urbanized areas, but has escalated into a national issue that affects our country as a whole.

In light of this, it is clear that we must recalibrate our efforts—and in addition to our local initiatives—to comprehensively confront gang violence at the national level. That is why I rise today to introduce the Fighting Gangs and Empowering Youth Act of 2006. Addressing the efforts of Federal, State, and local agencies, this legislation would comprehensively deal with all aspects of gang violence, from rigorously enforcing and appropriately sentencing criminal acts, to preventing future gang members from being recruited and such crimes from occurring.

To reduce the number of young potential recruits gangs prey upon, this bill would authorize funds for after-school and community-based programs designed to economically empower young people. Disadvantaged students will be given the opportunity to realize their potential, through tutoring, mentoring, and job training programs as well as college preparation classes and tuition assistance. Additionally, millions of dollars would be authorized to enhance and expand anti-gang and anti-violence programs in elementary and secondary schools, ensuring that students can focus solely on learning, without having to be concerned for

their personal safety. By providing “at-risk” youth with such resources and opportunities necessary to succeed in life, they will be far less susceptible to join a criminal gang.

The legislation would also expand adult and juvenile offender reentry demonstration projects to help with post-release and transitional housing, while promoting programs that hire former prisoners, and establish reentry planning procedures within communities. Prisoners with drug addictions would be forced to participate in treatment programs to be eligible for early release, which would be continued in their transition period back into society. All offenders would be encouraged to participate in educational initiatives such as, job training, GED preparation, along with a myriad of other programs. These initiatives are designed to provide offenders with the skills necessary to become legally employed when they are released from prison, which will reduce, hopefully significantly, their recidivism rates.

In addition to programs focused on gang violence prevention, my proposal would provide law enforcement officials on every level of government with the resources and information they need to accurately track and effectively neutralize criminal gangs. Specifically, this legislation would establish a program similar to the current Community Oriented Policing Services (COPS) program, to augment the number of police officers patrolling the streets of our local communities, and would authorize \$700 million annually for it. Additional funds would be used not only to increase the number of officers combating gangs, but also to provide additional forensic examiners to investigate, and more attorneys to prosecute, gang crimes.

As is true with almost all problems, a better understanding of how gangs operate translates into a better understanding of how best to counter them. That is why this legislation would authorize increased funding for the National Youth Gang Survey to increase the number of law enforcement agencies whose data is collected and included in the annual survey and provide up to \$8 million per year to upgrade technology to better identify gang members and include them in the National Gang Database. Additionally, this legislation would expand the Uniform Crime Reports (UCRs) to include local gang and other crime statistics from the municipal level, while also requiring the Attorney General to distinguish those crimes committed by juveniles. The bill also requires consolidation and standardization of all criminal databases, enabling law enforcement all across this country to better share information.

For those who still choose a life a crime, this proposal would increase the penalties proscribed for crimes committed in the furtherance of a gang. Gangs are dependent on committing

crimes such as witness intimidation, illegal firearm possession, and drug trafficking, implementing these instruments to augment their power. Subsequently, when these crimes are committed in the furtherance of gang activity, they can be more detrimental to society than if they were committed in isolation. Thus, these tougher sentencing requirements for crimes committed in the furtherance of a gang are not only appropriate, but necessary to deter gang violence and shield society from its most dangerous and unremorseful criminals.

This legislation would also attack one of the roots of gang violence—gang recruiters, who seek out young, economically disadvantaged, at-risk youth and pressure them to join. Currently, there is no law specifically forbidding gang recruitment. This legislation would change that—making it illegal to do so—and would incarcerate an offender for up to 5 years if the person being recruited was over the age of 18, or up to 10 years if the individual was under the age of 18.

Taken together, the provisions of this bill develop a comprehensive approach to gang violence by focusing on prevention, deterrence, and enforcement. To not address all of these gang violence catalysts in their entirety would leave us with an incomprehensive approach that would do little to quell the scourge of gang violence. Therefore, I urge my colleagues to co-sponsor the Fighting Gangs and Empowering Youth Act, and by doing so, give law enforcement and our communities the means to thoroughly and comprehensively counter the growing specter of gang violence that afflicts our great Nation.

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

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

S. 4028

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

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Fighting Gangs and Empowering Youth Act of 2006”.

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

##### Sec. 1. Short title and table of contents.

#### TITLE I—PREVENTION AND ECONOMIC EMPOWERMENT

- Sec. 101. Reauthorization of certain after-school programs.
- Sec. 102. Reauthorization of Safe and Drug-Free Schools and Communities Act.
- Sec. 103. Public and assisted housing gang elimination.
- Sec. 104. Demonstration grants to encourage creative approaches to gang activity and after-school programs.
- Sec. 105. Reauthorization of adult and juvenile offender State and local re-entry demonstration projects.
- Sec. 106. Children of incarcerated parents and families.

- Sec. 107. Encouragement of employment of former prisoners.
- Sec. 108. Federal resource center for children of prisoners.
- Sec. 109. Use of violent offender truth-sentencing grant funding for demonstration project activities.
- Sec. 110. Grants to study parole or post-incarceration supervision violations and revocations.
- Sec. 111. Improvement of the residential substance abuse treatment for State prisoners program.
- Sec. 112. Residential drug abuse program in Federal prisons.
- Sec. 113. Removal of limitation on amount of funds available for corrections education programs under the Adult Education and Family Literacy Act.
- Sec. 114. Technical amendment to drug-free student loans provision to ensure that it applies only to offenses committed while receiving Federal aid.
- Sec. 115. Mentoring grants to nonprofit organizations.
- Sec. 116. Clarification of authority to place prisoner in community corrections.
- Sec. 117. Grants to States for improved workplace and community transition training for incarcerated youth offenders.
- Sec. 118. Improved reentry procedures for Federal prisoners.
- Sec. 119. Reauthorization of Learn and Serve America.
- Sec. 120. Job Corps.
- Sec. 121. Workforce Investment Act youth activities.
- Sec. 122. Expansion and reauthorization of the mentoring initiative for system involved youth.
- Sec. 123. Strategic community planning program.
- Sec. 124. Reauthorization of the Gang Resistance Education and Training Projects Program and increase funding for the national youth gang survey.

#### TITLE II—SUPPRESSION AND COMMUNITY ANTI-GANG INITIATIVES

##### Subtitle A—Gang Activity Policing Program

- Sec. 201. Authority to make gang activity policing grants.
- Sec. 202. Eligible activities.
- Sec. 203. Preferential consideration of applications for certain grants.
- Sec. 204. Utilization of components.
- Sec. 205. Minimum amount.
- Sec. 206. Matching funds.
- Sec. 207. Authorization of appropriations.

##### Subtitle B—High Intensity Interstate Gang Activity Areas

- Sec. 211. Designation of and assistance for “high intensity” interstate gang activity areas.

##### Subtitle C—Additional Funding

- Sec. 221. Additional resources needed by the Federal Bureau of Investigation to investigate and prosecute violent criminal street gangs.
- Sec. 222. Grants to prosecutors and law enforcement to combat violent crime and to protect witnesses and victims of crimes.
- Sec. 223. Enhancement of Project Safe Neighborhoods initiative to improve enforcement of criminal laws against violent gangs.

#### TITLE III—PUNISHMENT AND IMPROVED CRIME DATA

- Sec. 301. Criminal street gangs.

- Sec. 302. Violent crimes in furtherance or in aid of criminal street gangs.
- Sec. 303. Interstate and foreign travel or transportation in aid of racketeering enterprises and criminal street gangs.
- Sec. 304. Amendments relating to violent crime in areas of exclusive Federal jurisdiction.
- Sec. 305. Increased penalties for use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence.
- Sec. 306. Increased penalties for violent crimes in aid of racketeering activity.
- Sec. 307. Violent crimes committed during and in relation to a drug trafficking crime.
- Sec. 308. Expansion of rebuttable presumption against release of persons charged with firearms offenses.
- Sec. 309. Statute of limitations for violent crime.
- Sec. 310. Predicate crimes for authorization of interception of wire, oral, and electronic communications.
- Sec. 311. Clarification to hearsay exception for forfeiture by wrongdoing.
- Sec. 312. Clarification of venue for retaliation against a witness.
- Sec. 313. Amendment of sentencing guidelines relating to certain gang and violent crimes.
- Sec. 314. Solicitation or recruitment of persons in criminal street gang activity.
- Sec. 315. Increased penalties for criminal use of firearms in crimes of violence and drug trafficking.
- Sec. 316. Possession of firearms by dangerous felons.
- Sec. 317. Standardization of crime reporting.
- Sec. 318. Providing additional forensic examiners.
- Sec. 319. Study on expanding Federal authority for juvenile offenders.

#### TITLE I—PREVENTION AND ECONOMIC EMPOWERMENT

##### SEC. 101. REAUTHORIZATION OF CERTAIN AFTER-SCHOOL PROGRAMS.

(a) 21ST CENTURY COMMUNITY LEARNING CENTERS.—Section 4206 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7176) is amended—

(1) in paragraph (5), by striking “\$2,250,000,000” and inserting “\$2,500,000,000”; and

(2) in paragraph (6), by striking “\$2,500,000,000” and inserting “\$2,750,000,000”.

(b) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—Section 5401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241) is amended—

(1) by striking “There are” and inserting “(a) IN GENERAL.—There are”; and

(2) by adding at the end the following:

“(b) PHYSICAL EDUCATION.—In addition to the amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated \$73,000,000 for each of fiscal years 2007 and 2008 to carry out subpart 10.”.

(c) FEDERAL TRIO PROGRAMS.—Section 402A(f) of the Higher Education Act of 1965 (20 U.S.C. 1070a–11(f)) is amended by striking “\$700,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years” and inserting “\$883,000,000 for fiscal year 2007 and such sums as may be necessary for each of the 5 succeeding fiscal years”.

(d) GEARUP.—Section 404H of the Higher Education Act of 1965 (20 U.S.C. 1070a–28) is amended by striking “\$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years” and

inserting “\$325,000,000 for fiscal year 2007 and such sums as may be necessary for each of the 5 succeeding fiscal years”.

**SEC. 102. REAUTHORIZATION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT.**

(a) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES.—Section 4003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7103) is amended—

(1) in paragraph (1), by striking “\$650,000,000 for fiscal year 2002” and inserting “\$700,000,000 for fiscal year 2007”; and

(2) in paragraph (2), by striking “such sums for fiscal year 2002, and” and inserting “\$400,000,000 for fiscal year 2007”.

(b) NATIONAL COORDINATOR INITIATIVE.—Section 4125 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7135(a)) is amended—

(1) in subsection (a)—

(A) by striking “From funds made available to carry out this subpart under section 4003(2), the Secretary may provide” and inserting “From amounts made available to carry out this subpart under section 4003(2) for each fiscal year, the Secretary shall reserve not less than \$40,000,000 to provide”; and

(B) by inserting “, gang prevention,” after “drug prevention”; and

(2) in subsection (b)—

(A) in the first sentence—

(i) by inserting “, gang prevention,” after “serve as drug prevention”; and

(ii) by inserting “, gang,” after “significant drug”; and

(B) in the second sentence, by inserting “, gang,” after “analyzing assessments of drug”.

(c) MENTORING PROGRAM.—Section 4130(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7140(b)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking “The Secretary may award grants from funds made available to carry out this subpart under section 4003(2)” and inserting “From amounts made available to carry out this subpart under section 4003(2) for each fiscal year, the Secretary shall reserve not less than \$50,000,000 to award grants”;

(2) in paragraph (5)(B)(i), by inserting “elementary school and middle school” after “serves”; and

(3) in paragraph (5)(C)(ii)(IV), by striking “4th” and inserting “kindergarten”.

(d) ANTI-GANG DISCRETIONARY GRANTS.—Subpart 2 of part A of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7131 et seq.) is amended by adding at the end the following:

**“SEC. 4131. ANTI-GANG DISCRETIONARY GRANTS.**

“(a) AUTHORITY TO MAKE GRANTS.—From amounts made available to carry out this subpart under section 4003(2) for each fiscal year, the Secretary shall reserve not less than \$50,000,000 to award grants, on a competitive basis, to nonprofit organizations to enable the nonprofit organizations to establish programs to assist a public elementary school or middle school in providing an innovative approach—

“(1) to combat gang activity in the school and the community surrounding the school; and

“(2) to heighten awareness of, and provide tools to reduce, gang violence in the school and the community surrounding the school.

“(b) APPLICATION.—To be eligible to receive a grant under this section, a nonprofit organization shall submit an application to the Secretary.

“(c) PRIORITY CONSIDERATION.—In awarding grants under this section, the Secretary shall give priority consideration to applications describing programs that target youth

living in a community with a crime level above the average crime level of the State in which the community is located.”.

**SEC. 103. PUBLIC AND ASSISTED HOUSING GANG ELIMINATION.**

(a) SHORT TITLE.—This section may be cited as the “Public and Assisted Housing Gang Elimination Act of 2006”.

(b) PUBLIC AND ASSISTED HOUSING.—Title V of Public Law 100-690 is amended by adding at the end the following:

**“Subtitle H—Public and Assisted Housing Drug Elimination**

**“SEC. 5401. AUTHORITY TO MAKE GRANTS.**

“The Secretary of Housing and Urban Development, in accordance with the provisions of this subtitle, may make grants to public housing agencies (including Indian Housing Authorities) and private, for-profit and nonprofit owners of federally assisted low-income housing for use in eliminating gang related crime.

**“SEC. 5402. ELIGIBLE ACTIVITIES.**

“Grants under this subtitle may be used in public housing or other federally assisted low-income housing projects for—

“(1) the employment of security personnel;

“(2) reimbursement of local law enforcement agencies for additional security and protective services;

“(3) physical improvements which are specifically designed to enhance security;

“(4) the employment of 1 or more individuals—

“(A) to investigate gang related crime on or about the real property comprising any public or other federally assisted low-income housing project; and

“(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

“(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

“(6) programs designed to reduce gang activity in and around public or other federally assisted low-income housing projects, including encouraging teen-driven approaches to gang activity prevention;

“(7) providing funding to nonprofit public housing resident management corporations and resident councils to develop security and gang prevention programs involving site residents.

**“SEC. 5403. APPLICATIONS.**

“(a) IN GENERAL.—To receive a grant under this subtitle, a public housing agency or an owner of federally assisted low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of gang related crime on the premises of the housing administered or owned by the applicant for which the application is being submitted.

“(b) CRITERIA.—Except as provided by subsections (c) and (d) the Secretary shall approve applications under this subtitle based exclusively on—

“(1) the extent of the gang related crime problem in the public or federally assisted low-income housing project or projects proposed for assistance;

“(2) the quality of the plan to address the crime problem in the public or federally assisted low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years;

“(3) the capability of the applicant to carry out the plan; and

“(4) the extent to which tenants, the local government, and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

“(c) FEDERALLY ASSISTED LOW-INCOME HOUSING.—In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect—

“(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted low-income housing; or

“(2) relevant differences between the problem of gang related crime in public housing and the problem of gang related crime in federally assisted low-income housing.

“(d) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.—In evaluating the extent of the gang related crime problem pursuant to subsection (b), the Secretary may consider whether housing projects proposed for assistance are located in a high intensity interstate gang activity area designated pursuant to section 211 of the Fighting Gangs and Empowering Youth Act of 2006.

**“SEC. 5404. DEFINITIONS.**

“For the purposes of this subtitle, the following definitions shall apply:

“(1) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

“(2) FEDERALLY ASSISTED LOW-INCOME HOUSING.—The term ‘federally assisted low-income housing’ means housing assisted under—

“(A) section 221(d)(3), section 221(d)(4), or 236 of the National Housing Act;

“(B) section 101 of the Housing and Urban Development Act of 1965; or

“(C) section 8 of the United States Housing Act of 1937.

**“SEC. 5405. IMPLEMENTATION.**

“The Secretary shall issue regulations to implement this subtitle within 180 days after the date of enactment of the Fighting Gangs and Empowering Youth Act of 2006.

**“SEC. 5406. REPORTS.**

“The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5403(a), and any change in the incidence of gang related crime in projects assisted under this chapter.

**“SEC. 5407. MONITORING.**

“The Secretary shall audit and monitor the programs funded under this subtitle to ensure that assistance provided under this subtitle is administered in accordance with the provisions of this subtitle.

**“SEC. 5408. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle \$200,000,000 for each of the fiscal years 2007 through 2011. Any amount appropriated under this section shall remain available until expended.

“(b) SET-ASIDE FOR ASSISTED HOUSING.—Of any amount made available in any fiscal year to carry out this subtitle, not more than 6.25 percent of such amount shall be available for grants for federally assisted low-income housing.”.

(c) CONFORMING AMENDMENTS.—The table of contents for title V of Public Law 100-690 is amended by inserting the following new items:

“Subtitle H—Public and Assisted Housing Drug Elimination

“Sec. 5401. Authority to make grants.

“Sec. 5402. Eligible activities.  
 “Sec. 5403. Applications.  
 “Sec. 5404. Definitions.  
 “Sec. 5405. Implementation.  
 “Sec. 5406. Reports.  
 “Sec. 5407. Monitoring.  
 “Sec. 5408. Authorization of appropriations.”

**SEC. 104. DEMONSTRATION GRANTS TO ENCOURAGE CREATIVE APPROACHES TO GANG ACTIVITY AND AFTER-SCHOOL PROGRAMS.**

(a) IN GENERAL.—The Attorney General may make grants to public or nonprofit private entities (including faith-based organizations) for the purpose of assisting the entities in demonstrating innovative approaches to combat gang activity.

(b) CERTAIN APPROACHES.—Approaches under subsection (a) may include the following:

(1) Encouraging teen-driven approaches to gang activity prevention.

(2) Educating parents to recognize signs of problems and potential gang involvement in their children.

(3) Teaching parents the importance of a nurturing family and home environment to keep children out of gangs.

(4) Facilitating communication between parents and children, especially programs that have been evaluated and proven effective.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—With respect to the costs of the project to be carried out under subsection (a) by an applicant, a grant may be made under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant).

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, 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 non-Federal contributions.

(d) EVALUATION OF PROJECTS.—The Attorney General shall establish criteria for the evaluation of projects under subsection (a). A grant may be made under such subsection only if the applicant involved—

(1) agrees to conduct evaluations of the project in accordance with such criteria;

(2) agrees to submit to the Attorney General such reports describing the results of the evaluations as the Attorney General determines to be appropriate; and

(3) submits to the Attorney General, in the application under subsection (e), a plan for conducting the evaluations.

(e) APPLICATION FOR GRANT.—A grant may be made under subsection (a) only if an application for the grant is submitted to the Attorney General and the application is in such form, is made in such manner, and contains such agreements, assurances, and information, including the agreements under subsections (c) and (d) and the plan under subsection (d)(3), as the Attorney General determines to be necessary to carry out this section.

(f) REPORT TO CONGRESS.—Not later than October 1, 2011, the Attorney General shall submit to Congress a report describing the extent to which projects under subsection (a) have been successful in reducing the rate of gang activity in the communities in which the projects have been carried out. Such reports shall describe the various approaches used under subsection (a) and the effectiveness of each of the approaches.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years 2007 through 2011.

**SEC. 105. REAUTHORIZATION OF ADULT AND JUVENILE OFFENDER STATE AND LOCAL REENTRY DEMONSTRATION PROJECTS.**

(a) ADULT AND JUVENILE OFFENDER DEMONSTRATION PROJECTS AUTHORIZED.—Section 2976(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(b)) is amended by striking paragraphs (1) through (4) and inserting the following:

“(1) establishing or improving the system or systems under which—

“(A) the correctional agency of the State or local government develops and carries out plans to facilitate the reentry into the community of each offender in State or local custody;

“(B) the supervision and services provided to offenders in State or local custody are coordinated with the supervision and services provided to offenders after reentry into the community;

“(C) the efforts of various public and private entities to provide supervision and services to offenders after reentry into the community, and to family members of such offenders, are coordinated; and

“(D) offenders awaiting reentry into the community are provided with documents (such as identification papers, referrals to services, medical prescriptions, job training certificates, apprenticeship papers, and information on obtaining public assistance) useful in achieving a successful transition from prison, jail, or detention;

“(2) carrying out programs and initiatives by units of local government to strengthen reentry services for individuals released from local jails;

“(3) enabling jail or prison mentors of offenders to remain in contact with those of offenders, including through the use of such technology as videoconferencing, during incarceration and after reentry into the community and encouraging the involvement of prison or jail mentors in the reentry process;

“(4) providing structured post-release housing and transitional housing, including group homes for recovering substance abusers, through which offenders are provided supervision and services immediately following reentry into the community;

“(5) assisting offenders in securing permanent housing upon release or following a stay in transitional housing;

“(6) providing continuity of health services (including screening, assessment, and aftercare for mental health services, substance abuse treatment and aftercare, and treatment for contagious diseases) to offenders in custody and after reentry into the community;

“(7) providing offenders with education, job training, responsible parenting and healthy relationship skills training designed specifically for addressing the needs of incarcerated and transitioning fathers and mothers, English as a second language programs, work experience programs, self-respect and life skills training, and other skills useful in achieving a successful transition from prison;

“(8) facilitating collaboration among corrections and community corrections, technical schools, community colleges, and the workforce development and employment service sectors to—

“(A) promote, where appropriate, the employment of people released from prison and jail, through efforts such as educating employers about existing financial incentives, and facilitate the creation of job opportunities, including transitional jobs and time

limited subsidized work experience (where appropriate), for this population that will benefit communities;

“(B) connect inmates to employment, including supportive employment and employment services, before their release to the community, to provide work supports, including transportation and retention services, as appropriate, and identify labor market needs to ensure that education and training are appropriate; and

“(C) address barriers to employment, including licensing that are not directly connected to the crime committed and the risk that the ex-offender presents to the community, and provide case management services as necessary to prepare offenders for jobs that offer the potential for advancement and growth;

“(9) assessing the literacy and educational needs of offenders in custody and identifying and providing services appropriate to meet those needs, including follow-up assessments and long-term services;

“(10) systems under which family members of offenders are involved in facilitating the successful reentry of those offenders into the community, including removing obstacles to the maintenance of family relationships while the offender is in custody, strengthening the family's capacity to function as a stable living situation during reentry where appropriate, and involving family members in the planning and implementation of the reentry process;

“(11) programs under which victims are included, on a voluntary basis, in the reentry process;

“(12) identifying and addressing barriers to collaborating with child welfare agencies in the provision of services jointly to offenders in custody and to the children of such offenders;

“(13) carrying out programs that support children of incarcerated parents, including those in foster care and those cared for by grandparents or other relatives, commonly referred to as kinship care, including mentoring children of prisoners programs;

“(14) carrying out programs for the entire family unit, including the coordination of service delivery across agencies;

“(15) implementing programs in correctional agencies to include the collection of information regarding any dependent children of an incarcerated person as part of intake procedures, including the number of children, age, and location or jurisdiction, and connect identified children with services as appropriate and needed;

“(16) addressing barriers to the visitation of children with an incarcerated parent, and maintenance of the parent-child relationship as appropriate to the safety and well-being of the children, such as the location of facilities in remote areas, telephone costs, mail restrictions, and visitation policies;

“(17) creating, developing, or enhancing prisoner and family assessments curricula, policies, procedures, or programs (including mentoring programs) to help prisoners with a history or identified risk of domestic violence, dating violence, sexual assault, or stalking reconnect with their families and communities, as appropriate (or when it is safe to do so), and become mutually respectful, nonabusive parents or partners, under which particular attention is paid to the safety of children affected and the confidentiality concerns of victims, and efforts are coordinated with existing victim service providers;

“(18) developing programs and activities that support parent-child relationships, such as—

“(A) using telephone conferencing to permit incarcerated parents to participate in parent-teacher conferences;

“(B) using videoconferencing to allow virtual visitation when incarcerated persons are more than 100 miles from their families;

“(C) the development of books on tape programs, through which incarcerated parents read a book into a tape to be sent to their children;

“(D) the establishment of family days, which provide for longer visitation hours or family activities;

“(E) the creation of children’s areas in visitation rooms with parent-child activities;

“(F) the implementation of programs to help incarcerated fathers and mothers stay connected to their children and learn responsible parenting and healthy relationship skills; or

“(G) mentoring children of prisoners program;

“(19) expanding family-based treatment centers that offer family-based comprehensive treatment services for parents and their children as a complete family unit;

“(20) conducting studies to determine who is returning to prison or jail and which of those returning prisoners represent the greatest risk to community safety;

“(21) developing or adopting procedures to ensure that dangerous felons are not released from prison prematurely;

“(22) developing and implementing procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;

“(23) developing and implementing procedures to identify efficiently and effectively those violators of probation, parole, or post incarceration supervision who should be returned to prison or jail;

“(24) utilizing validated assessment tools to assess the risk factors of returning inmates and prioritizing services based on risk;

“(25) facilitating and encouraging timely and complete payment of restitution and fines by ex-offenders to victims and the community;

“(26) establishing or expanding the use of reentry courts and other programs to—

“(A) monitor offenders returning to the community;

“(B) provide returning offenders with—

“(i) drug and alcohol testing and treatment; and

“(ii) mental and medical health assessment and services;

“(C) facilitate restorative justice practices and convene family or community impact panels, family impact educational classes, victim impact panels, or victim impact educational classes;

“(D) provide and coordinate the delivery of other community services to offenders, including—

“(i) housing assistance;

“(ii) education;

“(iii) employment training;

“(iv) children and family support to include responsible parenting and healthy relationship skill training designed specifically to address the needs of incarcerated and transitioning fathers and mothers;

“(v) conflict resolution skills training;

“(vi) family violence intervention programs;

“(vii) culturally and linguistically competent services, as appropriate; and

“(viii) other appropriate services; and

“(E) establish and implement graduated sanctions and incentives; and

“(27) providing technology and other tools to advance post release supervision.”

(b) JUVENILE OFFENDER DEMONSTRATION PROJECTS REAUTHORIZED.—Section 2976(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(c)) is amended by striking “may be expended for” and all that follows through the period at the end and in-

serting “may be expended for any activity referred to in subsection (b).”

(c) APPLICATIONS; REQUIREMENTS; PRIORITIES; PERFORMANCE MEASUREMENTS.—Section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w) is amended—

(1) by redesignating subsection (h) as subsection (o); and

(2) by striking subsections (d) through (g) and inserting the following:

“(d) APPLICATIONS.—A State, unit of local government, territory, or Indian tribe, or combination thereof desiring a grant under this section shall submit an application to the Attorney General that—

“(1) contains a reentry strategic plan, as referenced in subsection (h), which describes the long-term strategy, and a detailed implementation schedule, including the jurisdiction’s plans to pay for the program after the Federal funding is discontinued;

“(2) identifies the local government role and the role of governmental agencies and nonprofit organizations that will be coordinated by, and that will collaborate on, the applicant’s prisoner reentry strategy and certifies their involvement; and

“(3) describes the methodology and outcome measures that will be used in evaluating the program.

“(e) REQUIREMENTS.—The Attorney General may make a grant to an applicant under this section only if the application—

“(1) reflects explicit support of the chief executive officer of the State, unit of local government, territory, or Indian tribe applying for a grant under this section;

“(2) provides extensive discussion of the role of State corrections departments, community corrections agencies, juvenile justice systems, or local jail systems in ensuring successful reentry of ex-offenders into their communities;

“(3) provides extensive evidence of collaboration with State and local government agencies overseeing health, housing, child welfare, education, substance abuse, and employment services, and local law enforcement;

“(4) provides a plan for analysis of the applicant’s existing statutory, regulatory, rules-based, and practice-based hurdles to a prisoner’s reintegration into the community that—

“(A) takes particular note and makes recommendations with respect to laws, regulations, rules, and practices that disqualify former prisoners from obtaining professional licenses or other requirements necessary for certain types of employment, and that hinder full civic participation;

“(B) identifies and makes recommendations with respect to those laws, regulations, rules, or practices that are not directly connected to the crime committed and the risk that the ex-offender presents to the community; and

“(C) affords members of the public an opportunity to participate in the process described in this subsection; and

“(5) includes the use of a State, local, territorial, or tribal task force, as referenced in subsection (i), to carry out the activities funded under the grant.

“(f) PRIORITY CONSIDERATION.—The Attorney General shall give priority to grant applications under this section that best—

“(1) focus initiative on geographic areas with a high population of ex-offenders;

“(2) include partnerships with nonprofit organizations;

“(3) provide consultations with crime victims and former incarcerated prisoners and their families;

“(4) review the process by which the State and local governments adjudicate violations of parole, probation, or post incarceration

supervision and consider reforms to maximize the use of graduated, community-based sanctions for minor and technical violations of parole, probation, or post incarceration supervision;

“(5) establish prerelease planning procedures for prisoners to ensure that a prisoner’s eligibility for Federal or State benefits (including Medicaid, Medicare, Social Security, and Veterans benefits) upon release is established prior to release, subject to any limitations in law, and to ensure that prisoners are provided with referrals to appropriate social and health services or are linked to appropriate nonprofit organizations;

“(6) include an agreement that the applicant, in consultation with the National Institute of Justice, will modify the project design, initially and during the project, in order to facilitate the evaluation of outcomes by means, including (to the maximum extent feasible) random assignment of offenders and ex-offenders (or entities working with such persons) to program delivery and control groups; and

“(7) target high-risk offenders for reentry programs through validated assessment tools.

“(g) USES OF GRANT FUNDS.—

“(1) FEDERAL SHARE.—The Federal share of a grant received under this section may not exceed 75 percent of the project funded under the grant, unless the Attorney General—

“(A) waives, in whole or in part, the requirement of this paragraph; and

“(B) publicly delineates the rationale for the waiver.

“(2) SUPPLEMENT NOT SUPPLANT.—Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities funded under this section.

“(h) REENTRY STRATEGIC PLAN.—

“(1) IN GENERAL.—As a condition of receiving financial assistance under this section, each applicant shall develop a comprehensive strategic reentry plan that contains measurable annual and 5 year performance outcomes. The plan shall have as a goal to reduce the rate of recidivism of incarcerated persons served with funds from this section by 50 percent over a period of 5 years.

“(2) COORDINATION.—In developing reentry plans under this subsection, applicants shall coordinate with communities and stakeholders, including persons in the fields of public safety, corrections, housing, health, education, substance abuse, children and families, employment, business and members of nonprofit organizations that provide reentry services.

“(3) MEASUREMENTS OF PROGRESS.—Each reentry plan developed under this subsection shall measure the applicant’s progress toward increasing public safety by reducing rates of recidivism and enabling released offenders to transition successfully back into their communities.

“(i) REENTRY TASK FORCE.—

“(1) IN GENERAL.—As a condition of receiving financial assistance under this section, each applicant shall establish or empower a Reentry Task Force, or other relevant convening authority, to examine ways to pool existing resources and funding streams to promote lower recidivism rates for returning ex-offenders and to minimize the harmful effects of incarceration on families and communities by collecting data and best practices in offender reentry from demonstration grantees and other agencies and organizations, and to provide a plan, as described in subsection (e)(4).

“(2) MEMBERSHIP.—The task force or other authority shall be comprised of relevant—

“(A) State, tribal, territorial, or local leaders;

“(B) agencies;

“(C) service providers;

“(D) nonprofit organizations; and

“(E) stakeholders.

“(J) STRATEGIC PERFORMANCE OUTCOMES.—

“(1) IN GENERAL.—Each applicant shall identify in their reentry strategic plan, as referenced in subsection (h), specific performance outcomes related to the long-term goals of increasing public safety and reducing recidivism.

“(2) PERFORMANCE OUTCOMES.—The performance outcomes identified under paragraph (1) shall include, with respect to offenders released back into the community—

“(A) reduction in recidivism rates;

“(B) reduction in crime;

“(C) increased employment and education opportunities;

“(D) reduction in violations of conditions of supervised release;

“(E) increased child support;

“(F) increased housing opportunities;

“(G) reduction in drug and alcohol abuse; and

“(H) increased participation in substance abuse and mental health services.

“(3) OTHER OUTCOMES.—States may include in their reentry strategic plan other performance outcomes that increase the success rates of offenders who transition from prison.

“(4) COORDINATION.—Applicants should coordinate with communities and stakeholders about the selection of performance outcomes identified by the applicant, and should consult with the Department of Justice for assistance with data collection and measurement activities.

“(5) REPORT.—Each grantee under this section shall submit an annual report to the Department of Justice that—

“(A) identifies the grantee’s progress toward achieving its strategic performance outcomes; and

“(B) describes other activities conducted by the grantee to increase the success rates of the reentry population, such as programs that foster effective risk management and treatment programming, offender accountability, and community and victim participation.

“(K) PERFORMANCE MEASUREMENT.—

“(1) IN GENERAL.—The Department of Justice, in consultation with the grantees, shall—

“(A) identify primary and secondary sources of information to support the measurement of the performance indicators identified under this section;

“(B) identify sources and methods of data collection in support of performance measurement required under this section;

“(C) provide to all grantees technical assistance and training on performance measures and data collection for purposes of this section; and

“(D) coordinate with the Substance Abuse and Mental Health Services Administration on strategic performance outcome measures and data collection for purposes of this section relating to substance abuse and mental health.

“(2) COORDINATION.—The Department of Justice shall coordinate with other Federal agencies to identify national and other sources of information to support grantee’s performance measurement.

“(3) STANDARDS FOR ANALYSIS.—Any statistical analysis of population data conducted pursuant to this section shall be conducted in accordance with the Federal Register Notice dated October 30, 1997, relating to classification standards.

“(1) FUTURE ELIGIBILITY.—To be eligible to receive a grant under this section for fiscal years after the first receipt of such a grant, a grantee shall submit to the Attorney Gen-

eral such information as is necessary to demonstrate that—

“(1) the grantee has adopted a reentry plan that reflects input from nonprofit organizations;

“(2) the grantee’s reentry plan includes performance measures to assess the grantee’s progress toward increasing public safety by reducing by 10 percent over the 2-year period the rate at which individuals released from prison who participate in the reentry system supported by Federal funds are re-committed to prison; and

“(3) the grantee will coordinate with the Department of Justice, nonprofit organizations, and other experts regarding the selection and implementation of the performance measures described in subsection (k).

“(M) NATIONAL ADULT AND JUVENILE OFFENDER REENTRY RESOURCE CENTER.—

“(1) AUTHORITY.—The Attorney General may, using amounts made available to carry out this subsection, make a grant to an eligible organization to provide for the establishment of a National Adult and Juvenile Offender Reentry Resource Center.

“(2) ELIGIBLE ORGANIZATION.—An organization eligible for the grant under paragraph (1) is any national nonprofit organization approved by the Federal task force established under subsection (o) that provides technical assistance and training to, and has special expertise and broad, national-level experience in offender reentry programs, training, and research.

“(3) USE OF FUNDS.—The organization receiving the grant shall establish a National Adult and Juvenile Offender Reentry Resource Center to—

“(A) provide education, training, and technical assistance for States, tribes, territories, local governments, service providers, nonprofit organizations, and corrections institutions;

“(B) collect data and best practices in offender reentry from demonstration grantees and others agencies and organizations;

“(C) develop and disseminate evaluation tools, mechanisms, and measures to better assess and document coalition performance measures and outcomes;

“(D) disseminate knowledge to States and other relevant entities about best practices, policy standards, and research findings;

“(E) develop and implement procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;

“(F) develop and implement procedures to identify efficiently and effectively those violators of probation, parole, or post incarceration supervision who should be returned to prison and those who should receive other penalties based on defined, graduated sanctions;

“(G) collaborate with the Federal task force established under subsection (o) and the Federal Resource Center for Children of Prisoners;

“(H) develop a national research agenda; and

“(I) bridge the gap between research and practice by translating knowledge from research into practical information.

“(4) LIMIT.—Of amounts made available to carry out this section, not more than 4 percent shall be available to carry out this subsection.

“(N) ADMINISTRATION.—Of amounts made available to carry out this section—

“(1) not more than 2 percent shall be available for administrative expenses in carrying out this section; and

“(2) not more than 2 percent shall be made available to the National Institute of Justice to evaluate the effectiveness of the demonstration projects funded under section 2976 of the Omnibus Crime and Control and Safe

Streets Act of 1968 (42 U.S.C. 3797w) as amended by this section, using a methodology that—

“(A) includes, to the maximum extent feasible, random assignment of offenders or offenders (or entities working with such persons) to program delivery and control groups; and

“(B) generates evidence on which reentry approaches and strategies are most effective.

“(O) TASK FORCE ON FEDERAL PROGRAMS AND ACTIVITIES RELATING TO REENTRY OF OFFENDERS.—

“(1) TASK FORCE REQUIRED.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Secretary of Agriculture, and the heads of such other elements of the Federal Government as the Attorney General considers appropriate, and in collaboration with stakeholders, service providers, nonprofit organizations, States, tribes, territories, and local governments, shall establish an interagency task force on Federal programs and activities relating to the reentry of offenders into the community.

“(2) DUTIES.—The task force required by paragraph (1) shall—

“(A) identify such programs and activities that may be resulting in overlapping or duplication of services, the scope of such overlapping or duplication, and the relationship of such overlapping and duplication to public safety, public health, and effectiveness and efficiency;

“(B) identify methods to improve collaboration and coordination of such programs and activities;

“(C) identify areas of responsibility in which improved collaboration and coordination of such programs and activities would result in increased effectiveness or efficiency;

“(D) develop innovative interagency or intergovernmental programs, activities, or procedures that would improve outcomes of reentering offenders and children of offenders;

“(E) develop methods for increasing regular communication that would increase interagency program effectiveness;

“(F) identify areas of research that can be coordinated across agencies with an emphasis on applying science-based practices to support, treatment, and intervention programs for reentering offenders;

“(G) identify funding areas that should be coordinated across agencies and any gaps in funding; and

“(H) in collaboration with the National Adult and Juvenile Offender Reentry Resources Center identify successful programs currently operating and collect best practices in offender reentry from demonstration grantees and other agencies and organizations, determine the extent to which such programs and practices can be replicated, and make information on such programs and practices available to States, localities, nonprofit organizations, and others.

“(3) REPORT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the task force established under paragraph (1) shall submit a report, including recommendations, to Congress on barriers to reentry. The task force shall provide for public input in preparing the report.

“(B) CONTENTS.—The report required by subparagraph (A) shall identify Federal and other barriers to successful reentry of offenders into the community and analyze the effects of such barriers on offenders and on children and other family members of offenders, including barriers relating to—

“(i) child support obligations and procedures;

“(ii) Social Security benefits, including barriers in timely restoration of suspended disability benefits immediately upon release, Veterans benefits, food stamps, and other forms of Federal public assistance;

“(iii) Medicaid and Medicare laws, regulations, guidelines or procedures, including barriers in timely restoration of benefits caused by delay in reinstatement of suspended Social Security disability benefits;

“(iv) education programs, financial assistance, and full civic participation;

“(v) TANF program funding criteria and other welfare benefits;

“(vi) sustainable employment and career advancement, that are not directly connected to the crime committed and the risk that the ex-offender presents to the community;

“(vii) laws, regulations, rules, and practices that restrict Federal employment licensure and participation in Federal contracting programs;

“(viii) admissions to and evictions from Federal housing programs, including—

“(I) examining the number and characteristics of ex-offenders who are evicted from or denied eligibility for Federal housing programs;

“(II) the effect of eligibility denials and evictions on homelessness, family stability and family reunification;

“(III) the extent to which arrest records are the basis for denying applications;

“(IV) the implications of considering misdemeanors 5 or more years old and felonies 10 or more years old and the appropriateness of taking into account rehabilitation and other mitigating factors; and

“(V) the feasibility of using probationary or conditional eligibility based on participation in a supervised rehabilitation program or other appropriate social services;

“(ix) reentry procedures, case planning, and transitions of persons from the custody of the Federal Bureau of Prisons to a Federal parole or probation program or community corrections;

“(x) laws, regulations, rules, and practices that may require a parolee to return to the same county that the parolee was living in prior to his or her arrest, and the potential for changing such laws, regulations, rules, and practices so that the parolee may change his or her location upon release, and not settle in the same location with persons who may be a negative influence; and

“(xi) prerelease planning procedures for prisoners to ensure that a prisoner's eligibility for Federal or State benefits (including Medicaid, Medicare, Social Security and Veterans benefits) upon release is established prior to release, subject to any limitations in law; and to ensure that prisoners are provided with referrals to appropriate social and health services or are linked to appropriate nonprofit organizations.

“(4) ANNUAL REPORTS.—On an annual basis, the task force required by paragraph (1) shall submit to Congress a report on the activities of the task force, including specific recommendations of the task force on matters referred to in paragraph (2). Any statistical analysis of population data pursuant to this section shall be conducted in accordance with the Federal Register Notice dated October 30, 1997, relating to classification standards.”

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w) is amended in subsection (c)(1), as so redesignated by subsection (c) of this section, by striking “and \$16,000,000 for fiscal year 2005” and inserting “\$100,000,000 for fiscal year 2007, and \$100,000,000 for fiscal year 2008”.

(e) GRANT AUTHORIZATION.—Section 2976(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(a)) is amended by striking “States, Territories” and all that follows through the period at the end and inserting “States, local governments, territories, or Indian tribes, or any combination thereof, in partnership with stakeholders, service providers, and nonprofit organizations, for purpose of establishing adult and juvenile offender reentry demonstration projects.”

**SEC. 106. CHILDREN OF INCARCERATED PARENTS AND FAMILIES.**

The Secretary of Health and Human Services may—

(1) review, and make available to States, a report on any recommendations regarding the role of State child protective services at the time of the arrest of a person; and

(2) by regulation, establish such services as the Secretary determines necessary for the preservation of families that have been impacted by the incarceration of a family member with special attention given to the impact on children.

**SEC. 107. ENCOURAGEMENT OF EMPLOYMENT OF FORMER PRISONERS.**

The Secretary of Labor shall take such steps as are necessary to implement a program, including the Employment and Training Administration, to educate employers and 1-stop center workforce development providers about existing incentives, including the Federal bonding program and tax credits for hiring former Federal, State, or local prisoners.

**SEC. 108. FEDERAL RESOURCE CENTER FOR CHILDREN OF PRISONERS.**

There are authorized to be appropriated to the Secretary of Health and Human Services for fiscal years 2007 and 2008, such sums as may be necessary for the continuing activities of the Federal Resource Center for Children of Prisoners, including conducting a review of the policies and practices of State and Federal corrections agencies to support parent-child relationships.

**SEC. 109. USE OF VIOLENT OFFENDER TRUTH-SENTENCING GRANT FUNDING FOR DEMONSTRATION PROJECT ACTIVITIES.**

Section 20102(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13702(a)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) to carry out any activity referred to in subsections (b) and (c) of section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w (b), (c)).”

**SEC. 110. GRANTS TO STUDY PAROLE OR POST-INCARCERATION SUPERVISION VIOLATIONS AND REVOCATIONS.**

(a) GRANTS AUTHORIZED.—From amounts made available to carry out this section, the Attorney General may award grants to States to study and to improve the collection of data with respect to individuals whose parole or post incarceration supervision is revoked and which such individuals represent the greatest risk to community safety.

(b) APPLICATION.—As a condition of receiving a grant under this section, a State shall—

(1) certify that the State has, or intends to establish, a program that collects comprehensive and reliable data with respect to individuals described in subsection (a), including data on—

(A) the number and type of parole or post incarceration supervision violations that occur with the State;

(B) the reasons for parole or post-incarceration supervision revocation;

(C) the underlying behavior that led to the revocation; and

(D) the term of imprisonment or other penalty that is imposed for the violation; and

(2) provide the data described in paragraph (1) to the Bureau of Justice Statistics, in a form prescribed by the Bureau. Any statistical analysis of population data pursuant to this section shall be conducted in accordance with the Federal Register Notice dated October 30, 1997, relating to classification standards.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$1,000,000 for each fiscal years 2007 and 2008.

**SEC. 111. IMPROVEMENT OF THE RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS PROGRAM.**

(a) DEFINITION.—Section 1902 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff-1) is amended by—

(1) redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) inserting after subsection (b) the following:

“(c) RESIDENTIAL SUBSTANCE ABUSE TREATMENT.—In this section, the term ‘residential substance abuse treatment’—

“(1) means a course of individual and group activities and treatment, lasting at least 6 months, in residential treatment facilities set apart from the general prison population; and

“(2) can include the use of pharmacotherapies where appropriate, that may extend beyond the 6-month period.”

(b) REQUIREMENT FOR AFTER CARE COMPONENT.—Subsection (d) of section 1902 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff-1), as so redesignated by subsection (a) of this section, is amended—

(1) in the subsection heading, by striking “ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT” and inserting “REQUIREMENT FOR AFTER CARE COMPONENT”; and

(2) by amending paragraph (1) to read as follows:

“(1) To be eligible for funding under this part, a State shall ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with after care services.”; and

(3) by adding at the end the following new paragraph:

“(4) After care services required by this subsection shall be funded by the funding provided in this part.”

**SEC. 112. RESIDENTIAL DRUG ABUSE PROGRAM IN FEDERAL PRISONS.**

Section 3621(e)(5)(A) of title 18, United States Code, is amended by striking “means a course of” and all that follows through the semicolon at the end and inserting the following: “means a course of individual and group activities and treatment, lasting at least 6 months, in residential treatment facilities set apart from the general prison population, which may include the use of pharmacotherapies, where appropriate, that may extend beyond the 6-month period.”

**SEC. 113. REMOVAL OF LIMITATION ON AMOUNT OF FUNDS AVAILABLE FOR CORRECTIONS EDUCATION PROGRAMS UNDER THE ADULT EDUCATION AND FAMILY LITERACY ACT.**

(a) IN GENERAL.—Section 222(a)(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9222(a)(1)) is amended by striking “, of which not more than 10 percent of the 82.5 percent shall be available to carry out section 225”.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the

Secretary of Education shall submit to Congress a report—

(1) on the use of literacy funds to correctional institutions as defined in section 225(d)(2) of the Adult Education and Family Literacy Act (20 U.S.C. 9224); and

(2) that specifies the amount of literacy funds that are provided to each category of correctional institution in each State, and identify whether funds are being sufficiently allocated among the various types of institutions.

**SEC. 114. TECHNICAL AMENDMENT TO DRUG-FREE STUDENT LOANS PROVISION TO ENSURE THAT IT APPLIES ONLY TO OFFENSES COMMITTED WHILE RECEIVING FEDERAL AID.**

Section 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) is amended by striking “A student” and all that follows through “table:” and inserting the following: “A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:”.

**SEC. 115. MENTORING GRANTS TO NONPROFIT ORGANIZATIONS.**

(a) **AUTHORITY TO MAKE GRANTS.**—From amounts made available to carry out this section, the Attorney General of the United States, in collaboration with the Secretary of Labor and the Secretary of Housing and Urban Development, shall make grants to nonprofit organizations for the purpose of providing mentoring and other transitional services essential to reintegrating ex-offenders.

(b) **USE OF FUNDS.**—Grant funds awarded under subsection (a) may be used for—

(1) mentoring adult and juvenile offenders during incarceration, through transition back to the community, and post release; and

(2) transitional services to assist in the reintegration of ex-offenders into the community.

(c) **APPLICATION; PRIORITY CONSIDERATION.**—To be eligible to receive a grant under this section, a nonprofit organization shall submit an application to the Attorney General based on criteria developed by the Attorney General in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development. Applicants will be given priority consideration if the application—

(1) includes a plan to implement activities that have been demonstrated effective in facilitating the successful reentry of offenders; and

(2) provides for an independent evaluation that includes, to the maximum extent feasible, random assignment of offenders or ex-offenders to program delivery and control groups.

(d) **STRATEGIC PERFORMANCE OUTCOMES.**—The Attorney General shall require each applicant under this section to identify specific performance outcomes related to the long-term goal of stabilizing communities by reducing recidivism and re-integrating ex-offenders into society.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Justice to carry out this section \$25,000,000 for each of fiscal years 2007 and 2008.

**SEC. 116. CLARIFICATION OF AUTHORITY TO PLACE PRISONER IN COMMUNITY CORRECTIONS.**

Section 3624(c) of title 18, United States Code, is amended to read as follows:

“(c) **PRERELEASE CUSTODY.**—

“(1) **IN GENERAL.**—The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends 20 percent of the final portion of the term, not to exceed 12 months, to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for the prisoner’s reentry into the community. Such conditions may include a community correctional facility.

“(2) **AUTHORITY.**—This subsection authorizes the Bureau of Prisons to place a prisoner in home confinement for the last 10 percent of the term to be served, not to exceed 6 months.

“(3) **ASSISTANCE.**—The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such prerelease custody.

“(4) **NO LIMITATIONS.**—Nothing in this subsection shall be construed to limit or restrict the authority of the Bureau of Prisons granted under section 3621 of this title.”.

**SEC. 117. GRANTS TO STATES FOR IMPROVED WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.**

Section 821 of the Higher Education Amendments of 1998 (20 U.S.C. 1151) is amended to read as follows:

**“SEC. 821. GRANTS TO STATES FOR IMPROVED WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.**

“(a) **DEFINITION.**—For purposes of this section, the term ‘youth offender’ means a male or female offender under the age of 35, who is incarcerated in a State prison, including a prerelease facility.

“(b) **GRANT PROGRAM.**—The Secretary of Education (in this section referred to as the ‘Secretary’)—

“(1) shall establish a program in accordance with this section to provide grants to the State correctional education agencies in the States, from allocations for the States under subsection (h), to assist and encourage youth offenders to acquire functional literacy, life, and job skills, through—

“(A) the pursuit of a postsecondary education certificate, or an associate or bachelor’s degree while in prison; and

“(B) employment counseling and other related services which start during incarceration and end not later than 1 year after release from confinement; and

“(2) may establish such performance objectives and reporting requirements for State correctional education agencies receiving grants under this section as the Secretary determines are necessary to assess the effectiveness of the program under this section.

“(c) **APPLICATION.**—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

“(1) identifies the scope of the problem, including the number of youth offenders in need of postsecondary education and vocational training;

“(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

“(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

“(4) describes specific performance objectives and evaluation methods (in addition to, and consistent with, any objectives established by the Secretary under subsection (b)(2)) that the State correctional education agency will use in carrying out its proposal, including—

“(A) specific and quantified student outcomes measures that are referenced to outcomes for non-program participants with similar demographic characteristics; and

“(B) measures, consistent with the data elements and definitions described in subsection (d)(1)(A), of—

“(i) program completion, including an explicit definition of what constitutes a program completion within the proposal;

“(ii) knowledge and skill attainment, including specification of instruments that will measure knowledge and skill attainment;

“(iii) attainment of employment both prior to and subsequent to release;

“(iv) success in employment indicated by job retention and advancement; and

“(v) recidivism, including such subindicators as time before subsequent offense and severity of offense;

“(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

“(6) describes how the proposed programs will have considered or will utilize technology to deliver the services under this section; and

“(7) describes how students will be selected so that only youth offenders eligible under subsection (e) will be enrolled in postsecondary programs.

“(d) **PROGRAM REQUIREMENTS.**—Each State correctional education agency receiving a grant under this section shall—

“(1) annually report to the Secretary regarding—

“(A) the results of the evaluations conducted using data elements and definitions provided by the Secretary for the use of State correctional education programs;

“(B) any objectives or requirements established by the Secretary pursuant to subsection (b)(2); and

“(C) the additional performance objectives and evaluation methods contained in the proposal described in subsection (c)(4), as necessary to document the attainment of project performance objectives; and

“(2) expend on each participating eligible student for an academic year, not more than the maximum Federal Pell Grant funded under section 401 of the Higher Education Act of 1965 for such academic year, which shall be used for—

“(A) tuition, books, and essential materials; and

“(B) related services such as career development, substance abuse counseling, parenting skills training, and health education.

“(e) **STUDENT ELIGIBILITY.**—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

“(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

“(2) is 35 years of age or younger.

“(f) **LENGTH OF PARTICIPATION.**—A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma or its recognized equivalent. Educational and related services shall start during the period of incarceration in prison or prerelease, and the related services may continue for not more than 1 year after release from confinement.

“(g) EDUCATION DELIVERY SYSTEMS.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

“(h) ALLOCATION OF FUNDS.—From the funds appropriated pursuant to subsection (i) for each fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (e) in such State bears to the total number of such students in all States.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$30,000,000 for fiscal years 2007 and 2008.”

**SEC. 118. IMPROVED REENTRY PROCEDURES FOR FEDERAL PRISONERS.**

(a) GENERAL REENTRY PROCEDURES.—The Department of Justice shall take such steps as are necessary to modify existing procedures and policies to enhance case planning and to improve the transition of persons from the custody of the Bureau of Prisons to the community, including placement of such individuals in community corrections facilities.

(b) PROCEDURES REGARDING BENEFITS.—

(1) IN GENERAL.—The Bureau of Prisons shall establish reentry planning procedures within the Release Preparation Program that include providing Federal inmates with information in the following areas:

- (A) Health and nutrition.
- (B) Employment.
- (C) Personal finance and consumer skills.
- (D) Information and community resources.
- (E) Release requirements and procedures.
- (F) Personal growth and development.

(2) FORMAT.—Any written information that the Bureau of Prisons provides to inmates for reentry planning purposes shall use common terminology and language. The Bureau of Prisons shall provide the United States Probation and Pretrial Services System with relevant information on the medical care needs and the mental health treatment needs of releasing inmates. The United States Probation and Pretrial Services System shall take this information into account when developing supervision plans in an effort to address the medical care and mental health care needs of these individuals. The Bureau of Prisons shall provide inmates with a sufficient amount of all necessary medications upon release from custody.

**SEC. 119. REAUTHORIZATION OF LEARN AND SERVE AMERICA.**

Section 501(a)(1)(A) of the National and Community Service Act of 1990 (42 U.S.C. 12681(a)(1)(A)) is amended by striking “fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 through 1996” and inserting “fiscal year 2007 and each of the 5 succeeding fiscal years”.

**SEC. 120. JOB CORPS.**

Section 161 of the Workforce Investment Act of 1998 (29 U.S.C. 2901) is amended by striking “such sums as may be necessary” and inserting “\$1,800,000,000 (of which \$300,000,000 shall be designated to create additional Job Corps centers, especially in high gang activity areas)”.

**SEC. 121. WORKFORCE INVESTMENT ACT YOUTH ACTIVITIES.**

Section 137(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2872(a)) is amended by striking “such sums as may be necessary” and inserting “\$1,000,000”.

**SEC. 122. EXPANSION AND REAUTHORIZATION OF THE MENTORING INITIATIVE FOR SYSTEM INVOLVED YOUTH.**

(a) EXPANSION.—Section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. 5665) is amended by insert-

ing at the end the following: “The Administrator shall expand the number of sites receiving such grants from 4 to 12.”

(b) REAUTHORIZATION.—Section 12213(c) of the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. 5671) is amended by striking subsection (c) and inserting the following:

“(c) AUTHORIZATION OF APPROPRIATIONS FOR PART E.—There are authorized to be appropriated to carry out part E, and authorized to remain available until expended, \$4,800,000 for fiscal years 2007, 2008, 2009, 2010, and 2011.”

**SEC. 123. STRATEGIC COMMUNITY PLANNING PROGRAM.**

Section 30701 of the Violent Crime Control Act of 1994 (42 U.S.C. 13801) is amended by inserting the following:

**“SEC. 30701. GRANT AUTHORITY.**

“(a) GRANTS.—

“(1) IN GENERAL.—In order to prevent gang activity by juveniles, the Attorney General may award grants on a competitive basis to eligible local entities to pay for the Federal share of assisting eligible communities to develop and carry out programs that target at-risk youth and juvenile offenders aged 11 to 19, who—

- “(A) have dropped out of school;
- “(B) have come into contact with the juvenile justice system; or
- “(C) are at risk of dropping out of school or coming into contact with the juvenile justice system.

“(2) LIMITATION.—No local entity shall receive a grant of less than \$250,000 in a fiscal year. Amounts made available through such grants shall remain available until expended.

“(b) PROGRAM REQUIREMENTS.—

“(1) PROGRAMS.—A local entity that receives funds under this section shall develop or expand community programs in eligible communities that are designed to target at-risk youths and juvenile offenders through prevention, early intervention, and graduated sanctions.

“(2) OPTIONAL ACTIVITIES.—A local entity that receives funds under this section may develop a variety of programs to serve the comprehensive needs of at-risk youth and juvenile offenders, including—

- “(A) homework assistance and after-school programs, including educational, social, and athletic activities;
- “(B) mentoring programs;
- “(C) family counseling; and
- “(D) parental training programs.

“(c) ELIGIBLE COMMUNITY IDENTIFICATION.—The Attorney General through regulation shall define the criteria necessary to qualify as an eligible community as defined in subsection (g)(3).

“(d) GRANT ELIGIBILITY.—To be eligible to receive a grant under this section, a local entity shall—

- “(1) identify an eligible community to be assisted;
- “(2) develop a community planning process that includes—
  - “(A) parents and family members;
  - “(B) local school officials;
  - “(C) teachers employed at schools within the eligible community;
  - “(D) local public officials;
  - “(E) law enforcement officers and officials;
  - “(F) ministers and faith-based organizations;
  - “(G) public housing authorities;
  - “(H) public housing resident organization members, where applicable; and
  - “(I) public and private nonprofit organizations that provide education, child protective services, or other human services to low-income, at-risk youth and juvenile offenders, and their families; and
- “(3) develop a concentrated strategy for implementation of the community planning

process developed under paragraph (2) that targets clusters of at-risk youth and juvenile offenders in the eligible community.

“(e) APPLICATIONS.—

“(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a local entity shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information, as the Attorney General may reasonably require, and obtain approval of such application.

“(2) CONTENTS OF APPLICATION.—Each application submitted under paragraph (1) shall—

“(A) contain a comprehensive plan for the program that is designed to improve the academic and social development of at-risk youths and juvenile offenders in the eligible community;

“(B) provide evidence of support for accomplishing the objectives of such plan from—

- “(i) community leaders;
- “(ii) a school district;
- “(iii) local officials; and
- “(iv) other organizations that the local entity determines to be appropriate;

“(C) provide an assurance that the local entity will use grant funds received under this subsection to implement the program requirements listed in subsection (b);

“(D) include an estimate of the number of children in the eligible community expected to be served under the program;

“(E) provide an assurance that the local entity shall prepare and submit to the Attorney General an annual report regarding any program conducted under this section; and

“(F) provide an assurance that the local entity will maintain separate accounting records for the program.

“(3) PRIORITY.—In awarding grants to carry out programs under this section, the Attorney General shall give priority to local entities which submit applications that demonstrate the greatest effort in generating local support for the programs.

“(f) FEDERAL SHARE.—

“(1) PAYMENTS.—The Attorney General shall, subject to the availability of appropriations, pay to each local entity having an application approved under subsection (e) the Federal share of the costs of developing and carrying out programs referred to in subsection (b).

“(2) FEDERAL SHARE.—The Federal share of such costs shall be 70 percent.

“(3) NON-FEDERAL SHARE.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including personnel, plant, equipment, and services.

“(g) DEFINITIONS.—For purposes of this section—

“(1) the term ‘Attorney General’ means the Attorney General of the United States;

“(2) the term ‘local entity’ means—

- “(A) a local educational agency, or
- “(B) a community-based organization as defined in section 1471(3) of the Elementary and Secondary Education Act of 1965;

“(3) the term ‘eligible community’ means an area which meets criteria with respect to significant poverty and significant violent crime, and such additional criteria, as the Attorney General may by regulation require.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

- “(1) \$10,000,000 for fiscal year 2007;
- “(2) \$11,000,000 for fiscal year 2008;
- “(3) \$12,000,000 for fiscal year 2009;
- “(4) \$13,000,000 for fiscal year 2010; and
- “(5) \$14,000,000 for fiscal year 2011.”

**SEC. 124. REAUTHORIZATION OF THE GANG RESISTANCE EDUCATION AND TRAINING PROJECTS PROGRAM AND INCREASE FUNDING FOR THE NATIONAL YOUTH GANG SURVEY.**

Section 32401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921) is amended—

(1) in subsection (b), by striking paragraphs (1) through (6) and inserting the following:

- “(A) \$21,000,000 for fiscal year 2007;
  - “(B) \$21,000,000 for fiscal year 2008;
  - “(C) \$21,000,000 for fiscal year 2009;
  - “(D) \$21,000,000 for fiscal year 2010; and
  - “(E) \$21,000,000 for fiscal year 2011;”;
- (2) adding at the end the following:

“(c) USE OF FUNDS.—Up to \$1,000,000 annually of such funds authorized under this Section shall be used to increase the number of samples collected by the National Youth Gang Center for its annual National Youth Gang Survey.”.

**TITLE II—SUPPRESSION AND COMMUNITY ANTI-GANG INITIATIVES**

**Subtitle A—Gang Activity Policing Program**

**SEC. 201. AUTHORITY TO MAKE GANG ACTIVITY POLICING GRANTS.**

The Attorney General may make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address gang activity problems, and otherwise to enhance public safety.

**SEC. 202. ELIGIBLE ACTIVITIES.**

Grants made under this subtitle may include programs, projects, and other activities to—

- (1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment to reduce gang activity;
- (2) hire and train new, additional career law enforcement officers for deployment to reduce gang activity across the Nation;
- (3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in gang activity policing;
- (4) award grants to pay for officers hired to perform intelligence in reducing gang activity;
- (5) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive gang control and prevention by redeploying officers to such activities;
- (6) establish and implement innovative programs to increase and enhance proactive crime control and gang prevention programs involving law enforcement officers and young persons in the community;
- (7) establish school-based partnerships between local law enforcement agencies and local school systems by using school resource officers who operate in and around elementary and secondary schools to combat gangs;
- (8) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reducing gang activity and to train law enforcement officers to use such technologies; and
- (9) support the purchase by a law enforcement agency of no more than 1 service weapon per officer, upon hiring for deployment in gang activity policing or, if necessary, upon existing officers' initial redeployment to gang activity policing.

**SEC. 203. PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.**

In awarding grants under this subtitle, the Attorney General may give preferential consideration, where feasible, to applications—

- (1) for hiring and rehiring additional career law enforcement officers that involve a non-Federal contribution exceeding the 25 percent minimum under this subtitle; and
- (2) that are located in a high intensity interstate gang activity area designated pursuant to section 211.

**SEC. 204. UTILIZATION OF COMPONENTS.**

The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

**SEC. 205. MINIMUM AMOUNT.**

Unless all applications submitted by any State and grantee within the State pursuant to this subtitle have been funded, each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to this subtitle not less than 0.5 percent of the total amount appropriated in the fiscal year for grants pursuant to that section. In this section, “qualifying State” means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the requirements prescribed by the Attorney General and the conditions set out in this subtitle.

**SEC. 206. MATCHING FUNDS.**

The portion of the costs of a program, project, or activity provided by this subtitle may not exceed 75 percent, unless the Attorney General waives, wholly or in part, the requirement under this section of a non-Federal contribution to the costs of a program, project, or activity. In relation to a grant for a period exceeding 1 year for hiring or rehiring career law enforcement officers, the Federal share shall decrease from year to year for up to 5 years, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support.

**SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this subtitle \$700,000,000 for each of the fiscal years 2007 through 2011. Any amount appropriated under this section shall remain available until expended.

**Subtitle B—High Intensity Interstate Gang Activity Areas**

**SEC. 211. DESIGNATION OF AND ASSISTANCE FOR “HIGH INTENSITY” INTERSTATE GANG ACTIVITY AREAS.**

(a) DEFINITIONS.—In this section the following definitions shall apply:

- (1) GOVERNOR.—The term “Governor” means a Governor of a State or the Mayor of the District of Columbia.
- (2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA.—The term “high intensity interstate gang activity area” means an area within a State that is designated as a high intensity interstate gang activity area under subsection (b)(1).
- (3) STATE.—The term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States. The term “State” shall include an “Indian tribe”, as defined by section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.—

(1) DESIGNATION.—The Attorney General, after consultation with the Governors of appropriate States, may designate as high intensity interstate gang activity areas, specific areas that are located within 1 or more States. To the extent that the goals of a high intensity interstate gang activity area

(HIIGAA) overlap with the goals of a high intensity drug trafficking area (HIDTA), the Attorney General may merge the 2 areas to serve as a dual-purpose entity. The Attorney General may not make the final designation of a high intensity interstate gang activity area without first consulting with and receiving comment from local elected officials representing communities within the State of the proposed designation.

(2) ASSISTANCE.—In order to provide Federal assistance to high intensity interstate gang activity areas, the Attorney General shall—

(A) establish criminal street gang enforcement teams, consisting of Federal, State, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity interstate gang activity area;

(B) direct the reassignment or detailing from any Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to each criminal street gang enforcement team; and

(C) provide all necessary funding for the operation of the criminal street gang enforcement team in each high intensity interstate gang activity area.

(3) COMPOSITION OF CRIMINAL STREET GANG ENFORCEMENT TEAM.—The team established pursuant to paragraph (2)(A) shall consist of agents and officers, where feasible, from—

- (A) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
- (B) the Department of Homeland Security;
- (C) the Department of Housing and Urban Development;
- (D) the Drug Enforcement Administration;
- (E) the Internal Revenue Service;
- (F) the Federal Bureau of Investigation;
- (G) the United States Marshal's Service;
- (H) the United States Postal Service;
- (I) State and local law enforcement; and
- (J) Federal, State and local prosecutors.

(4) CRITERIA FOR DESIGNATION.—In considering an area for designation as a high intensity interstate gang activity area under this section, the Attorney General shall consider—

(A) the current and predicted levels of gang crime activity in the area;

(B) the extent to which violent crime in the area appears to be related to criminal street gang activity, such as drug trafficking, murder, robbery, assaults, carjacking, arson, kidnapping, extortion, and other criminal activity;

(C) the extent to which State and local law enforcement agencies have committed resources to—

- (i) respond to the gang crime problem; and
- (ii) participate in a gang enforcement team;

(D) the extent to which a significant increase in the allocation of Federal resources would enhance local response to the gang crime activities in the area; and

(E) any other criteria that the Attorney General considers to be appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated \$100,000,000 for each of the fiscal years 2007 to 2011 to carry out this section.

(2) USE OF FUNDS.—Of amounts made available under paragraph (1) in each fiscal year—

(A) 50 percent shall be used to carry out subsection (b)(2); and

(B) 50 percent shall be used to make grants available for community-based programs to provide crime prevention, research, and intervention services that are designed for gang members and at-risk youth in areas designated pursuant to this section as high intensity interstate gang activity areas.

(3) REPORTING REQUIREMENTS.—By February 1st of each year, the Attorney General shall provide a report to Congress which describes, for each designated high intensity interstate gang activity area—

(A) the specific long-term and short-term goals and objectives;

(B) the measurements used to evaluate the performance of the high intensity interstate gang activity area in achieving the long-term and short-term goals;

(C) the age, composition, and membership of “gangs”;

(D) the number and nature of crimes committed by “gangs”; and

(E) the definition of the term “gang” used to compile this report.

#### Subtitle C—Additional Funding

#### SEC. 221. ADDITIONAL RESOURCES NEEDED BY THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE AND PROSECUTE VIOLENT CRIMINAL STREET GANGS.

(a) RESPONSIBILITIES OF ATTORNEY GENERAL.—The Attorney General is authorized to require the Federal Bureau of Investigation to—

(1) increase funding for the Safe Streets Program; and

(2) support the criminal street gang enforcement teams, established under section 211(b), in designated high intensity interstate gang activity areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise authorized, there are authorized to be appropriated to the Attorney General \$5,000,000 for each of the fiscal years 2007 through 2011 to carry out the Safe Streets Program.

(2) AVAILABILITY.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

#### SEC. 222. GRANTS TO PROSECUTORS AND LAW ENFORCEMENT TO COMBAT VIOLENT CRIME AND TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) to hire additional prosecutors to—

“(A) allow more cases to be prosecuted; and

“(B) reduce backlogs;

“(6) to fund technology, equipment, and training for prosecutors and law enforcement in order to increase accurate identification of gang members and violent offenders, and to maintain databases with such information to facilitate coordination among law enforcement and prosecutors; and

“(7) to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.”

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

#### “SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated \$20,000,000 for each of the fiscal years 2007 through 2011 to carry out this subtitle.

“(b) USE OF FUNDS.—Of the amounts made available under subsection (a), in each fiscal year 60 percent shall be used to carry out section 31702(7) to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.”

#### SEC. 223. ENHANCEMENT OF PROJECT SAFE NEIGHBORHOODS INITIATIVE TO IMPROVE ENFORCEMENT OF CRIMINAL LAWS AGAINST VIOLENT GANGS.

(a) IN GENERAL.—While maintaining the focus of Project Safe Neighborhoods as a comprehensive, strategic approach to reducing gun violence in America, the Attorney General is authorized to expand the Project Safe Neighborhoods program to require each United States attorney to—

(1) identify, investigate, and prosecute significant criminal street gangs operating within their district;

(2) coordinate the identification, investigation, and prosecution of criminal street gangs among Federal, State, and local law enforcement agencies; and

(3) coordinate and establish criminal street gang enforcement teams, established under section 110(b), in high intensity interstate gang activity areas within a United States attorney’s district.

(b) ADDITIONAL STAFF FOR PROJECT SAFE NEIGHBORHOODS.—

(1) IN GENERAL.—The Attorney General may hire Assistant United States attorneys, non-attorney coordinators, or paralegals to carry out the provisions of this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$7,500,000 for each of the fiscal years 2007 through 2011 to carry out this section.

#### TITLE III—PUNISHMENT AND IMPROVED CRIME DATA

#### SEC. 301. CRIMINAL STREET GANGS.

(a) CRIMINAL STREET GANG PROSECUTIONS.—Section 521 of title 18, United States Code, is amended to read as follows:

#### “§ 521. Criminal street gang prosecutions

“(a) DEFINITIONS.—As used in this chapter:

“(1) CRIMINAL STREET GANG.—The term ‘criminal street gang’ means a formal or informal group, club, organization, or association of 3 or more individuals, who individually, jointly, or in combination, have committed or attempted to commit for the direct or indirect benefit of, at the direction of, in furtherance of, or in association with the group, club organization, or association at least 2 separate acts, each of which is a predicate gang crime, 1 of which occurs after the date of enactment of the Gang Prevention and Effective Deterrence Act of 2004 and the last of which occurs not later than 10 years (excluding any period of imprisonment) after the commission of a prior predicate gang crime, and 1 predicate gang crime is a crime of violence or involves manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemicals (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) provided that the activities of the criminal street gang affect interstate or foreign commerce, or involve the use of any facility of, or travel in, interstate or foreign commerce.

“(2) PREDICATE GANG CRIME.—The term ‘predicate gang crime’ means—

“(A) any act, threat, conspiracy, or attempted act, which is chargeable under Federal or State law and punishable by imprisonment for more than 1 year involving—

“(i) murder;

“(ii) manslaughter;

“(iii) maiming;

“(iv) assault with a dangerous weapon;

“(v) assault resulting in serious bodily injury;

“(vi) gambling;

“(vii) kidnapping;

“(viii) robbery;

“(ix) extortion;

“(x) arson;

“(xi) obstruction of justice;

“(xii) tampering with or retaliating against a witness, victim, or informant;

“(xiii) burglary;

“(xiv) sexual assault (which means any offense that involves conduct that would violate chapter 109A if the conduct occurred in the special maritime and territorial jurisdiction);

“(xv) carjacking; or

“(xvi) manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemicals (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

“(B) any act punishable by imprisonment for more than 1 year under—

“(i) section 844 (relating to explosive materials);

“(ii) section 922(g)(1) (where the underlying conviction is a violent felony (as defined in section 924(e)(2)(B) of this title) or is a serious drug offense (as defined in section 924(e)(2)(A) of this title));

“(iii) subsection (a)(2), (b), (c), (g), or (h) of section 924 (relating to receipt, possession, and transfer of firearms);

“(iv) sections 1028 and 1029 (relating to fraud and related activity in connection with identification documents or access devices);

“(v) section 1503 (relating to obstruction of justice);

“(vi) section 1510 (relating to obstruction of criminal investigations);

“(vii) section 1512 (relating to tampering with a witness, victim, or informant), or section 1513 (relating to retaliating against a witness, victim, or informant);

“(viii) section 1708 (relating to theft of stolen mail matter);

“(ix) section 1951 (relating to interference with commerce, robbery or extortion);

“(x) section 1952 (relating to racketeering);

“(xi) section 1956 (relating to the laundering of monetary instruments);

“(xii) section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity);

“(xiii) section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire); or

“(xiv) sections 2312 through 2315 (relating to interstate transportation of stolen motor vehicles or stolen property); or

“(C) any act involving the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose).

“(3) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

“(b) PARTICIPATION IN CRIMINAL STREET GANGS.—It shall be unlawful—

“(1) to commit, or conspire or attempt to commit a predicate crime—

“(A) in furtherance or in aid of the activities of a criminal street gang;

“(B) for the purpose of gaining entrance to or maintaining or increasing position in such a gang; or

“(C) for the direct or indirect benefit of the criminal street gang, or in association with the criminal street gang; or

“(2) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime—

“(A) in furtherance or in aid of the activities of a criminal street gang;

“(B) for the purpose of gaining entrance to or maintaining or increasing position in such a gang; or

“(C) for the direct or indirect benefit or the criminal street gang, or in association with the criminal street gang.

“(C) PENALTIES.—Whoever violates paragraph (1) or (2) of subsection (b)—

“(1) shall be fined under this title, imprisoned for not more than 30 years, or both; and

“(2) if the violation is based on a predicate gang crime for which the maximum penalty includes life imprisonment, shall be fined under this title, imprisoned for any term of years or for life, or both.

“(d) FORFEITURE.—

“(1) IN GENERAL.—The court, in imposing sentence on a person who is convicted of an offense under this section, shall order that the defendant forfeit to the United States—

“(A) any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; and

“(B) any property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

“(2) CRIMINAL PROCEDURES.—The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section, and in rule 32.2 of the Federal Rules of Criminal Procedure, shall apply to all stages of a criminal forfeiture proceeding under this section.

“(3) CIVIL PROCEDURES.—Property subject to forfeiture under paragraph (1) may be forfeited in a civil case pursuant to the procedures set forth in chapter 46 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 26 of title 18, United States Code, is amended to read as follows:

“521. Criminal street gang prosecutions.”.

**SEC. 302. VIOLENT CRIMES IN FURTHERANCE OR IN AID OF CRIMINAL STREET GANGS.**

(a) VIOLENT CRIMES AND CRIMINAL STREET GANG RECRUITMENT.—Chapter 26 of title 18, United States Code, as amended by section 301, is amended by adding at the end the following:

**“§ 523. Violent crimes in furtherance or in aid of a criminal street gang**

“(a) Any person who, for the purpose of gaining entrance to or maintaining or increasing position in, or in furtherance or in aid of, or for the direct or indirect benefit of, or in association with a criminal street gang, or as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value to or from a criminal street gang, murders, kidnaps, sexually assaults (which means any offense that involved conduct that would violate chapter 109A if the conduct occurred in the special maritime and territorial jurisdiction), maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, commits any other crime of violence or threatens to commit a crime of violence against any individual, or attempts or conspires to do so, shall be punished, in addition and consecutive to the punishment provided for any other violation of this chapter—

“(1) for murder, by imprisonment for any term of years or for life, a fine under this title, or both;

“(2) for kidnapping or sexual assault, by imprisonment for any term of years or for life, a fine under this title, or both;

“(3) for maiming, by imprisonment for any term of years or for life, a fine under this title, or both;

“(4) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years, a fine under this title, or both;

“(5) for any other crime of violence, by imprisonment for not more than 20 years, a fine under this title, or both;

“(6) for threatening to commit a crime of violence specified in paragraphs (1) through (4), by imprisonment for not more than 10 years, a fine under this title, or both;

“(7) for attempting or conspiring to commit murder, kidnapping, maiming, or sexual assault, by imprisonment for not more than 30 years, a fine under this title, or both; and

“(8) for attempting or conspiring to commit a crime involving assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 20 years, a fine under this title, or both.

“(b) DEFINITION.—In this section, the term ‘criminal street gang’ has the same meaning as in section 521 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 26 of title 18, United States Code, is amended by adding at the end the following:

“522. Recruitment of persons to participate in a criminal street gang.

“523. Violent crimes in furtherance of a criminal street gang.”.

**SEC. 303. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING ENTERPRISES AND CRIMINAL STREET GANGS.**

Section 1952 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “and thereafter performs or attempts to perform” and inserting “and thereafter performs, or attempts or conspires to perform”; and

(B) by striking “5 years” and inserting “10 years”;

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following:

“(b) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with the intent to kill, assault, bribe, force, intimidate, or threaten any person, to delay or influence the testimony of, or prevent from testifying, a witness in a State criminal proceeding and thereafter performs, or attempts or conspires to perform, an act described in this subsection, shall—

“(1) be fined under this title, imprisoned for any term of years, or both; and

“(2) if death results, imprisoned for any term of years or for life.”; and

(4) in subsection (c)(2), as redesignated under subparagraph (B), by inserting “intimidation of, or retaliation against, a witness, victim, juror, or informant,” after “extortion, bribery,”.

**SEC. 304. AMENDMENTS RELATING TO VIOLENT CRIME IN AREAS OF EXCLUSIVE FEDERAL JURISDICTION.**

(a) ASSAULT WITHIN MARITIME AND TERRITORIAL JURISDICTION OF UNITED STATES.—Section 113(a)(3) of title 18, United States Code, is amended by striking “with intent to do bodily harm, and without just cause or excuse.”.

(b) MANSLAUGHTER.—Section 1112(b) of title 18, United States Code, is amended by—

(1) striking “ten years” and inserting “20 years”; and

(2) striking “six years” and inserting “10 years”.

(c) OFFENSES COMMITTED WITHIN INDIAN COUNTRY.—Section 1153(a) of title 18, United States Code, is amended by inserting “an offense for which the maximum statutory term of imprisonment under section 1363 is greater than 5 years,” after “a felony under chapter 109A.”.

(d) RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “, or would have been so chargeable if the act or threat (other than lawful forms of gambling) had not been committed in Indian country (as defined in section 1151) or in any other area of exclusive Federal jurisdiction,” after “chargeable under State law”; and

(2) in subparagraph (B), by inserting “section 1123 (relating to multiple interstate murder),” after “section 1084 (relating to the transmission of wagering information),”.

(e) CARJACKING.—Section 2119 of title 18, United States Code, is amended by striking “, with the intent to cause death or serious bodily harm”.

(f) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIOLENCE.—Section 924(h) of title 18, United States Code, is amended to read as follows:

“(h) ILLEGAL TRANSFERS.—Whoever knowingly transfers a firearm, knowing that the firearm will be used to commit, or possessed in furtherance of, a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)), shall be imprisoned for not more than 10 years, fined under this title, or both.”.

(g) AMENDMENT OF SPECIAL SENTENCING PROVISION.—Section 3582(d) of title 18, United States Code, is amended—

(1) by striking “chapter 95 (racketeering) or 96 (racketeer influenced and corrupt organizations) of this title” and inserting “section 521 (criminal street gangs) or 522 (violent crimes in furtherance or in aid of criminal street gangs), in chapter 95 (racketeering) or 96 (racketeer influenced and corrupt organizations),”; and

(2) by inserting “a criminal street gang or” before “an illegal enterprise”.

(h) CONFORMING AMENDMENT RELATING TO ORDERS FOR RESTITUTION.—Section 3663(c)(4) of title 18, United States Code, is amended by striking “chapter 46 or chapter 96 of this title” and inserting “section 521, under chapter 46 or 96.”.

(i) SPECIAL PROVISION FOR INDIAN COUNTRY.—No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to section 3559(e) of title 18, United States Code, for any offense for which Federal jurisdiction is solely predicated on Indian country (as defined in section 1151 of such title 18) and which occurs within the boundaries of such Indian country unless the governing body of such Indian tribe elects to subject the persons under the criminal jurisdiction of the tribe to section 3559(e) of such title 18.

**SEC. 305. INCREASED PENALTIES FOR USE OF INTERSTATE COMMERCE FACILITIES IN THE COMMISSION OF MURDER-FOR-HIRE AND OTHER FELONY CRIMES OF VIOLENCE.**

Section 1958 of title 18, United States Code, is amended—

(1) by striking the header and inserting the following:

**“§ 1958. Use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence”;**

(2) in subsection (a), by striking “Whoever” through “conspires to do so” and inserting the following:

“(a) Any person who travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility in interstate or foreign commerce, with intent that a murder or other felony crime of violence be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, or who conspires to do so—”.

(3) striking “ten” and inserting “20”; and  
 (4) by striking “twenty” and inserting “30”.

**SEC. 306. INCREASED PENALTIES FOR VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.**

Section 1959(a) of title 18, United States Code, is amended—

(1) by striking “Whoever” through “punished” and inserting the following:

“(a) Any person who, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, or in furtherance or in aid of an enterprise engaged in racketeering activity, murders, kidnaps, sexually assaults (which means any offense that involved conduct that would violate chapter 109A if the conduct occurred in the special maritime and territorial jurisdiction), maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires to do so, shall be punished, in addition and consecutive to the punishment provided for any other violation of this chapter—”;

(2) by striking paragraphs (2) through (6) and inserting the following:

“(2) for kidnapping or sexual assault, by imprisonment for any term of years or for life, a fine under this title, or both;

“(3) for maiming, by imprisonment for any term of years or for life, a fine under this title, or both;

“(4) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years, a fine under this title, or both;

“(5) for threatening to commit a crime of violence, by imprisonment for not more than 10 years, a fine under this title, or both;

“(6) for attempting or conspiring to commit murder, kidnapping, maiming, or sexual assault, by imprisonment for not more than 30 years, a fine under this title, or both; and

“(7) for attempting or conspiring to commit assault with a dangerous weapon or assault which would result in serious bodily injury, by imprisonment for not more than 20 years, a fine under this title, or both.”.

**SEC. 307. VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.**

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

“VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME

“SEC. 424. (a) IN GENERAL.—Any person who, during and in relation to any drug trafficking crime, murders, kidnaps, sexually assaults (which means any offense that involved conduct that would violate chapter 109A if the conduct occurred in the special maritime and territorial jurisdiction), maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, commits any other crime of violence or threatens to commit a crime of violence against, any individual, or attempts or conspires to do so, shall be punished, in addition and consecutive to the punishment provided for the drug trafficking crime—

“(1) in the case of murder, by imprisonment for any term of years or for life, a fine under title 18, United States Code, or both;

“(2) in the case of kidnapping or sexual assault by imprisonment for any term of years or for life, a fine under such title 18, or both;

“(3) in the case of maiming, by imprisonment for any term of years or for life, a fine under such title 18, or both;

“(4) in the case of assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment not more than 30 years, a fine under such title 18, or both;

“(5) in the case of committing any other crime of violence, by imprisonment for not more than 20 years, a fine under this title, or both;

“(6) in the case of threatening to commit a crime of violence specified in paragraphs (1) through (4), by imprisonment for not more than 10 years, a fine under such title 18, or both;

“(7) in the case of attempting or conspiring to commit murder, kidnapping, maiming, or sexual assault, by imprisonment for not more than 30 years, a fine under such title 18, or both; and

“(8) in the case of attempting or conspiring to commit a crime involving assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 20 years, a fine under such title 18, or both.

“(b) VENUE.—A prosecution for a violation of this section may be brought in—

“(1) the judicial district in which the murder or other crime of violence occurred; or

“(2) any judicial district in which the drug trafficking crime may be prosecuted.

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘crime of violence’ has the meaning given that term in section 16 of title 18, United States Code; and

“(2) the term ‘drug trafficking crime’ has the meaning given that term in section 924(c)(2) of title 18, United States Code.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Controlled Substances Act is amended by inserting after the item relating to section 423, the following:

“Sec. 424. Violent crimes committed during and in relation to a drug trafficking crime.”.

**SEC. 308. EXPANSION OF REBUTTABLE PRESUMPTION AGAINST RELEASE OF PERSONS CHARGED WITH FIREARMS OFFENSES.**

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e), in the matter following paragraph (3)—

(A) by inserting “an offense under section 922(g)(1) where the underlying conviction is a serious drug offense as defined in section 924(e)(2)(A) of title 18, United States Code, for which a period of not more than 10 years has elapsed since the date of the conviction or the release of the person from imprisonment, whichever is later, or is a serious violent felony as defined in section 3559(c)(2)(F) of title 18, United States Code,” after “that the person committed”; and

(B) by inserting “or” before “the Maritime”;

(2) in subsection (f)(1)—

(A) in subparagraph (C), by striking “or” at the end; and

(B) by adding at the end the following:

“(E) an offense under section 922(g); or”;

and

(3) in subsection (g), by amending paragraph (1) to read as follows:

“(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, or involves a drug, firearm, explosive, or destructive device;”.

**SEC. 309. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

(a) IN GENERAL.—Chapter 214 of title 18, United States Code, is amended by adding at the end the following:

**“§ 3297. Violent crime offenses**

“Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any noncapital felony, crime of violence (as defined in section 16), including any racketeering activity or gang crime which involves any violent crime, unless the indictment is found or the information is instituted by the later of—

“(1) 10 years after the date on which the alleged violation occurred;

“(2) 10 years after the date on which the continuing offense was completed; or

“(3) 8 years after the date on which the alleged violation was first discovered.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 214 of title 18, United States Code, is amended by adding at the end the following:

“3296. Violent crime offenses.”.

**SEC. 310. PREDICATE CRIMES FOR AUTHORIZATION OF INTERCEPTION OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.**

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (q), by striking “or.”;

(2) by redesignating paragraph (r) as paragraph (u); and

(3) by inserting after paragraph (q) the following:

“(r) any violation of section 424 of the Controlled Substances Act (relating to murder and other violent crimes in furtherance of a drug trafficking crime);

“(s) any violation of 1123 of title 18, United States Code (relating to multiple interstate murder);

“(t) any violation of section 521, 522, or 523 (relating to criminal street gangs); or”.

**SEC. 311. CLARIFICATION TO HEARSAY EXCEPTION FOR FORFEITURE BY WRONGDOING.**

Rule 804(b)(6) of the Federal Rules of Evidence is amended to read as follows:

“(6) **Forfeiture by wrongdoing.** A statement offered against a party that has engaged, acquiesced, or conspired, in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.”.

**SEC. 312. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.**

Section 1513 of title 18, United States Code, is amended by—

(1) redesignating subsection (e) beginning with “Whoever conspires” as subsection (f); and

(2) adding at the end the following:

“(g) A prosecution under this section may be brought in the district in which the official proceeding (whether or not pending, about to be instituted or was completed) was intended to be affected or was completed, or in which the conduct constituting the alleged offense occurred.”.

**SEC. 313. AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN GANG AND VIOLENT CRIMES.**

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements to conform to the provisions of title I and this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) establish new guidelines and policy statements, as warranted, in order to implement new or revised criminal offenses created under this title;

(2) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set

forth in this title, the growing incidence of serious gang and violent crimes, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(3) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for gang and violent crimes—

(i) are sufficient to deter and punish such offenses; and

(ii) are adequate in view of the statutory increases in penalties contained in the Act; and

(B) whether any existing or new specific offense characteristics should be added to reflect congressional intent to increase gang and violent crime penalties, punish offenders, and deter gang and violent crime;

(4) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(5) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(6) make any necessary conforming changes to the sentencing guidelines; and

(7) assure that the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

**SEC. 314. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL STREET GANG ACTIVITY.**

Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

**“§ 522. Recruitment of persons to participate in a criminal street gang**

“(a) PROHIBITED ACTS.—It shall be unlawful for any person to recruit, employ, solicit, induce, command, or cause another person to be or remain as a member of a criminal street gang, or conspire to do so, with the intent to cause that person to participate in an offense described in section 521(a).

“(b) DEFINITION.—In this section:

“(1) CRIMINAL STREET GANG.—The term ‘criminal street gang’ shall have the same meaning as in section 521(a) of this title.

“(2) MINOR.—The term ‘minor’ means a person who is less than 18 years of age.

“(c) PENALTIES.—Any person who violates subsection (a) shall—

“(1) be imprisoned not more than 5 years, fined under this title, or both; or

“(2) if the person recruited, solicited, induced, commanded, or caused to participate or remain in a criminal street gang is under the age of 18—

“(A) be imprisoned for not more than 10 years, fined under this title, or both; and

“(B) at the discretion of the sentencing judge, be liable for any costs incurred by the Federal Government, or by any State or local government, for housing, maintaining, and treating the person until the person attains the age of 18 years.”

**SEC. 315. INCREASED PENALTIES FOR CRIMINAL USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING.**

(a) IN GENERAL.—Section 924(c)(1)(A) of title 18, United States Code, is amended—

(1) by striking “shall” and inserting “or conspires to commit any of the above acts, shall, for each instance in which the firearm is used, carried, or possessed”;

(2) in clause (i), by striking “5 years” and inserting “7 years”; and

(3) by striking clause (ii).

(b) CONFORMING AMENDMENTS.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (c), by striking paragraph (4); and

(2) by striking subsection (o).

**SEC. 316. POSSESSION OF FIREARMS BY DANGEROUS FELONS.**

(a) IN GENERAL.—Section 924(e) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting after “violates section 922(g) of this title” and before “and has three previous convictions” the following: “and has previously been convicted by any court referred to in section 922(g)(1) for a violent felony or a serious drug offense shall, in the case of 1 such prior conviction, where a period of not more than 10 years has elapsed since the date of the conviction or release of the person from imprisonment for that conviction, be subject to imprisonment for not more than 15 years a fine under this title, or both; in the case of 2 such prior convictions, committed on occasions different from one another, and where a period of not more than 10 years has elapsed since the date of the conviction or release of the person from imprisonment for that conviction, be subject to imprisonment for not more than 20 years a fine under this title, or both; and in the case of an individual who”; and

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

“(2) As used in this subsection—

“(A) the term ‘serious drug offense’ means—

“(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), punishable by a maximum term of imprisonment of not less than 10 years; or

“(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), punishable by a maximum term of imprisonment of not less than 10 years;

“(B) the term ‘violent felony’ means any crime punishable by a term of imprisonment exceeding 1 year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by a maximum term of imprisonment for such term if committed by an adult, that—

“(i) has, as an element of the crime or act, the use, attempted use, or threatened use of physical force against the person of another; or

“(ii) is burglary, arson, or extortion, involves the use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

“(C) the term ‘conviction’ includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.”

(b) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide for an appropriate increase in the offense level for violations of section 922(g) of title 18, United States Code, in accordance with section 924(e) of such title 18, as amended by subsection (a).

(c) CONFORMING AMENDMENT.—The matter before paragraph (1) in section 922(d) of title 18, United States Code, is amended by inserting “, transfer,” after “sell”.

**SEC. 317. STANDARDIZATION OF CRIME REPORTING.**

(a) EXPANDING UNIFORM CRIME REPORTING.—Section 7332(c) of the Uniform Federal Crime Reporting Act of 1988 (28 U.S.C. 534 note) is amended by—

(1) in paragraph (2), by—

(A) inserting “along with all municipality police departments” after “which routinely investigate complaints of criminal activity.”; and

(B) adding at the end the following: “The Attorney General shall create a separate category in the Uniform Crime Reports to distinguish crimes committed by juveniles.”; and

(2) in paragraph (3), by inserting “, officials of municipalities,” after “State governments”.

(b) CONSOLIDATING AND STANDARDIZING ALL CRIME DATA.—Section 15008 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14062) is amended—

(1) in subsection (a), by—

(A) inserting “, consolidate, and standardize all” after “strategy to coordinate”;

(B) inserting “and crime (that would be included in the Uniform Crime Reports) related” after “gang-related”;

(C) striking “and” after “shall acquire” and inserting “, consolidate, and standardize all” after “shall acquire, collect”; and

(D) inserting “and other crimes that would be included in the Uniform Crime Reports” after “incidents of gang violence”;

(2) in subsection (c), by—

(A) inserting “the efforts and strategy of the Department of Justice in consolidating and standardizing data on all crime and” after “prepare a report on”;

(B) striking “violence” after “national gang” and inserting “offenses”; and

(C) striking “1996” after “January 1,” and inserting “2008”; and

(3) in subsection (d), by—

(A) striking “\$1,000,000” after “carry out this section” and substituting “\$2,000,000”; and

(B) striking “1996” after “fiscal year,” and inserting “2007”.

**SEC. 318. PROVIDING ADDITIONAL FORENSIC EXAMINERS.**

Section 816 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (28 U.S.C. 509) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (5) as (6) and inserting after paragraph (4) the following:

“(5) to hire additional forensic examiners to help with forensic work and to fight gang activity; and”; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) AUTHORIZATION.—There is hereby authorized to be appropriated in each fiscal year \$55,000,000 for purposes of carrying out this section.”

**SEC. 319. STUDY ON EXPANDING FEDERAL AUTHORITY FOR JUVENILE OFFENDERS.**

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the costs and benefits associated with expanding Federal authority to prosecute offenders under the age of 18 who are gang members who commit criminal offenses.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) examine the ability of the judicial systems of the States to respond effectively to juveniles who are members of ‘criminal street gangs’, as defined under section 521 of title 18, United States Code;

(2) examine the extent to which offenders who are 16 and 17 years old are members of criminal street gangs, and are accused of committing violent crimes and prosecuted in the adult criminal justice systems of the individual States;

(3) determine the percentage of crimes committed by members of ‘criminal street

gangs' that are committed by offenders who are 16 and 17 years old;

(4) examine the extent to which United States attorneys currently bring criminal indictments and prosecute offenders under the age of 18, and the extent to which United States attorneys' offices include prosecutors with experience prosecuting juveniles for adult criminal violations;

(5) examine the extent to which the Bureau of Prisons houses offenders under the age of 18, and has the ability and experience to meet the needs of young offenders;

(6) estimate the cost to the Federal Government of prosecuting and incarcerating 16 and 17 year olds who are members of criminal street gangs and are accused of violent crimes; and

(7) detail any benefits for Federal prosecutions that would be realized by expanding Federal authority to bring charges against 16 and 17 year olds who are members of criminal street gangs and are accused of violent crimes.

By Mrs. CLINTON:

S. 4029. A bill to increase the number of well-educated nurses, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to introduce the Nursing Education and Quality of Health Care Act of 2006. This legislation is essential for addressing our current and future nursing shortages.

I have been hearing from nurses and health care providers from every part of New York that we are facing an impending nursing crisis and their stories echo what is heard from nurses across the Nation.

By 2014, the Bureau of Labor Statistics forecasts that there will be over 1 million job openings for registered nurses. In New York alone, we will need to produce over 80,000 new RNs to meet these projections. One of our greatest needs will be in rural areas where the pool of nurses is small and the loss of just one nurse from the workforce can have a profound impact on the health of the community.

I can proudly say we have made good progress in New York on one front. In 2006, 30 percent more registered nurses graduated than in 2004. I believe that we can credit this increase to the Nurse Reinvestment Act that was signed into law in 2002. Through this bipartisan legislation, we were able to make great strides in strengthening our nation's nursing workforce.

The Nurse Reinvestment Act includes a number of critical initiatives including one from the bipartisan bill I introduced with Senator GORDON SMITH to retain nurses who are already in the profession. The Clinton-Smith provision provides grants to health care organizations that develop and implement models based on magnet hospitals. Hospitals that have achieved magnet status report lower mortality rates, higher patient satisfaction, greater cost-efficiency, and patients experiencing shorter stays in hospitals and intensive care units.

But I am here today because nurses are still facing an urgent situation that requires action. Even though we

are making strides to graduate more nurses, in 2005 over 37,000 qualified applicants were turned away from nursing schools in United States. In New York, it is estimated that nearly 3,000 nursing school applicants were denied entry. Put simply, we don't have the capacity in our nursing schools to train qualified potential students.

Not only are we facing a nursing shortage, we are setting ourselves up for a potential nursing crisis if we don't address the impending faculty shortage. This situation will become dire if we lose potential nurses due to the retirement of nurse faculty as that the aging population increases.

We need to pave the way and recruit more people into the nursing profession. This shortage crisis impacts not only the nurses, but also patients since we know that the quality of care increases when nurses are not working too many hours, are not treating too many patients, and are satisfied with their jobs.

Today I am here to support recruitment, education, and training to help alleviate this crisis in New York and in the rest of the nation through introduction of the Nursing Education and Quality of Health Care Act of 2006. This act will establish distance learning opportunities for people in rural communities who wish to pursue the nursing profession without leaving their home town. This legislation will also provide tuition assistance and loan forgiveness for those who choose to practice in rural communities.

To increase the number of nurses in the workforce we need to expand the nursing faculty so that thousands of qualified people are not turned away from the profession. This legislation will fund programs that will enhance recruitment, scholarships, and educational preparation and encourage more nurses to become faculty members by establishing online courses and accelerated degree programs.

We need for nurses to participate and collaborate in patient-safety initiatives for the well-being of patients. The Nursing Education and Quality of Health Care Act will take the lead on this issue by supporting projects that integrate patient safety practices into nursing education programs and enhance the leadership of nurses in improving patients' outcomes within their health care settings.

We will all rely on nurses sometime in our life, and we need to make sure that this essential member of the health care team will always be present at our bedsides.

I am pleased to be here encouraging Nurses, who are so critical to the successful operation of our hospitals and the quality of care patients receive. We should be doing everything we can to address the nursing shortage and to make nursing an attractive and rewarding profession.

The Nursing Education and Quality of Health Care Act of 2006 is supported by: American Association of Colleges

of Nursing; American Nursing Association; American Organization of Nurse Executives; Brooklyn Nursing Partnership; New York State Area Health Education Center System

By Mr. HATCH:

S. 4030. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the REIT Investment Diversification and Empowerment Act of 2006 (RIDEA). This legislation would make a handful of relatively minor, but nonetheless important, changes to the tax rules governing Real Estate Investment Trusts to permit REITs to better meet the challenges of evolving market conditions and opportunities.

As most of my colleagues know, Real Estate Investment Trusts are companies that own, and in most cases, operate income-producing real estate. Congress created REITs in 1960 to give everyone the ability to invest in large-scale commercial properties in a very liquid way. The REIT industry has grown dramatically in size and importance to the U.S. economy since then, and in the last ten years in particular.

While the tax laws governing REITs are very good, from time to time they need to be modified to keep pace with the changes in the marketplace and in our economy. I am pleased to have supported, along with many of my colleagues, several tax bills that have been enacted in the past decade or so to modernize the tax treatment of Real Estate Investment Trusts.

Federal tax law requires that REITs meet specific tests regarding the composition of their gross income and assets. For example, 95 percent of their annual gross income must be from specified sources such as dividends, interests and rents, and 75 percent of their gross income must be from real estate-related sources. Similarly, at the end of each calendar quarter, 75 percent of a REIT's assets must consist of specified "real estate" assets. Consequently, REITs must derive a majority of their gross income from commercial real estate.

Failure to meet these tests can result in loss of REIT status, although with the enactment of the REIT Improvement Act in 2004, it may be possible for a REIT to pay a monetary penalty and bring itself into compliance in order to avoid such a result if the REIT can demonstrate reasonable cause for such failure.

Commercial real estate represents more than six percent of this country's gross domestic product and is a key generator of jobs and other economic activities. For example, REITs have invested over \$1.2 billion in my home State of Utah and have thus been a major contributor to our robust economy. Over the past 46 years, Real Estate Investment Trusts have fulfilled

Congress' vision by making investments in large scale, capital intensive commercial real estate available to all investors.

Changes to the REIT rules that Congress has made in the past decade have allowed REITs to serve better their tenants while maximizing returns to REIT shareholders.

The bill I introduce today would further modify the REIT tax rules to conform to constantly evolving business realities, such as the growing importance of cross-border trade and the increased velocity of the competitive marketplace, while still focusing REITs on commercial real estate activities.

Specifically, the bill includes five titles.

The first would clarify the tax treatment of foreign currency gains attributable to overseas real estate investment. This is important as U.S. REITs continue to expand their investments overseas.

The second title would increase the permissible ownership of a REIT in a taxable REIT subsidiary to 25 percent from the current-law 20 percent. This change would bring the REIT rules into conformity with similar rules governing mutual funds.

Title III of the bill would update the safe harbor test for purposes of the 100 percent excise tax in relation to dealer sales. This would help REITs more prudently manage the timing and extent of their asset dispositions.

The bill's fourth title would conform the tax treatment of health care facilities to that of lodging facilities by treating as qualifying income rental payments attributable to a health care facility made to a REIT from a taxable REIT subsidiary. This change would allow health care REITs more flexibility.

Finally, the bill's fifth title would amend the REIT rules to provide that income from, and interests in, foreign-qualified REITs would be treated as qualifying REIT income and assets under the U.S. REIT rules under certain circumstances. This change is important because about 20 countries have now enacted legislation that closely resembles our REIT rules, and many U.S. REITs may wish to invest in a non-U.S. REIT. This would allow them to do so with a minimum of complexity.

I urge my colleagues to review this bill and lend their support to it. I realize that it is very late in the second session of the 109th Congress, and there is little time for us to consider newly-introduced tax bills. However, I hope to reintroduce this legislation in the next Congress if we do not get a chance to consider it this year.

I ask unanimous consent that a section-by-section analysis of the REIT Investment Diversification and Empowerment Act and the text of the bill be printed in the RECORD.

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

REIT INVESTMENT DIVERSIFICATION AND  
EMPOWERMENT ACT OF 2006

SECTION-BY-SECTION DESCRIPTION

The REIT Investment Diversification and Empowerment Act of 2006 (RIDEA) includes the following provisions to help modernize the tax rules governing Real Estate Investment Trusts to permit REITs to better meet the challenges of evolving market conditions and opportunities:

*Title I: Foreign Currency and Other Qualified Activities*

The Internal Revenue Service (IRS) has long recognized that U.S. REITs can, and do, invest outside the U.S., essentially recognizing that any income generated from REIT-permissible sources outside of the U.S. should not jeopardize the REIT's tax status. However, the treatment of foreign currency gains directly attributable to overseas real estate investment is not wholly clear, and its correct characterization is becoming increasingly important as U.S. REITs strengthen their positions in foreign markets.

To ensure that foreign currency gains do not harm a REIT's tax status, the IRS has provided a short-term solution by allowing certain REITs to establish a subsidiary REIT in each currency zone in which a REIT invests. However, the use of subsidiary REITs, each of which must satisfy the complex myriad of REIT rules or risk disqualification of the parent REIT, is a cumbersome and unmanageable solution in the long term. Accordingly, RIDEA would clarify existing law by characterizing foreign currency gains generated by a REIT outside the U.S. as "good" REIT income so long as the REIT focuses on commercial real estate, as measured by specific objective rules. Despite the IRS' authority to prescribe similar rules, the absence of such guidance necessitates legislative clarification to provide certainty to REIT management and their shareholders within a more administrable framework.

RIDEA also would delegate to the IRS the express authority to issue guidance with respect to whether any other item of income should satisfy the REIT gross income tests or should not be taken into account in calculating these tests. While the IRS often has been willing to grant such rulings to specific taxpayers, these rulings cannot be relied on by other taxpayers and in any event do not cover all circumstances.

Thus, RIDEA would: (1) characterize foreign currency gains attributable to a REIT's ownership and operation of overseas real estate assets as qualifying income under REIT gross income tests; (2) conform the current REIT hedging rule to also apply to foreign currency gains and to apply those rules for purposes of the REIT gross income tests under current law; (3) specifically provide the Department of the Treasury the authority to issue guidance on other items of income to either qualify under the REIT gross income tests or to provide that items of income are not taken into account in computing those tests; (4) treat foreign currency as a qualifying real estate asset; and (5) make conforming changes to other REIT provisions reflecting foreign currency gains.

*Title II: Taxable REIT Subsidiaries*

As originally introduced in 1999, the REIT Modernization Act (RMA) limited a REIT's ownership in taxable REIT subsidiaries (TRS) to 25 percent of a REIT's gross assets. However, the limit was reduced to 20 percent when Congress ultimately enacted the RMA as part of the Ticket to Work Incentives Improvement Act of 1999.

RIDEA would increase the limit on TRS securities from 20 percent to 25 percent of a REIT's gross assets. The rationale for a 25

percent limit on TRSs that was contained in the RMA remains the same today. The dividing line for testing a concentration on commercial real estate in the REIT rules has long been set at 25 percent, and even the mutual fund rule uses a 25 percent test. An IRS study shows increasing amounts of taxes paid by new TRSs, and common sense tells IUS that permitting increased activities in a double tax regime should increase revenues to the fisc compared to a single tax regime.

*Title III: Dealer Sales*

The Internal Revenue Code imposes a 100 percent excise tax on profits generated on sales of property in which a REIT is acting as a dealer rather than an investor. Because of the confiscatory nature of this 100 percent excise tax, the Code provides a "safe harbor" under which a REIT can be assured that the excise tax does not apply if it satisfies a number of requirements. RIDEA would make two changes to the dealer safe harbor.

One requirement under current law is that the REIT not either make seven sales in a taxable year or sell more than 10 percent of its portfolio each year. However, the test as currently constructed penalizes many REITs that have owned their properties for a long period of time. This is because the test is geared to the property's "tax basis," an amount that diminishes over time due to tax depreciation, rather than "fair market value", an amount that generally increases over time. Second, the current test requires that a REIT hold a property for at least four years, three years longer than the general holding period required to distinguish between an "investor" and a "dealer" in property.

RIDEA would update this safe harbor to test "fair market" value instead of "tax basis" to allow REITs that have owned their properties for longer periods not be penalized and thereby prevented from prudently managing the timing and extent of asset dispositions. As part of the REIT Modernization Act of 1999, Congress adopted a provision that utilizes fair market value rules for purposes of calculating personal property rents associated with the rental of real property. Thus, there is an analogous precedent for a fair value approach.

The safe harbor also would be amended to replace the 4-year holding period with a 2-year holding period. The 4-year requirement is not consistent with other Code provisions that define whether property is held for long term investments, such as the 1-year holding period to determine long-term capital gains treatment, and the 2-year holding period to distinguish whether the sale of a home is taxable because it is held for investment purposes.

*Title IV: Health Care REITs*

Generally, rental payments made from a subsidiary owned by a REIT to that REIT are not considered qualified rental income for REIT purposes under the "related party rules". However, as part of the REIT Modernization Act of 1999 (RMA), a lodging REIT is allowed to establish a taxable REIT subsidiary (TRS) that can lease lodging facilities from a REIT holding a controlling interest, with the payments to the REIT considered qualified income under the REIT rules. The RMA also created a rule under which a TRS is not allowed to operate or manage lodging or health care facilities.

At the time the RMA was considered, it was not clear that health care REITs would be interested in such treatment, so health care facilities do not qualify for the RMA exception to the related party rules. Today, many operators of health care assets such as assisted living facilities do not want to bear the financial risks of being a lessee of such facilities and would rather act purely as an

independent operator of the facilities. Health care REITs now believe that the TRS restriction is interfering with their ability to manage their operations in the most efficient manner.

RIDEA would conform the treatment of health care facilities to that of lodging facilities by treating as qualifying income rental payments attributable to a health care facility made to a REIT from a taxable REIT subsidiary. Under this proposal, a TRS would still be required to use an independent contractor to manage or operate health care facilities, but payments collected by a REIT from its TRS renting health care facilities would be qualified income under the REIT tests.

#### *Title V: Foreign REITs*

Since imitation is the sincerest form of flattery, Congress should be proud that about 20 countries have enacted legislation paralleling the U.S. REIT rules after observing the benefits brought to the United States as a result of a vibrant REIT market. The number of countries that have adopted REIT-like legislation this past decade has greatly accelerated, with Israel being the latest country to do so and legislation in the United Kingdom going into effect on January 1, 2007. Although the tax code treats stock in a U.S. REIT as a real estate asset, so that it is a qualified asset that generates qualifying income, current law does not afford the same treatment to the stock of non-U.S. REITs.

A U.S. REIT might want to invest in another country through a REIT organized in that country. A company could lose its status as a U.S. REIT if it owns more than 10 percent of the foreign REIT's securities, even though the foreign company looks and acts like a U.S. REIT. A REIT should not be discouraged from investing in an entity that engages in the same activities that a U.S. REIT is allowed to undertake if it invests directly in another country.

RIDEA would amend the REIT rules to provide that income from, and interests in, foreign-qualified REITs would be treated as qualifying REIT income and assets under the U.S. REIT rules provided that under the laws of another country: (1) at least 75 percent of the foreign company's assets must be invested in real estate assets; (2) the foreign REIT either receives a dividends paid deduction or is exempt from corporate level tax; and (3) the foreign REIT is required to distribute at least 85 percent of its taxable income to shareholders on an annual basis.

S. 4030

*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 "REIT Investment Diversification and Empowerment Act of 2006".

#### **SEC. 2. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in the 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.

#### **TITLE I—FOREIGN CURRENCY AND OTHER QUALIFIED ACTIVITIES**

##### **SEC. 101. REVISIONS TO REIT INCOME TESTS.**

(a) ADDITION OF PERMISSIBLE INCOME CATEGORIES.—Section 856(c) (relating to limitations) is amended—

(1) by striking "and" at the end of paragraph (2)(G) and by inserting after paragraph (2)(H) the following new subparagraphs:

"(I) passive foreign exchange gains; and

"(J) any other item of income or gain as determined by the Secretary;" and

(2) by striking "and" at the end of paragraphs (3)(H) and (3)(I) and by inserting after paragraph (3)(I) the following new subparagraphs:

"(J) real estate foreign exchange gains; and

"(K) any other item of income or gain as determined by the Secretary; and".

(b) RULES REGARDING FOREIGN CURRENCY TRANSACTIONS.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

"(n) RULES REGARDING FOREIGN CURRENCY TRANSACTIONS.—With respect to any taxable year—

"(1) REAL ESTATE FOREIGN EXCHANGE GAINS.—For purposes of subsection (c)(3)(J), the term 'real estate foreign exchange gains' means—

"(A) foreign currency gains (as defined in section 988(b)(1)) which are attributable to—

"(i) any item described in subsection (c)(3),

"(ii) the acquisition or ownership of obligations secured by mortgages on real property or on interests in real property (other than foreign currency gains described in clause (i)), or

"(iii) becoming or being the obligor under obligations secured by mortgages on real property or on interests in real property (other than foreign currency gains described in clause (i)),

"(B) gains described in section 987 attributable to a qualified business unit (as defined by section 989) of the real estate investment trust, but only if such qualified business unit meets the requirements under—

"(i) subsection (c)(3) for the taxable year; and

"(ii) subsection (c)(4)(A) at the close of each quarter that the real estate investment trust has directly or indirectly held the qualified business unit, and

"(C) any other foreign currency gains as determined by the Secretary.

"(2) PASSIVE FOREIGN EXCHANGE GAINS.—For purposes of subsection (c)(2)(I), the term 'passive foreign exchange gains' means—

"(A) gains described under paragraph (1),

"(B) foreign currency gains (as defined in section 988(b)(1)) which are attributable to any item described in subsection (c)(2) (other than those items includible under subparagraph (A)), and

"(C) any other foreign currency gains as determined by the Secretary."

(c) ADDITION TO REIT HEDGING RULE.—Subparagraph (G) of section 856(c)(5) is amended to read as follows:

"(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent as determined by the Secretary—

"(i) any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from the sale or disposition of such a transaction, shall not constitute gross income under paragraphs (2) and (3) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

"(ii) any income of a real estate investment trust from a transaction entered into by the trust primarily to manage risk of currency fluctuations with respect to any item described in paragraphs (2) and (3), including gain from the termination of such a transaction, shall not constitute gross income under paragraphs (2) and (3), but only if such transaction is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may prescribe)."

(d) AUTHORITY TO EXCLUDE ITEMS OF INCOME FROM REIT INCOME TESTS.—Section 856(c)(5) is amended by adding at the end the following new subparagraph:

"(H) SECRETARIAL AUTHORITY TO EXCLUDE OTHER ITEMS OF INCOME.—The Secretary is authorized to determine whether any item of income or gain which does not otherwise qualify under paragraph (2) or (3) may be considered as not constituting gross income solely for purposes of this part."

##### **SEC. 102. REVISIONS TO REIT ASSET TESTS.**

(a) CLARIFICATION OF VALUATION TEST.—The first sentence in the matter following section 856(c)(4)(B)(iii)(III) is amended by inserting "(including a discrepancy caused solely by the change in the foreign currency exchange rate used to value a foreign asset)" after "such requirements".

(b) CLARIFICATION OF PERMISSIBLE ASSET CATEGORY.—Section 856(c)(5), as amended by section 101(d), is amended by adding at the end the following new subparagraph:

"(I) CASH.—For purposes of this part, the term 'cash' includes foreign currency if the real estate investment trust or its qualified business unit (as defined in section 989) uses such foreign currency as its functional currency (as defined in section 985(b))."

##### **SEC. 103. CONFORMING FOREIGN CURRENCY REVISIONS.**

(a) NET INCOME FROM FORECLOSURE PROPERTY.—Clause (i) of section 857(b)(4)(B) is amended to read as follows:

"(i) gain (including any foreign currency gain, as defined in section 988(b)(1)) from the sale or other disposition of foreclosure property described in section 1221(a)(1) and the gross income for the taxable year derived from foreclosure property (as defined in section 856(e)), but only to the extent such gross income is not described in (or, in the case of foreign currency gain, not attributable to gross income described in) section 856(c)(3) other than subparagraph (F) thereof, over".

(b) NET INCOME FROM PROHIBITED TRANSACTIONS.—Clause (i) of section 857(b)(6)(B) is amended to read as follows:

"(i) the term 'net income derived from prohibited transactions' means the excess of the gain (including any foreign currency gain, as defined in section 988(b)(1)) from prohibited transactions over the deductions (including any foreign currency loss, as defined in section 988(b)(2)) allowed by this chapter which are directly connected with prohibited transactions;"

#### **TITLE II—TAXABLE REIT SUBSIDIARIES**

##### **SEC. 201. CONFORMING TAXABLE REIT SUBSIDIARY ASSET TEST.**

Section 856(c)(4)(B)(ii) is amended by striking "20 percent" and inserting "25 percent".

#### **TITLE III—DEALER SALES**

##### **SEC. 301. HOLDING PERIOD UNDER SAFE HARBOR.**

Section 857(b)(6) (relating to income from prohibited transactions) is amended—

(1) by striking "4 years" in subparagraphs (C)(i), (C)(iv), and (D)(i) and inserting "2 years";

(2) by striking "4-year period" in subparagraphs (C)(ii), (D)(ii), and (D)(iii) and inserting "2-year period"; and

(3) by striking "real estate asset" and all that follows through "if" in the matter preceding clause (i) of subparagraphs (C) and (D) and inserting "real estate asset (as defined in section 856(c)(5)(B) otherwise described in section 1221(a)(1) if".

##### **SEC. 302. DETERMINING VALUE OF SALES UNDER SAFE HARBOR.**

Subparagraphs (C)(iii)(II) and (D)(iv)(II) of section 857(b)(6) are each amended by striking "the aggregate adjusted bases" and all that follows through "the beginning of the taxable year" and inserting "the fair market

value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year”.

#### TITLE IV—HEALTH CARE REITS

##### SEC. 401. CONFORMITY FOR HEALTH CARE FACILITIES.

(a) RELATED PARTY RENTALS.—Subparagraph (B) of section 856(d)(8) (relating to special rule for taxable REIT subsidiaries) is amended to read as follows:

“(B) EXCEPTION FOR CERTAIN LODGING FACILITIES AND HEALTH CARE PROPERTY.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility or a qualified health care property (as defined in subsection (e)(6)(D)(i)) leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.”.

(b) ELIGIBLE INDEPENDENT CONTRACTOR.—Subparagraphs (A) and (B) of section 856(d)(9) (relating to eligible independent contractor) are amended to read as follows:

“(A) IN GENERAL.—The term ‘eligible independent contractor’ means, with respect to any qualified lodging facility or qualified health care property (as defined in subsection (e)(6)(D)(i)), any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate such qualified lodging facility or qualified health care property, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities or qualified health care properties, respectively, for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

“(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility or qualified health care property (as so defined) by reason of the following:

“(i) The taxable REIT subsidiary bears the expenses for the operation of such qualified lodging facility or qualified health care property pursuant to the management agreement or other similar service contract.

“(ii) The taxable REIT subsidiary receives the revenues from the operation of such qualified lodging facility or qualified health care property, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

“(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

“(I) January 1, 1999, or

“(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility or qualified health care property.”.

#### TITLE V—FOREIGN REITS

##### SEC. 501. STOCK OF FOREIGN REITS AS REAL ESTATE ASSETS.

(a) IN GENERAL.—The first sentence in section 856(c)(5)(B) is amended by inserting “or in a qualified foreign REIT” after “this part”.

(b) QUALIFIED FOREIGN REIT.—Section 856(c) is amended by adding at the end the following new paragraph:

“(8) QUALIFIED FOREIGN REIT.—For purposes of this subsection, the term ‘qualified for-

eign REIT’ means a corporation, trust, or association—

“(A) treated as a corporation under section 7701(a)(3),

“(B) the shares or certificates of beneficial interests of which are regularly traded on an established securities market, and

“(C) which is organized in a country under rules that the Secretary determines meet the following criteria:

“(i) At least 75 percent of the entity’s assets must qualify as real estate assets (determined without regard to shares or transferable certificates of beneficial interest in such entity), as determined at the close of the entity’s prior taxable year.

“(ii) The entity either receives a dividends paid deduction comparable to section 561 or is exempt from corporate level tax.

“(iii) The entity is required to distribute at least 85 percent of its annual taxable income (as computed in the jurisdiction in which it is organized) to the holders of its shares or certificates of beneficial interest on an annual basis.”.

##### SEC. 502. DIVIDENDS FROM FOREIGN REITS.

Section 856(c)(3)(D) is amended by inserting “and in qualified foreign REITs” after “this part”.

#### TITLE VI—EFFECTIVE DATES

##### SEC. 601. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

(b) REIT HEDGING RULES.—The amendment made by section 101(c) shall apply to transactions entered into after the date of the enactment of this Act.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON):

S. 4033. A bill to provide for Kindergarten Plus programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce legislation to jumpstart the chance for success in school for this Nation’s low-income children. Today I am introducing the Sandy Feldman Kindergarten Plus Act of 2006.

The legislation I am introducing today will provide children below 185 percent of the poverty line with additional time in kindergarten during the summer before and the summer after the traditional kindergarten school year, and help to ensure that more children enter school ready to succeed. The kindergarten year is an important time of transition for young children. It represents the first year of schooling for 98 percent of the children in the United States, and it marks the bridge between early childhood education and the primary grades of school.

Many may ask why an initiative that will give an extra four months of kindergarten to low-income children? The answer is simple. Because too many low-income children today enter kindergarten unprepared for the year ahead and many children from low-income families are constantly outperformed by their wealthier peers.

We can, however, do a better job of preparing less fortunate children for school. We can expose them to class-

room practices and routines and the expectations for kindergarten behavior and protocol. We can introduce them to educational concepts and help them understand that classrooms have rules. We can expose them to literature, story time or circle time. We can help them understand that books are made up of printed words and that words are made up of individual letters. We can ask them questions to help develop their critical thinking skills, like what do you think will happen next in the story? We can offer them “show and tell” to develop their oral language skills and ability to speak out loud in sequential sentences. Simply put, we need to provide them with a solid foundation that allows them to enter school with the skills necessary to become strong students.

How does this translate into school readiness? About 85 percent of high-income children, compared to 39 percent of low-income children, can recognize letters of the alphabet upon arrival in kindergarten. About half the children of college graduates can identify the beginning sounds of words, but only 9 percent of the children whose parents didn’t complete high school can recognize the beginning sounds of words. Low-income children often have a more limited vocabulary. By the time they are in first grade, children in low-income families have 5,000 word vocabularies. In contrast, children from more affluent families enter school with vocabularies of 20,000 words. These are significant discrepancies.

In the John Hopkins University report, “Schools, Achievement, and Inequality: A Seasonal Perceptive,” recommendations are made to improve the socioeconomic differences in the seasonality of children’s learning over the school and summer months. The report that states during the summer, upper socioeconomic status (SES) children’s skills continue to advance, but lower SES children’s gains, on average, are flat. Pre-school and kindergarten can reduce the achievement gap associated with SES when children start first grade, but to help them keep up it requires extra resources and enrichment experiences. Summer education programs can build potential for economically disadvantaged children and their parents in support of academic development.

What we know from the research is that children can enter kindergarten better prepared to learn. We may not be able to close the gap between low-income children and their wealthier peers, but we can certainly narrow it considerably. This is what this legislation strives to do.

This legislation was named after Sandy Feldman who was a tireless advocate for children and public education who died last year after a long battle with cancer. Her commitment to social justice and her authority on urban education dates to her involvement with the civil rights movement.

Sandy rose from her position as second grade elementary school teacher to

become president of the 1.3 million-member American Federation of Teachers. She also knew that all too often, we don't give our schools the resources they need to make all students' dreams come to fruition. Her focus on early childhood education led her to develop the concept for this legislation and it was Sandy who spent countless hours developing the details to ensure this would be a high quality initiative.

I am joined in introducing this legislation by my colleagues Senators KENNEDY, KERRY, LIBBERMAN, DURBIN, SCHUMER, and CLINTON. This bill is also supported by the American Federation of Teachers, the Parent Teacher Association, National Education Association, Council of Great City Schools, the Society for Research in Child Development, American Federation of State, County, and Municipal Employees, Service Employees of International Union, National Head Start Association, the Children's Defense Fund and Easter Seals. I urge my colleagues to join this effort and cosponsor the legislation. I encourage them to help give low-income children a jump-start on school success.

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

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

S. 4033

*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 "Kindergarten Plus Act of 2006".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Kindergarten has proven to be a beneficial experience for children, putting children on a path that positively influences their learning and development in later school years.

(2) Kindergarten and the years leading up to kindergarten are critical in preparing children to succeed in elementary school, especially if the children are from low-income families or have other risks of difficulty in school.

(3) Disadvantaged children, on average, lag behind other children in literacy, numeracy, and social skills, even before formal schooling begins.

(4) For many children entering kindergarten, the achievement gap between children from low-income households compared to children from high-income households is already evident.

(5) Eighty-five percent of beginning kindergartners in the highest socioeconomic group, compared to 39 percent in the lowest socioeconomic group, can recognize letters of the alphabet. Similarly, 98 percent of beginning kindergartners in the highest socioeconomic group, compared to 84 percent of their peers in the lowest socioeconomic group, can recognize numbers and shapes.

(6) Once disadvantaged children are in school, they learn at the same rate as other children. Therefore, providing disadvantaged children with additional time in kindergarten, in the summer before such children ordinarily enter kindergarten and in the summer before first grade, will help schools close achievement gaps and accelerate the

academic progress of their disadvantaged students.

(7) High quality, extended-year kindergarten that provides children with enriched learning experiences is an important factor in helping to close achievement gaps, rather than having the gaps continue to widen.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE STUDENT.—The term "eligible student" means a child who—

(A) is a 5-year old, or will be eligible to attend kindergarten at the beginning of the next school year;

(B) comes from a family with an income at or below 185 percent of the poverty line; and

(C) is not already served by a high-quality program in the summer before or the summer after the child enters kindergarten.

(2) KINDERGARTEN PLUS.—The term "Kindergarten Plus" means a voluntary full day of kindergarten, during the summer before and during the summer after, the traditional kindergarten school year (as determined by the State).

(3) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(4) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

(5) PARENTAL INVOLVEMENT.—The term "parental involvement" means the participation of parents in regular, 2-way, and meaningful communication with school personnel involving student academic learning and other school activities, including ensuring that parents—

(A) play an integral role in assisting their child's learning;

(B) are encouraged to be actively involved in their child's education at school; and

(C) are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child.

(6) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(7) ELIGIBLE PROVIDER.—The term "eligible provider" means a local educational agency or a private not-for-profit agency or organization, with a demonstrated record in the delivery of early childhood education services to preschool-age children, that provides high-quality early learning and development experiences that—

(A) are aligned with the expectations for what children should know and be able to do when the children enter kindergarten and grade 1, as established by the State educational agency; or

(B) in the case of an entity that is not a local educational agency and that serves children who have not entered kindergarten, meet the performance standards and performance measures described in subparagraphs (A) and (B) of subsection (a)(1), and subsection (b), of section 641A of the Head Start Act (42 U.S.C. 9836a) or the prekindergarten standards of the State where the entity is located.

(8) SCHOOL READINESS.—The term "school readiness" means the cognitive, social, emotional, approaches to learning, and physical development of a child, including early literacy and early mathematics skills, that prepares the child to learn and succeed in elementary school.

(9) SECRETARY.—The term "Secretary" means the Secretary of Education.

(10) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

#### SEC. 4. GRANTS TO STATE EDUCATIONAL AGENCIES AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to provide Kindergarten Plus within the State.

(b) SUFFICIENT SIZE.—To the extent possible, the Secretary shall ensure that each grant awarded under this section is of sufficient size to enable the State educational agency receiving the grant to provide Kindergarten Plus to all eligible students served by the local educational agencies within the State with the highest concentrations of eligible students.

(c) MINIMUM AMOUNT.—The Secretary shall not award a grant to a State educational agency under this section in an amount that is less than \$500,000.

(d) STATE USE OF FUNDS.—A State educational agency shall use—

(1) not more than 3 percent of the grant funds received under this Act for administration of the Kindergarten Plus programs supported under this Act;

(2) not more than 5 percent of the grant funds received under this Act to develop professional development activities and curricula for teachers and staff of Kindergarten Plus programs in order to develop a continuum of developmentally appropriate curricula and practices for preschool, kindergarten, and grade 1 that ensures—

(A) an effective transition to kindergarten and to grade 1 for students; and

(B) appropriate expectations for the students' learning and development as the students make the transition to kindergarten and to grade 1; and

(3) the remainder of the grant funds to award subgrants to local educational agencies.

(e) PRIORITY.—In awarding grants under this Act the Secretary shall give priority to State educational agencies that—

(1) on their own or in combination with other government agencies, provide full-day kindergarten to all kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State; or

(2) demonstrate progress toward providing full-day kindergarten to all kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State by submitting a plan that shows how the State educational agency will, at a minimum, double the number of such children that were served by a full-day kindergarten program in the school year preceding the school year for which assistance is first sought.

#### SEC. 5. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—Each State educational agency that receives a grant under this Act—

(1) shall reserve an amount sufficient to continue to fund multiyear subgrants awarded under this section; and

(2) shall award subgrants to local educational agencies within the State to enable the local educational agencies to pay the Federal share of the costs of carrying out Kindergarten Plus programs for eligible students.

(b) PRIORITY.—In awarding subgrants under this section the State educational agency shall give priority to local educational agencies—

(1) serving the greatest number or percentage of kindergarten-age children who are from families with incomes below 185 percent of the poverty line, based on data from the most recent school year; and

(2) that propose to significantly reduce the class size and student-to-teacher ratio of the classes in their Kindergarten Plus programs below the average class size and student-to-teacher ratios of kindergarten classes served by the local educational agencies.

(c) **FEDERAL SHARE.**—The Federal share of the costs of carrying out a Kindergarten Plus program shall be—

(1) 100 percent for the first, second, and third years of the program;

(2) 85 percent for the fourth year of the program; and

(3) 75 percent for the fifth year of the program.

(d) **IN-KIND CONTRIBUTIONS.**—The non-Federal share of the costs of carrying out a Kindergarten Plus program may be in the form of in-kind contributions.

#### SEC. 6. STATE APPLICATION.

(a) **IN GENERAL.**—In order to receive a grant under this Act, a State educational agency shall submit an application to the Secretary at such time and containing such information as the Secretary determines appropriate.

(b) **CONSULTATION.**—The application shall be developed by the State educational agency in consultation with representatives of early childhood education programs, early childhood education teachers, principals, pupil services personnel, administrators, paraprofessionals, other school staff, early childhood education providers (including Head Start agencies, State prekindergarten program staff, and child care providers), teacher organizations, parents, and parent organizations.

(c) **CONTENTS.**—At a minimum, the application shall include—

(1) a description of developmentally appropriate teaching practices and curricula for children that will be put in place to be used by local educational agencies and eligible providers offering Kindergarten Plus programs to carry out this Act;

(2) a general description of the nature of the Kindergarten Plus programs to be conducted with funds received under this Act, including—

(A) the number of hours each day and the number of days each week that children in each Kindergarten Plus program will attend the program; and

(B) if a Kindergarten Plus program meets for less than 9 hours a day, how the needs of full-time working families will be addressed;

(3) goals and objectives to ensure that high-quality Kindergarten Plus programs are provided;

(4) an assurance that students enrolled in Kindergarten Plus programs funded under this Act will receive additional comprehensive services (such as nutritional services, health care, and mental health care), as needed; and

(5) a description of how—

(A) the State educational agency will coordinate and integrate services provided under this Act with other educational programs, such as Even Start, Head Start, Reading First, Early Reading First, State-funded preschool programs, preschool programs funded under section 619 or other provisions of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1411 et seq.), and kindergarten programs;

(B) the State will provide professional development for teachers and staff of local educational agencies and eligible providers that receive subgrants under this Act regarding how to address the school readiness needs of

children (including early literacy, early mathematics, and positive behavior) before the children enter kindergarten, throughout the school year, and into the summer after kindergarten;

(C) the State will assist Kindergarten Plus programs to provide exemplary parent education and parental involvement activities such as training and materials to assist parents in being their children's first teachers at home or home visiting;

(D) the State will conduct outreach to parents with eligible students, including parents whose native language is not English, parents of children with disabilities, and parents of migratory children; and

(E) the State educational agency will ensure that each Kindergarten Plus program uses developmentally appropriate practices, including practices and materials that are culturally and linguistically appropriate for the population of children being served in the program.

#### SEC. 7. LOCAL APPLICATION.

(a) **IN GENERAL.**—In order to receive a subgrant under this Act, a local educational agency shall submit an application to the State educational agency at such time and containing such information as the State educational agency determines appropriate.

(b) **CONSULTATION.**—The application shall be developed by the local educational agency in consultation with early childhood education teachers, principals, pupil services personnel, administrators, paraprofessionals, other school staff, early childhood education providers (including Head Start agencies, State prekindergarten program staff, and child care providers), teacher organizations, parents, and parent organizations.

(c) **CONTENTS.**—At a minimum, the application shall include a description of—

(1) the standards, research-based and developmentally appropriate curricula, teaching practices, and ongoing assessments for the purposes of improving instruction and services, to be used by the local educational agency that—

(A) are aligned with the State expectations for what children should know and be able to do when the children enter kindergarten and grade 1, as set by the State educational agency; and

(B) include—

(i) language skills, including an expanded use of vocabulary;

(ii) interest in and appreciation of books, reading, writing alone or with others, and phonological and phonemic awareness;

(iii) premathematics knowledge and skills, including aspects of classification, seriation, number sense, spatial relations, and time;

(iv) other cognitive abilities related to academic achievement;

(v) social and emotional development, including self-regulation skills;

(vi) physical development, including gross and fine motor development skills;

(vii) in the case of limited English proficiency, progress toward the acquisition of the English language; and

(viii) approaches to learning;

(2) how the local educational agency will ensure that the Kindergarten Plus program uses curricula and practices that—

(A) are developmentally, culturally, and linguistically appropriate for the population of children served in the program; and

(B) are aligned with the State learning standards and expectations for children in kindergarten and grade 1;

(3) how the Kindergarten Plus program will improve the school readiness of children served by the local educational agency under this Act, especially in mathematics and reading;

(4) how the Kindergarten Plus program will provide continuity of services and learning

for children who were previously served by a different program;

(5) how the local educational agency will ensure that the Kindergarten Plus program has appropriate services and accommodations in place to serve children with disabilities and children who are limited English proficient;

(6) how the local educational agency will perform a needs assessment to avoid duplication with other programs within the geographic area served by the local educational agency;

(7) how the local educational agency will—

(A) transition Kindergarten Plus participants into local elementary school programs and services;

(B) ensure the development and use of systematic, coordinated records on the educational development of each child participating in the Kindergarten Plus program through periodic meetings and communications among—

(i) Kindergarten Plus program teachers;

(ii) elementary school staff; and

(iii) local early childhood education program providers, including Head Start agencies, State prekindergarten program staff, and center-based and family child care providers;

(C) provide parent and child orientation sessions conducted by teachers and staff; and

(D) provide a qualified staff person to be in charge of coordinating the transition services;

(8) how the local educational agency will provide instructional and environmental accommodations in the Kindergarten Plus program for children who are limited English proficient, children with disabilities, migratory children, neglected or delinquent youth, Indian children served under part A of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.), homeless children, and immigrant children;

(9) how the local educational agency will conduct outreach to parents of eligible students, including parents whose native language is not English, parents of children with disabilities, and parents of migratory children, which may include—

(A) activities to provide parents early exposure to the school environment, including meetings with teachers and staff;

(B) activities to better engage and inform parents on the benefits of Kindergarten Plus and other programs; and

(C) other efforts to ensure that parents have a level of comfort with the Kindergarten Plus program and the school environment;

(10) how the local educational agency will assist the Kindergarten Plus program to provide exemplary parent education and parental involvement activities such as training and materials to assist parents in being their children's first teachers at home or home visiting; and

(11) how the local educational agency will work with local center-based and family child care providers and Head Start agencies to ensure—

(A) the nonduplication of programs and services; and

(B) that the needs of working families are met through child care provided before and after the Kindergarten Plus program.

#### SEC. 8. LOCAL REQUIREMENTS AND PROVISIONS.

(a) **LOCAL USES OF FUNDS.**—A local educational agency that receives a subgrant under this Act shall use the subgrant funds for the following:

(1) The operational and program costs associated with the Kindergarten Plus program as described in the application to the State educational agency.

(2) Personnel services, including teachers, paraprofessionals, and other staff as needed.

(3) Additional services, as needed, including snacks and meals, mental health care, health care, linguistic assistance, special education and related services, and transportation services associated with the needs of the children in the program.

(4) Transition services to ensure children make a smooth transition into first grade and proper communication is made with the elementary school on the educational development of each child.

(5) Outreach and recruitment activities, including community forums and public service announcements in local media in various languages if necessary to ensure that all individuals in the community are aware of the availability of such program.

(6) Parental involvement programs, including materials and resources to help parents become more involved in their child's learning at home.

(7) Extended day services for the eligible students of working families, including working with existing programs in the community to coordinate services if possible.

(8) Child care services, provided through coordination with local center-based child care and family child care providers, and Head Start agencies, before and after the Kindergarten Plus program for the children participating in the program, to accommodate the schedules of working families.

(9) Enrichment activities, such as—

(A) art, music, and other creative arts;

(B) outings and field trips; and

(C) other experiences that support children's curiosity, motivation to learn, knowledge, and skills.

(b) **ELIGIBLE PROVIDER GRANTS AND APPLICATIONS.**—The local educational agency may use subgrant funds received under this Act to award a grant to an eligible provider to enable the eligible provider to carry out a Kindergarten Plus program for the local educational agency. Each eligible provider desiring a grant under this subsection shall submit an application to the local educational agency that contains the descriptions set forth in section 7 as applied to the eligible provider.

(c) **CONTINUITY.**—In carrying out a Kindergarten Plus program under this Act, a local educational agency is encouraged to explore ways to develop continuity in the education of children, for instance by keeping, if possible, the same teachers and personnel from the summer before kindergarten, through the kindergarten year, and during the summer after kindergarten.

(d) **COORDINATION.**—In carrying out a Kindergarten Plus program under this Act, a local educational agency shall coordinate with existing programs in the community to provide extended care and comprehensive services for children and their families in need of such care or services.

**SEC. 9. TEACHER AND PERSONNEL QUALITY STANDARDS.**

To be eligible for a subgrant under this Act, each local educational agency shall ensure that—

(1) each Kindergarten Plus classroom has—

(A) a highly qualified teacher, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); or

(B) if an eligible provider who is not a local educational agency is providing the Kindergarten Plus program in accordance with section 8(b), a teacher that, at a minimum, has a bachelor's degree in early childhood education or a related field and experience in teaching children of this age;

(2) a qualified paraprofessional that meets the requirements for paraprofessionals under section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319), is in each Kindergarten Plus classroom;

(3) Kindergarten Plus teachers and paraprofessionals are compensated on a salary scale comparable to kindergarten through grade 3 teachers and paraprofessionals in public schools served by the local educational agency; and

(4) Kindergarten Plus class sizes do not exceed the class size and ratio parameters set at the State or local level for the traditional kindergarten program.

**SEC. 10. DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

(a) **GRANTS AUTHORIZED.**—If a State educational agency does not apply for a grant under this Act or does not have an application approved under section 6, then the Secretary is authorized to award a grant to a local educational agency within the State to enable the local educational agency to pay the Federal share of the costs of carrying out a Kindergarten Plus program.

(b) **ELIGIBILITY.**—A local educational agency shall be eligible to receive a grant under this section if the local educational agency operates a full-day kindergarten program that, at a minimum, is targeted to kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State.

(c) **APPLICATION.**—In order to receive a grant under subsection (a), a local educational agency shall submit to the Secretary an application that—

(1) contains the descriptions set forth in section 7; and

(2) includes an assurance that the Kindergarten Plus program funded under such grant will serve eligible students.

(d) **APPLICABILITY.**—Sections 8 and 9 shall apply to a local educational agency receiving a grant under this section in the same manner as the sections apply to a local educational agency receiving a subgrant under section 5(a).

**SEC. 11. EVALUATION, COLLECTION, AND DISSEMINATION OF INFORMATION.**

(a) **IN GENERAL.**—Each State educational agency that receives a grant under this Act, in cooperation with the local educational agencies in the State that receive a subgrant under this Act, shall create an evaluation mechanism to determine the effectiveness of the Kindergarten Plus programs in the State, taking into account—

(1) information from the local needs assessment, conducted in accordance with section 7(c)(6), including—

(A) the number of eligible students in the geographic area;

(B) the number of children served by Kindergarten Plus programs, disaggregated by family income, race, ethnicity, native language, and prior enrollment in an early childhood education program; and

(C) the number of children with disabilities served by Kindergarten Plus programs;

(2) the recruitment of teachers and staff for Kindergarten Plus programs, and the retention of such personnel in the programs for more than 1 year;

(3) the provision of services for children and families served by Kindergarten Plus programs, including parent education, home visits, and comprehensive services for families who need such services;

(4) the opportunities for professional development for teachers and staff; and

(5) the curricula used in Kindergarten Plus programs.

(b) **COMPARISON.**—The evaluation process may include comparison groups of similar children who do not participate in a Kindergarten Plus program.

(c) **INFORMATION COLLECTION AND REPORTING.**—The information necessary for the evaluation shall be collected yearly by the State and reported every 2 years by the State to the Secretary.

(d) **ANALYSIS OF EFFECTIVENESS.**—The Secretary shall conduct an analysis of the overall effectiveness of the programs assisted under this Act and make the analysis available to Congress, and the public, biannually.

**SEC. 12. SUPPLEMENT NOT SUPPLANT.**

Funds made available under this Act shall be used to supplement, not supplant, other Federal, State, or local funds available to carry out activities under this Act.

**SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of carrying out this Act, there are authorized to be appropriated \$1,500,000,000 for fiscal year 2007 and such sums as may be necessary for each of the fiscal years 2008 through 2012.

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

S. 4034. A bill to amend title 18 of the United States Code to prohibit certain types of vote tampering; to the Committee on the Judiciary.

Mr. REID. 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. 4034

*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 "Voter Suppression, Ballot Hacking, and Election Fraud Prevention Act".

**SEC. 2. PROHIBITION ON VOTE TAMPERING.**

(a) **IN GENERAL.**—Chapter 29 of title 18, United States Code, is amended by adding at the end the following:

**"§ 612. Vote tampering**

"(a) **IN GENERAL.**—Whoever knowingly and willfully interferes with, affects, attempts to interfere with, or attempts to affect an election of a candidate or a ballot initiative by tampering with a voting system, discarding ballots, or altering a vote shall be fined under this title or imprisoned for not more than 20 years, or both.

"(b) **APPLICATION.**—This section applies only to elections described in, and candidates described in, section 11(e)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973i(e)(2)).

"(c) **CIVIL ACTION.**—Any individual whose right to vote is interfered with by reason of a violation of this section may bring a civil action in Federal court against the violator and recover damages not to exceed \$10,000.

"(d) **DEFINITION.**—In this section, the terms 'vote' and 'voting' have the meanings given the terms in section 14(c) of the Voting Rights Act of 1965 (42 U.S.C. 1973i(c))."

(b) **CHAPTER ANALYSIS.**—The chapter analysis for chapter 29 of title 18, United States Code, is amended by inserting after the item for section 612 the following:

"612. Vote tampering."

By Mr. SARBANES:

S. 4038. A bill to establish the bipartisan and independent Commission on Global Resources, Environment, and Security, and for other purposes; to the Committee on Environment and Public Works.

Mr. SARBANES. Mr. President, today I am introducing legislation to establish a Commission on Global Resources, Environment and Security. The goal of the Commission is to address one of the most serious, long-

term threats facing our Nation—the degradation of the earth's natural life support systems—and to make recommendations for a coordinated, comprehensive, long-range national policy and new strategies to promote global environmental security.

In March 2005, more than 1,300 scientists from 95 countries around the world completed the largest and most comprehensive study of the health of the earth's ecosystems ever undertaken. Known as the Millennium Ecosystem Assessment, the four-year study found that the natural systems that support life on earth—our waters, wildlife and fisheries, air and lands—have been degraded more rapidly and extensively over the past five decades than in any comparable period of time in history. The result has been a substantial loss of biodiversity, a significant increase in atmospheric concentration of carbon dioxide, depletion of world fisheries and water supplies, excessive nutrient pollution of rivers and coastal waters, and increased risk of emergence of new diseases. The report also found that, unless substantial actions are taken in policies, institutions and practices in the near future to reverse the degradation, the pressure on the planet's ecosystems will continue to increase. In the next 50 years, the world population is expected to grow from approximately 6 billion to more than 9 billion people. Global demand for food is projected to increase by 70–80 percent. Energy consumption is projected to double by 2035 at current growth rates. Globally, as much as 25 percent of freshwater use and 35 percent of irrigation withdrawal is supplied from unsustainable sources. An estimated 7 billion people could face water shortages.

Experts agree that these environmental threats also have profound implications for our national security. According to former Secretary of State Colin Powell . . . “poverty, destruction of the environment and despair are destroyers of people, of societies, of nations, a cause of instability as an unholy trinity that can destabilize countries and destabilize entire regions.”

As the world's wealthiest nation, the U.S. has the responsibility and the unique capacity to lead the world toward a more sustainable future. The legislation which I am introducing today represents the important step in that direction. It provides for the establishment of an independent commission to examine the state of scientific understanding and current efforts to protect the global environment, to assess the impact of continued global environmental deterioration on U.S. interests, and to make recommendations to address these threats. The last time the Federal Government took a broad in-depth review of international environment and development issues was in the 1970s.

At the launch of Millennium Ecosystem Assessment, Secretary General of the United Nations, Kofi Annan,

stated that, “only by understanding the environment and how it works, can we make the necessary decisions to protect it.” The concept of such a Commission is strongly supported by a broad range of leading scientific and foreign policy leaders who have signed the “Earth Legacy Declaration.” They assert that: “We need a national discussion on the fundamental questions of what legacy we will leave our children and grandchildren, and what actions we must take as a nation to ensure that the world we hand down to them is as safe, healthy, and bountiful as the one we inherited.”

We need a new consensus and a foundation upon which to build a renewed U.S. commitment to protect the global environment. I hope my colleagues will join me in this measure to establish this Commission on Global Resources, Environment, and Security.

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

S. 4038

*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 “Global Resources, Environment, and Security Commission Act of 2006”.

**SEC. 2. FINDINGS AND PURPOSE.**

- (a) FINDINGS.—Congress finds that—
- (1) humans are placing increasing and potentially unsustainable pressures on—
    - (A) the Earth;
    - (B) ecosystems; and
    - (C) natural resources;
  - (2) economic prosperity, human health, and peaceful international relations depend on the continued existence of—
    - (A) a clean environment; and
    - (B) the sustainability of natural resources and ecosystem services;
  - (3) increasing scarcities of natural resources and environmental degradation can cause economic losses and contribute to—
    - (A) disease;
    - (B) famine;
    - (C) increased vulnerability to natural disasters;
    - (D) mass migration;
    - (E) disruption of trade; and
    - (F) violent conflict;
  - (4) those potential disasters can—
    - (A) weaken all members of the international community; and
    - (B) create serious threats to the national security of the United States;
  - (5) many scientific studies reveal that the rapid increases in global population and the new global security problems have, and will likely continue to have, serious impacts on the United States, including—
    - (A) inadequate access to sources of healthy freshwater;
    - (B) loss of biodiversity;
    - (C) climate change;
    - (D) marine overfishing and pollution;
    - (E) transboundary air pollution;
    - (F) nuclear and chemical contamination;
    - (G) deforestation;
    - (H) invasive species migration; and
    - (I) soil degradation and desertification;
  - (6) the complex and interconnected nature of those problems requires new forms of cooperation between—
    - (A) the stakeholders of the United States; and
    - (B) the United States and other countries;

(7) according to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), it is the national policy of the United States—

(A) to recognize the worldwide and long-range character of environmental problems; and

(B) to lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(8) the United States is in a unique position to be able to share scientific and technical expertise on the world stage in ways that—

(A) benefit all persons; and

(B) provide opportunities in the United States for—

(i) economic growth;

(ii) investment; and

(iii) innovation; and

(9) the leadership of the United States on the advancement of global environmental security serves the domestic interests of the United States while strengthening relationships between the United States and other countries.

(b) PURPOSE.—The purpose of this Act is to establish a bipartisan and independent commission to make recommendations for a coordinated, comprehensive, and long-range national policy for new and existing strategies initiated by the United States to promote global environmental security.

**SEC. 3. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the “Commission on Global Resources, Environment, and Security” (referred to in this Act as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 18 members who are knowledgeable in matters relating to global environmental security and population (including individuals with experience from the Federal Government, State, and local governments, academic and technical institutions, and public interest organizations), of whom—

(A) 2 members shall be appointed by the President, of whom not more than 1 may be from the same political party as the President;

(B) 4 members shall be appointed by the majority leader of the Senate, in consultation with the Chairpersons of—

(i) the Committee on Environment and Public Works of the Senate;

(ii) the Committee on Foreign Relations of the Senate;

(iii) the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) 4 members shall be appointed by the minority leader of the Senate, in consultation with the ranking members of—

(i) the Committee on Environment and Public Works of the Senate;

(ii) the Committee on Foreign Relations of the Senate;

(iii) the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) 4 members shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairpersons of—

(i) the Committee on Energy and Commerce of the House of Representatives;

(ii) the Committee on International Relations of the House of Representatives;

(iii) the Committee on Resources of the House of Representatives;

(iv) the Committee on Science of the House of Representatives;

(v) the Committee on Homeland Security of the House of Representatives; and

(vi) the Committee on Government Reform of the House of Representatives; and

(E) 4 members shall be appointed by the minority leader of the House of Representatives, in consultation with the ranking members of—

(i) the Committee on Energy and Commerce of the House of Representatives;

(ii) the Committee on International Relations of the House of Representatives;

(iii) the Committee on Resources of the House of Representatives;

(iv) the Committee on Science of the House of Representatives;

(v) the Committee on Homeland Security of the House of Representatives; and

(vi) the Committee on Government Reform of the House of Representatives.

(2) REPRESENTATION OF COMMISSION.—To the extent consistent with paragraph (1), the membership of the Commission shall be balanced by area of expertise.

(3) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT.—A member of the Commission appointed under paragraph (1)(A) shall not be an employee or former employee of the Federal Government.

(4) CONSIDERATIONS FOR APPOINTMENT.—

(A) BACKGROUND OF MEMBERS.—

(i) IN GENERAL.—All members of the Commission shall have experience in—

(I) State and local governments;

(II) academic and technical institutions;

(III) businesses and industries relating to resource and economic development; or

(IV) public interest organizations.

(ii) PREFERENCE TO INDIVIDUALS WITH INTERDISCIPLINARY EXPERTISE.—In appointing members to the Commission, preference shall be given to individuals who have interdisciplinary experience.

(B) POLITICAL AFFILIATION OF MEMBERS.—Members of the Commission shall be appointed so that not more than 9 members of the Commission are members of any 1 political party.

(5) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than March 30, 2007.

(6) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—

(i) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(ii) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(8) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet—

(i) at least twice each year; or

(ii) at the call of the Chairperson or the majority of the members of the Commission.

(B) PUBLIC ACCESS TO MEETINGS.—

(i) IN GENERAL.—Except as provided in clause (ii), each meeting of the Commission shall be open to the general public.

(ii) EXCEPTION.—If a meeting of the Commission addresses a matter described in section 552b(c) of title 5, United States Code, the Commission may close the meeting, or a portion of the meeting, to the general public.

(9) QUORUM.—A majority of voting members shall constitute a quorum, but a lesser number may hold meetings.

(10) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) ELECTION.—The Commission shall elect the Chairperson and the Vice Chairperson of the Commission on an annual basis.

(B) ABSENCE OF THE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(11) VOTING.—The Commission shall act only on an affirmative vote of a majority of the voting members of the Commission.

#### SEC. 4. DUTIES.

(A) STUDY.—The Commission shall—

(1) review and affirm current scientific understanding on the health of the global environment and the long-term availability of natural resources through the use of independent, consensus-based assessments and peer reviewed studies undertaken by the United States, the United Nations, and any other international entity;

(2) study the impacts of—

(A) global and transnational environmental problems, natural resource scarcity, and global population pressure on the interests of the United States, including—

(i) national security;

(ii) public health;

(iii) industry and trade; and

(iv) international relations; and

(B) the actions of the United States on global environmental security;

(3) assess—

(A) the effectiveness of Federal and State efforts to enhance global environmental security, including—

(i) the integration of related activities;

(ii) the interagency coordination of related activities; and

(iii) the funding of related activities;

(B) the evolving roles of—

(i) government;

(ii) business; and

(iii) nongovernmental organizations; and

(C) the adequacy of efforts initiated by public and private partnerships that strive to meet the goals of—

(i) global environmental protection;

(ii) natural resource sustainability; and

(iii) economic prosperity; and

(4) determine the progress of the United States in—

(A) achieving relevant international goals and obligations; and

(B) meeting the challenges outlined by the scientific studies described under paragraph (1).

(b) RECOMMENDATIONS.—The Commission shall develop recommendations for creating a coordinated, comprehensive, and long-range national policy that promotes global environmental security.

(c) REPORT.—

(1) IN GENERAL.—By March 30, 2009, the Commission shall submit to the President and Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the Commission;

(B) a summary of public comments; and

(C) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(2) PUBLICATION OF REPORT.—Not later than 90 days before submitting the final report of the Commission to the President and Congress, the Commission shall publish a copy of the report in the Federal Register.

(3) PUBLIC COMMENT.—

(A) IN GENERAL.—Before submitting the report of the Commission to the President and Congress, the Commission shall—

(i) make a draft of the report available for public comment for a period of not less than 60 days; and

(ii) consider public comments relating to the draft of the report.

(B) AVAILABILITY OF REPORT.—A copy of the report of the Commission shall remain available for inspection—

(i) in the offices of the Commission; and

(ii) through electronically accessible formats and means, such as the World Wide Web.

(4) CONGRESSIONAL REVIEW.—

(A) IN GENERAL.—Not later than 90 days before submitting the final report of the Commission to the President and Congress, the Commission shall provide copies of the report to the Chairpersons and ranking members of—

(i) the Committee on Environment and Public Works of the Senate;

(ii) the Committee on Foreign Relations of the Senate;

(iii) the Committee on Commerce, Science, and Transportation of the Senate;

(iv) the Committee on Homeland Security and Governmental Affairs of the Senate;

(v) the Committee on Energy and Commerce of the House of Representatives;

(vi) the Committee on International Relations of the House of Representatives;

(vii) the Committee on Resources of the House of Representatives;

(viii) the Committee on Science of the House of Representatives;

(ix) the Committee on Homeland Security of the House of Representatives; and

(x) the Committee on Government Reform of the House of Representatives.

(B) OPPORTUNITY FOR COMMENT.—Before submitting the report to the President and Congress, the Commission shall provide each chairperson and ranking member of a committee described in subparagraph (A) with an opportunity to comment on the report.

#### SEC. 5. POWERS.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this Act hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such subcommittee or members considers advisable.

(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—

(A) NOTICE.—Each open meeting of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(B) MINUTES.—Minutes of each meeting shall—

(i) be kept by the Commission; and

(ii) contain—

(I) a record of the individuals present;

(II) a description of the discussion that occurred during the meeting; and

(III) copies of all statements filed during the meeting.

(iii) AVAILABILITY.—Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(c) ESTABLISHMENT OF SUBCOMMITTEES.—

(1) IN GENERAL.—The Commission may establish 1 or more subcommittees to provide staff support and otherwise assist in carrying out the responsibilities of the Commission.

(2) POLITICAL AFFILIATION OF SUBCOMMITTEE MEMBERS.—Members of a subcommittee shall

be appointed so that not more than ½ of the members of the subcommittee are members of any 1 political party.

(d) ESTABLISHMENT OF MULTIDISCIPLINARY SCIENCE, ECONOMIC, AND TECHNICAL ADVISORY PANEL.—

(1) IN GENERAL.—To assist the Commission in carrying out the duties of the Commission under this Act, the Commission may establish a multidisciplinary science, economic, and technical advisory panel (referred to in this Act as the “Advisory Panel”).

(2) COMPOSITION OF ADVISORY PANEL.—The Advisory Panel shall be composed of individuals appointed by the Commission, each of whom shall have expertise in—

- (A) biological science;
- (B) marine science;
- (C) atmospheric science;
- (D) environmental toxicology;
- (E) epidemiology;
- (F) biogeochemistry;
- (G) energy and water security;
- (H) renewable energy;
- (I) social science; or
- (J) economics.

(3) APPOINTMENT.—The members of the Advisory Panel shall be appointed by a majority vote of all members of the Commission.

(4) USE OF BEST AVAILABLE DATA.—The Advisory Panel shall ensure that the scientific information considered by the Commission is based on the best available data.

(e) CONTRACTS.—The Commission may make or enter into contracts, leases, or other legal agreements to carry out this Act.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(g) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an Executive Director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an Executive Director shall be subject to confirmation by the Commission.

(d) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The Commission may obtain the services of experts and consultants

in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code.

(2) COMPENSATION OF EXPERTS AND CONSULTANTS.—A consultant or expert described in paragraph (1) shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(e) DETAIL OF GOVERNMENT EMPLOYEES.—

(1) FEDERAL EMPLOYEES.—

(A) IN GENERAL.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

(B) CIVIL SERVICE STATUS.—The detail of an employee under subparagraph (A) shall be without interruption or loss of civil service status or privilege.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$8,500,000 for the period of fiscal years 2007 through 2010, to remain available until expended.

#### SEC. 8. TERMINATION OF COMMISSION.

(a) DATE OF TERMINATION.—The Commission shall terminate 30 days after the date on which the Commission submits the report of the Commission under section 4(c).

(b) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 30-day period referred to in subsection (a) to—

(1) conclude the activities of the Commission; and

(2) provide testimony before any committee of Congress concerning the report of the Commission.

(c) POST-COMMISSION ACTIVITIES.—The members and staff of the Commission, the Members of Congress, and employees of Federal agencies are encouraged to—

(1) continue the multi-stakeholder dialogue started by the Commission in new forums and capacities; and

(2) examine any institutional needs, including—

- (A) the formation of a new office;
- (B) improvements in organization;
- (C) a network; or
- (D) a caucus.

#### SEC. 9. RESPONSE OF THE PRESIDENT.

(a) IN GENERAL.—Not later than 90 days after the date of receipt of the report of the Commission under section 4(c), the President shall submit to Congress and appropriate Federal agencies a report containing a statement of proposals to carry out or respond to the recommendations of the Commission.

(b) AVAILABILITY OF REPORT.—The report described in subsection (a) shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

By Mr. LEAHY:

S. 4040. A bill to ensure that innovations developed at federally-funded institutions are available in certain developing countries at the lowest possible cost; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am pleased to introduce the Public Research in the Public Interest Act of 2006. If enacted, this bill will save lives and improve the quality of health for millions of families living in impover-

ished nations. Recently, I have introduced and cosponsored six bills to address the increasingly important issues that relate to global health and the need for earlier access to generic medicines in the United States.

Each year, millions of people needlessly suffer from disease in impoverished countries worldwide because they lack access to lifesaving medicines. And each year, America's world-renowned research universities develop innovative treatments to combat these diseases. However, under our current system, these treatments do not get to the families in impoverished nations who so desperately need them.

Today, 15 percent of the world's people consume about 91 percent of the world's pharmaceuticals. The high price of lifesaving medicines—medicines we take for granted—puts them far beyond the reach of millions of the most vulnerable populations.

While the concept of my bill is simple, the implications are profound. If passed, my bill would greatly lessen the cost burden of generic drugs in the developing world. It would achieve this by requiring federally funded research institutions to permit their inventions, such as, drugs, vaccines, and innovative medical devices, to be provided inexpensively by generic companies distributing medical supplies to the developing world.

Federally funded labs and research institutions have a vital role to play in meeting this goal. For example, Yale University has an agreement with Doctors Without Borders to permit their generic version of its lifesaving AIDS drug to be used for a pilot treatment program in South Africa. To date, Yale's humanitarian endeavor, which in no way reduced their licensing revenues, continues to save thousands of lives.

It is time to ensure that public funds truly serve public purposes—in this instance, delivering essential health care needs at minimal costs to American taxpayers, universities, and pharmaceutical companies. Unfortunately, this Congress has been tied up in knots recently and has been unable to pass even critical appropriations bills. The measures before us are crucial. This comprehensive approach toward providing better global health aid and better access to generic drugs should become law, and I am committed to trying to make it so. I look forward to working with my colleagues on both sides of the aisle, in this Congress or the next, to enact this important legislation.

I have recently introduced or sponsored six bills to address the need for better access to low-cost generic medicines. Two of these bills relate to global health, and four of them address the need for earlier access to generic medicines in the United States.

Federally funded laboratories and other research institutions have a critical role to play in delivering affordable medicines to those sick and suffering worldwide. In 2000, a Senate Joint Economic Committee Report found that public research was instrumental in developing 15 of the 21 drugs considered by experts to have had the highest therapeutic impact on society.

Between 1970 and 2001, there was a ten-fold increase in the number of U.S. patents issued annually to U.S. academic institutions. American universities, hospitals, and other nonprofit research centers concluded that more than 4,500 license and option agreements were executed in 2003, more than double the license and option agreements executed in 1993. A major share of these patents is in the biomedical field.

The World Health Organization's 2006 Commission on Intellectual Property Rights, Innovation, and Public Health has also recently recognized the crucial role of universities. The WHO recommended that universities adopt licensing practices designed to increase access to medicines in developing countries.

The report also tells the story of one way in which the crucial role of university innovations and other publicly funded research in promoting global public health first came into the public eye. It is an interesting story.

In 2001, the international organization Médecins Sans Frontières, or MSF, requested Yale University's permission to use its generic life-saving AIDS drug, stavudine, for a pilot treatment project outside Cape Town.

This was at a time when HIV drugs were first being introduced in the developing world. The costs were prohibitive. Scientists at Yale University had discovered stavudine's value in the fight against AIDS, and Yale University was the key patent holder.

In response to MSF's request, Yale and Bristol-Myers Squibb jointly announced that they would permit the sale of generics in South Africa and that Bristol-Myers Squibb would lower the price of its brand-name stavudine by 96 percent throughout sub-Saharan Africa.

The Yale/Bristol-Myers Squibb announcement was highly significant in the campaign for access to affordable first-line AIDS treatments. Yale and Bristol-Myers Squibb's humanitarian action did not reduce licensing revenues with respect to Yale. Meanwhile, Yale's invention to this day continues to save thousands of lives. According to a recent report by the WHO's AIDS Medicines and Diagnostics Service, stavudine is one of the three first-line HIV medicines that together constituted almost 90 percent of total procurement in 2005.

Unfortunately, this has been an isolated success story rather than the road to greater access for the many important inventions that come out of publicly funded research institutions.

With respect to HIV/AIDS treatment alone, at least two major drugs based on university inventions have come to market since the 2001 stavudine announcement: emtricitabine, developed in large part at Emory University and sold by Gilead Sciences as Emtriva; and T-20 developed in large part at Duke University and marketed as Fuzeon by Hoffmann-La Roche and Trimeris. Just this summer, Yale University announced the license of a new candidate for an AIDS drug based on stavudine. Called "4'-ethynylstavudine", (or abbreviated more simply as Ed4T). Early testing suggests that it may be both more effective and less toxic than its famous predecessor.

But the question is: Will these life-saving drugs ultimately be available in places like sub-Saharan Africa, where HIV infection rates range as high as a third of the adult population?

This bill, the Public Research in the Public Interest Act of 2006, would focus on this problem. By allowing licensing by generic companies of inventions coming out of publicly funded research institutions—and other associated inventions required to produce marketable medicines—it would drive down the price of new, innovative drugs in areas where they would otherwise be effectively unavailable.

Because the licensing regime this bill proposes is self-enforcing, it minimizes both administrative overhead and eliminates the need for case-by-case decisions, while preserving important intellectual property protections. Because the Act allows the introduction of generic or reduced-price drugs only into markets too poor to otherwise afford them, its terms do not threaten corporate investments or profits in wealthy nations. All generic drugs manufactured under the bill must be clearly differentiated from the versions sold in developed nations, where the brand-name companies make their profits.

Moreover, publicly funded research institutions would receive royalties from the sale of inventions covered by this bill in developing markets. While the initial payment of the royalties will typically go to the research institution itself, the bill leaves complete freedom to these institutions and their licensee to decide how such royalties will ultimately be shared. This freedom is especially important because the inventions from universities and other research institutions often form only one part of the collection of intellectual property necessary to manufacture a finished, marketable drug. The appropriate division of the royalties paid by generics for this package of rights in the developing world will be different for different drugs and medical devices, depending on whether the university's contribution is more or less central to the finished product. This Act would allow all the various parties the flexibility to divide these royalties appropriately.

I should be clear, however, that the bill I introduce today is an initial pro-

posal. I look forward to working with research universities in the United States on this important matter. I also intend to work with the companies involved in creating, licensing, and bringing to market the fruits of America's unparalleled research institutions as we continue to shape this solution.

Indeed, the best answer may not be legislative at all, if the groups involved can come together around a different approach. But however it is achieved, I believe that increasing the availability of the many medical inventions that come from publicly funded research centers is a good solution to pressing global health concerns.

Universities, in particular, are unique institutions with unique public commitments. They are, before anything else, institutions dedicated to the creation and dissemination of knowledge in the public interest. The Public Research in the Public Interest Act of 2006 is designed in the spirit of that commitment.

This bill completes a package of six bills that I have recently introduced to increase access to medicines in the United States and to address the global public health crisis. While it is the magnitude of this problem that demands that we, as a Nation, take action, it is the small things, the individual stories that often speak to us most clearly at a personal level.

In my office hangs a photograph I took of three young boys on the side of a mountain in Turkey. I found them flying a kite off the edge of a cliff that overlooks a vast slum. They had made the toy out of scraps of paper, patched together with tape and string, and were flying it on the currents rushing up the face of the rock.

I recalled fearing for their safety as they played so precariously close to the edge. But these children faced much greater risks. When my grandchildren get sick, we can always be sure they will get the medicines they need. For these boys, there is no such guarantee.

These boys, and the millions of children and others like them around the world are the reason behind each of the six bills I have introduced.

Earlier this summer, I introduced a bill which can be the catalyst for empowering U.S. generic companies to save the lives or improve the health of millions of families in impoverished nations. Under the "Life-Saving Medicines Export Act," U.S. companies can make low-cost generic versions of any medicine for export to impoverished nations that face public health crises when those impoverished nations cannot produce those life-saving medicines for themselves.

This bill is based on World Trade Organization agreements permitting nations with pharmaceutical industries to help nations in need. The World Health Assembly and the World Health Organization have adopted resolutions urging all WTO member nations with a generic capability to adopt laws that

implement that agreement. On December 6, 2005, the Office of the U.S. Trade Representative announced that it “welcomes” efforts to “allow countries to override patent rights when necessary to export lifesaving drugs to developing countries that face public health crises but cannot produce drugs for themselves.”

This bill addresses the urgent needs of millions of low-income families in impoverished nations while protecting the interests of the patent owners of these life-saving medicines. As in the Public Research in the Public Interest Act, introduced today, generic companies are only permitted to use the compulsory license in the bill in developing nations, where low-income families are simply too poor to purchase the “brand-name” versions, and the generic versions must be clearly marked as not for resale in developed nations. Thus, both bills pose the risk of minimal losses for patent holders while generating new revenue for the brand-name companies from the royalties on generic sales.

The four additional bills that complete this “Access to Medicines” package seek to preserve incentives for U.S. generic companies to enter and compete in the market. Increased competition leads to lower prices and saved lives.

First, in the wake of the Supreme Court refusal to hear the drug patent case called *Federal Trade Commission (FTC) v. Schering-Plough*, I joined fellow Judiciary Committee members—Senators KOHL, GRASSLEY and SCHUMER—in introducing legislation to explicitly prohibit brand-name drug manufacturers from using pay-off agreements to keep cheaper generic equivalents off the market. Such payments are a distortion in the market that harms patients. I was stunned that the U.S. Supreme Court refused to hear a case so important to our senior citizens. The Federal Trade Commission asked the Supreme Court to hear the arguments but the Court refused at the request of the Justice Department. It seems there may be no justice—until that bill is passed—for our seniors needing costly patented medicines but live where the brand-name company has paid generic companies not to compete.

Then, in July, I joined Senators ROCKEFELLER and SCHUMER in introducing legislation to ban “authorized generics” that can stifle true generic competition. I said at the time that “the giant drug companies keep coming up with ways to avoid real competition and consumers need to be able to count on Congress to close each new anticompetitive loophole they come up with.” If enacted, that bill will close this anti-competitive loophole in the Hatch-Waxman Act and will preserve the incentives Congress created for generic companies to enter the market to supply American citizens and seniors with lower-cost drugs.

The fifth bill introduced was with Senator KOHL. That bill is intended to

stop frivolous Citizen Petitions designed to delay introduction of generic drugs into the market place. Recently, large pharmaceutical companies have exploited that petition process to keep their profits high. In addition, I joined with Senators SCHUMER, CLINTON and STABENOW on the Access to LifeSavings Medicine Act which related to developing a fast-track process for approving generic versions of biologic medicines.

I want to thank Stacy Kern-Scheerer with Senate Legislative Counsel who provided very helpful guidance under extreme pressure in drafting this short, but complex bill. She and Bill Baird, also with Senate Legislative Counsel, did a great job with a rapid turnaround.

I believe that these six bills, together, can save millions of lives. Recognizing the great need, there have been significant voluntary efforts made by brand-name pharmaceutical companies, foundations, and nonprofits who have already donated life-saving medicines, time, personnel and money to help in the fight against deadly diseases both in America and abroad. I commend and greatly appreciate those efforts. Nonetheless, much remains to be done. My bills will both add to and complement existing efforts, by making sure even cutting edge treatments are available in developing countries, and by ensuring that America’s aid dollars and the contributions of private philanthropists are used as efficiently as they can possibly be used.

The President’s Emergency Plan for AIDS Relief Report to Congress reported that “[i]n every case generics prices present an opportunity for cost savings; in some cases, the branded price per pack of a drug is up to 11 times the cost of the approved generic version.”

The current global public health crisis is one of the great callings of our time. As a nation, we cannot afford to ignore this threat. Our own health and aspects of our national security depend on it.

We have become far more aware today of how much our own health depends on what takes place half a world away. Whether it is AIDS, SARS, West Nile Virus, the Avian Flu, or the encroaching menace of multi-drug resistant bacteria, we are all at risk. We are only an airplane flight away from wherever an outbreak may occur—a place where the medical innovations developed in this country to combat these devastating diseases may not be available to keep the outbreak under control.

In a post-9/11 world, our well-being is intimately connected with that of other nations. Health is an essential building block for a strong economy, and vital to maintain a thriving democracy. Through increasing access to essential medicines throughout the world, the United States can help to give developing nations a chance to flourish, while improving U.S. rela-

tions with large segments of the world’s population.

President Franklin Roosevelt once said: “The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough, for those who have little.”

We are fortunate, at some times and on some issues, to be able to do both. Now is one of those times, and this is one of those issues. I hope my colleagues will join me in supporting my efforts this year on the global public health crisis, including today’s addition, the Public Research in the Public Interest Act of 2006.

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

S. 4040

*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 “Public Research in the Public Interest Act of 2006”.

**SEC. 2. PURPOSE AND FINDINGS.**

(a) **PURPOSE.**—The purpose of this Act is to promote global public health and America’s national security by ensuring that innovations developed at federally-funded institutions are available in eligible developing countries at the lowest possible cost.

(b) **FINDINGS.**—Congress finds the following:

(1) It is in the national interest of the United States that people around the world live healthier lives, and that they perceive the United States in a more favorable light.

(2) The United States Government funds a major portion of all academic research.

(3) Congress funds universities and Federal research laboratories as institutions dedicated to the creation and dissemination of knowledge in the public interest.

(4) The Federal Government’s investment in science and technology fuels a thriving pharmaceutical industry and rising longevity and quality of life in the United States. In 2000, a Senate Joint Economic Committee Report found that public research was instrumental in developing 15 of the 21 drugs considered by experts to have had the highest therapeutic impact on society.

(5) Millions of people with HIV/AIDS in developing countries need antiretroviral drugs. More than 40,000,000 people worldwide have HIV and 95 percent of them live in developing countries. Malaria, tuberculosis, and other infectious diseases kill millions of people a year in developing nations.

(6) The World Health Organization (“WHO”) has estimated that 1/3 of the world’s population lacks regular access to essential medicines, including antiretroviral drugs. The WHO reported that just by improving access to existing medicines roughly 10,000,000 lives could be saved around the world every year.

(7) To help address the access to medicines crisis, the World Health Organization’s 2006 Commission on Intellectual Property Rights, Innovation, and Public Health recommended that universities adopt licensing practices designed to increase access to medicines in developing countries.

(8) The Department of State has reported to Congress under the President’s Emergency Plan for AIDS Relief that, “[I]n every case generics prices present an opportunity for cost savings; in some cases, the branded price per pack of a drug is up to 11 times the cost of the approved generic version.”

(9) Since sales of the patented, brand-name versions of such medicines are minimal or non-existent in many impoverished regions of the world, allowing generic versions of those medicines will have minimal impact on the sales of brand-name, patented versions in such regions, or the licensing revenues of publicly funded research institutions, while saving an untold number of lives.

### SEC. 3. DEFINITIONS.

In this Act:

(1) ASSOCIATED MEDICAL PRODUCT.—The term “associated medical product”, when used in relation to a subject invention, means any medical product of which the manufacture, use, sale, offering for sale, import, or export relies upon or is covered by the rights guaranteed by title in that invention.

(2) ASSOCIATED RIGHTS.—The term “associated rights,” when used in relation to a subject invention, means—

(A) all patent and marketing rights, possessed by a current or former holder of title in that invention, or licensee of rights guaranteed by such title, that are reasonably necessary to make, use, sell, offer to sell, import, export, or test any associated medical product ever made, used, sold, offered for sale, imported, or exported by that party; and

(B) the right to rely on biological, chemical, biochemical, toxicological, pharmacological, metabolic, formulation, clinical, analytical, stability, and other information and data for purposes of regulatory approval of any associated medical product.

(3) DRUG.—The term “drug” has the meaning given such term in section 201 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321).

(4) ELIGIBLE COUNTRY.—The term “eligible country” means any country of which the economy is classified by the World Bank as “low-income”, or “lower-middle-income”.

(5) FAIR ROYALTY.—The term “fair royalty”, when used in relation to a subject invention, means—

(A) for a country classified by the World Bank as “low-income” at the time of the sales on which royalties are due, 2 percent of a licensee’s net sales of associated medical products in such country; and

(B) for a country classified by the World Bank as “lower-middle-income” at the time of sales on which royalties are due, 5 percent of a licensee’s net sales of associated medical products in such country.

(6) INVENTION.—The term “invention” means any invention or discovery which is or may be patentable or otherwise protectable under title 35, United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(7) MEDICAL DEVICE.—The term “medical device” means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), and includes any device component of any combination product, as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) MEDICAL PRODUCT.—The term “medical product” means any drug, treatment, prophylaxis, vaccine, or medical device.

(9) NEGLECTED RESEARCH.—The term “neglected research” means any use of a subjected invention or the associated rights in an effort to develop medical products for a rare disease or condition, as defined in section 526(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(2)).

(10) SUBJECT INSTITUTION.—The term “subject institution” means any institution of higher education (as such term is defined in section 101(a) of the Higher Education Act of

1965 (20 U.S.C. 1001(a)) or research that receives federal financial assistance, including Federal laboratories as defined in section 12(d) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)).

(11) SUBJECT INVENTION.—The term “subject invention” means any invention—

(A) conceived or first actually reduced to practice by a subject institution, or its employees in the course of their employment, on or after the effective date of this Act; or

(B) in which a subject institution holds title, provided the invention was first conceived or reduced to practice on or after the effective date of this Act.

### SEC. 4. ACCESS TO LIFESAVING MEDICINES DEVELOPED AT GOVERNMENT FUNDED INSTITUTIONS.

(a) GRANT OF LICENSE.—

(1) IN GENERAL.—As a condition of receiving Federal assistance, any subject institution that conceives, reduces to practice, or holds title in a subject invention shall be required to grant irrevocable, perpetual, non-exclusive licenses to the invention and any associated rights the institution may own or ever acquire, to any party requesting such a license pursuant to subsection (g).

(2) PURPOSE OF LICENSE.—The licenses described under paragraph (1) shall be for the sole purpose of—

(A) supplying medical products in accordance with subsection (e); or

(B) conducting neglected research anywhere in the world, royalty-free.

(b) INCORPORATION INTO TITLE.—The open-licensing requirement created by subsection (a) and all licenses granted thereunder shall be part of the subject institution’s title in a subject invention. No transfer or license may be interpreted in any manner inconsistent with making any grant under subsection (a) effective, or in any manner that prevents or frees the holder of title in the invention from granting licenses.

(c) SUBSEQUENT LICENSES.—

(1) IN GENERAL.—If a subject institution licenses or grants rights in a subject invention to any other party, as a condition of such grant the licensee or grantee, and any future sublicensees or subsequent grantees, ad infinitum, shall also be required in perpetuity, to grant irrevocable, perpetual, nonexclusive licenses on any associated rights which the licensee or grantee may own or later acquire, to any party requesting such a license pursuant to subsection (g).

(2) PURPOSE OF LICENSE.—The licenses shall be for the sole purposes described in subsection (a)(2).

(3) APPLICATION OF THIS SUBSECTION.—This subsection applies to licenses for a subject invention acquired under subsection (a).

(d) CONSTRUCTION.—No grant or licensee of any subject invention may be interpreted in any manner that prevents or frees the grantee or licensee from granting licenses for associated rights under subsection (c).

(e) LICENSE FOR SUPPLY OF MEDICAL PRODUCTS.—

(1) IN GENERAL.—A license under subsection (a)(2)(A) shall be a license for the sole purpose of permitting the making, using, selling, offering to sell, importing, exporting, and testing of medical products in eligible countries and the making and exporting of medical products worldwide for the sole purpose of supplying medical products to eligible countries.

(2) LABELING.—If the recipient of a license under subsection (a) exercises its right to make and export a medical product in any country other than an eligible country for the sole purpose of export to an eligible country, then the licensee shall use reasonable efforts to visibly distinguish the medical product it manufactures from any similar medical product sold by others in the

country of manufacture, provided that such reasonable efforts do not require the licensee to expend significant expense.

(3) ROYALTIES.—

(A) LICENSE OF SUBJECT INVENTION.—A license of a subject invention under subsection (a)(2)(A) shall be irrevocable and perpetual so long as the licensee submits to the licensor payment of a fair royalty on sales of any associated medical product within 90 days of such sales. Failure or refusal of the licensor to accept the fair royalty shall not terminate or affect in any way the license.

(B) LICENSE OF ASSOCIATED RIGHTS.—A license of associated rights to a subject invention under subsection (a)(2)(A) shall be royalty free.

(f) TRANSFER.—In accordance with subsections (a) through (d), any license or other transfer of a subject invention by a subject institution or the licensee or grantee of such institution for a subject invention, shall be invalid unless—

(1) the license or grant includes a clause, “This grant or license is subject to the provisions of the Public Research in the Public Interest Act of 2006.”;

(2) the licensor or grantor complies with the notification requirements of subsection (h); and

(3) the license or grant does not include any terms that contradict any requirement of this Act.

(g) PROCEDURES FOR ACQUISITION OF LICENSES.—

(1) IN GENERAL.—Any party, upon providing to the Food and Drug Administration—

(A) notification of its intent to supply medical products or conduct neglected research as provided in subsection (a);

(B) a specific list of the rights it wishes to license for those purposes; and

(C) the names of the party or parties it believes are obligated to grant such licenses under subsections (a) through (d), shall automatically be deemed to receive the license so requested without the need for any further action on the part of the licensing party if the party or parties specified in the request do not object and notify the requesting party of such objection, within 30 days of the publication of such request by the Administration.

(2) ENFORCEMENT ACTION.—

(A) IN GENERAL.—If the party or parties specified under paragraph (1) object to the grant of a requested license, the requesting party may bring an action to enforce its right to a license of a subject invention or associated rights under subsections (a) through (d).

(B) PROCESS.—In any suit under this subsection, the requesting party shall be entitled to separate, expedited review of the legal issues required to adjudicate whether it is entitled to the requested license, without prejudice to any other issues in the lawsuit. If the party objecting to the license is found to have objected without reasonable cause or without a good faith belief that there was a justifiable controversy under the facts and the law, the party requesting the license shall be entitled to attorney’s fees, other reasonably necessary costs of the lawsuit, and treble damages from the objecting party.

(3) PUBLICATION.—The Food and Drug Administration shall publish any request made under paragraph (1) within 15 days of receipt of such request. The Food and Drug Administration shall also make reasonable efforts to directly notify the parties named in any such request.

(h) NOTIFICATION OF TRANSFER OR LICENSE OF SUBJECT INVENTIONS.—The holder of title or any licensee in a subject invention shall notify the Food and Drug Administration of any grant or license of rights in that invention. The Food and Drug Administration

shall publish all such notifications within 15 days of receipt.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 4041. A bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes; read the first time.

Mr. INHOFE. President, I rise today, along with my colleague, TOM COBURN, to proudly introduce the Child Medication Safety Act, a bill to protect children and their parents from being coerced into administering a controlled substance or psychotropic drug in order to attend a school. The text of my bill exactly matches the text of H.R. 1790, which passed the House on November 16, 2006 by a vote of 407 to 12.

Parents today face many challenges when raising their children, one of which is ensuring that their children receive the best education possible. My views on education come from a somewhat unique perspective in that my wife, Kay, was a teacher at Edison High School in Tulsa for many years and now both of our daughters are teachers. I can assure you that I am one of the strongest supporters of quality education. However, it has come to my attention that schools have been acting as physicians or psychologists by strongly suggesting that children with behavioral problems be put immediately on some form of psychotropic drugs. Schools and teachers are not equipped to make this diagnosis and should not make it mandatory for the student to continue attending the school. This is clearly beyond their area of expertise. Therefore, I am introducing this legislation to ensure that parents are not required by school personnel to medicate their children.

The Child Medication Safety Act requires, as a condition of receiving funds from the Department of Education, that States develop and implement policies and procedures prohibiting school personnel from requiring a child to obtain a prescription as a condition of attending the school. It should be noted that this bill does not prevent teachers or other school personnel from sharing with parents or guardians classroom-based observations regarding a student's academic performance or regarding the need for evaluation for special education. Additionally, this bill calls for a study by the Comptroller General of the United States reviewing: No. 1, the variation among States in the definition of psychotropic medication as used in public education, No. 2, the prescription rates of medication used in public schools to treat children with attention deficit disorder and other such disorders, No. 3, which medications listed under the Controlled Substances Act are being prescribed to such children, and No. 4, which medications not listed under the Controlled Substances Act are being used to treat these children. This GAO report is due no later than 1 year after the enactment of this Act.

I believe this is an extremely important bill that protects the rights of our children against improper intrusion regarding health issues by those not qualified. If a parent or guardian believes their child is in need of medication, then they have the right to make that decision and consult with a licensed medical practitioner who is qualified to prescribe an appropriate drug. Please join us in support of this legislation that protects the freedoms of our children. We also ask that you work with us to secure passage of the Child Medication Safety Act before the end of the 109th Congress as it has already passed the House by a huge margin.

By Mr. DURBIN (for himself, Mr. CHAMBLISS, Mr. CONRAD, and Mr. BAYH):

S. 4042. A bill to amend title 18, United States Code, to prohibit disruptions of the funerals of members or former members of the Armed Forces; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise today to join with my colleagues Senators CHAMBLISS, CONRAD, and BAYH in introducing the Respect for the Funerals of Fallen Heroes Act.

Our bill would make it unlawful to intentionally disrupt the funeral of a U.S. military servicemember or veteran. Sadly, we have seen at least 129 such disruptions over the past 16 months by a group nominally calling itself a Christian church. These disruptions have taken place in almost every State in the country. In Illinois alone, there have been at least 16 disruptions of military funerals during that time—more than any other State.

Most of us know the heartbreak of laying a loved one to rest—a father, a mother, a husband or wife, a grandparent, a brother or sister, a child, a good friend. Funerals are a sad moment of parting, a last opportunity to say farewell.

A loved one is laid to rest only once. And the families and friends of the departed have a clear interest in conducting the funeral ceremony in peace, in tranquility, and in a way they feel best honors the life of the departed and comforts those who are left behind.

It can be devastating to have that funeral disrupted—to have the peace and good order of the ceremony intentionally disturbed by someone you don't even know—during the one chance the mourners have to lay their loved one to rest.

Intentional disruptions of funerals are particularly troubling because mourners at a funeral are a captive audience. They can't just leave. If someone tries to disturb a funeral ceremony by making loud noises or trying to divert the mourners' attention, the mourners can't just move somewhere else. A funeral ceremony is bound to the location of the body of the deceased.

While an intentional disruption of the peace and good order of a funeral

ceremony would be inappropriate under any circumstances, it is particularly vile when the intentional disruption occurs during the funeral of a fallen member of the Armed Services.

The United States government owes an obligation to the men and women who have served their country in uniform. These men and women have risked their lives for their country. When they lose their lives, the government has a significant interest in allowing their families and friends to lay them to rest in peace.

In May, Congress enacted legislation called the Respect for America's Fallen Heroes Act, which would safeguard the funerals of U.S. veterans and servicemembers that take place at Federal cemeteries. This law prohibits demonstrations during the military funerals that are held at our 121 national cemeteries and Arlington National Cemetery. It provides protection for the funerals of approximately 90,000 veterans who are buried each year Federal cemeteries.

Our bill would expand the current law to cover the funerals of all servicemembers and veterans, whether they are buried in a national cemetery, in their own local cemetery, or somewhere else. It would provide protection for the funerals of all of the 650,000–700,000 servicemembers and veterans who die each year in the United States.

Admirably, my home State of Illinois and 25 other States have passed laws to try to protect military funerals with their borders. A wide range of State laws have been enacted, providing varying degrees of protection. But many of these laws were not narrowly tailored and are likely to be struck down as unconstitutional. Legal challenges are already underway in several States. What's needed now is a Federal solution.

Under our bill, it would be a criminal misdemeanor—punishable by a fine or up to one year in jail—for any person to 1. make any noise or diversion within the boundary of or within 150 feet of a military funeral location that intentionally disturbs the peace and good order of the funeral, or 2. intentionally impede access to or from the funeral within 300 feet of the funeral location. Such activities would be prohibited during the period from 60 minutes before until 60 minutes after a military funeral.

I understand the critical importance of the right to free speech. It is a foundational right under the U.S. Constitution. However, the Supreme Court has repeatedly found it is consistent with the First Amendment for the time, place, and manner of speech to be reasonably limited in a way that is content neutral and narrowly tailored to serve a significant government interest.

Our bill meets that test. The government has a significant interest in preserving the tranquility and privacy of the funerals of men and women who defend our country as members of the

Armed Forces. Congress has the constitutional power to raise and support armies, and we can and should support our troops by providing them with peaceful funerals.

Our bill creates a reasonable time, place, and manner restriction similar to restrictions that the Supreme Court has previously upheld. For example, in a case that took place in my home state of Illinois, *Grayned v. City of Rockford*, the Supreme Court upheld an ordinance that stated the following: “(N)o person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order of such school session or class thereof.”

Like the ordinance in *Rockford, IL*, my legislation is a reasonable restriction on disruptive activities within a limited geographic location for a limited period of time. Just as the local government has a significant interest in protecting the peace and good order of school sessions, the Federal Government has a significant interest in protecting the peace and good order of the funeral ceremonies of our military personnel.

The fact that funeral attendees are a captive audience also figures into the analysis. In many locations, the Supreme Court expects individuals simply to avoid speech they do not want to hear. But in the case *Frisby v. Schultz*, the Supreme Court upheld an ordinance that made it unlawful to picket outside an individual’s residence, stating: “That we are often ‘captives’ outside the sanctuary of the home and subject to objectionable speech. . . does not mean we must be captives everywhere.” Like individuals in their homes and students in classrooms, mourners at funeral ceremonies are bound to one location and cannot avoid those who intend to cause disruptions. And they should not be forced to suffer those disruptions, especially during the one chance they have to lay a loved one rest.

The Respect for the Funerals of Fallen Heroes Act is content neutral. Its prohibitions apply to all offenders regardless of the nature of the message or the manner in which the message is conveyed. The legislation simply aims to allow funerals to be conducted in peace.

Our bill is also narrowly tailored. Not every form of speech or activity would be prohibited during the time period, only activities that are intended to and have the effect of disturbing the funeral ceremony. A person could carry on a conversation on a sidewalk nearby or hand out leaflets, but the peace and solemnity of the funeral must not be disturbed.

This bill has been carefully drafted to withstand constitutional scrutiny. We sought the advice of distinguished First Amendment scholar Geoffrey Stone at the University of Chicago law

school, and he believes the bill is consistent with the First Amendment.

In addition, it is within the power of Congress to provide protection for the funerals of fallen servicemembers and veterans that are held at non-Federal cemeteries. The Congressional Research Service has researched this issue and concluded that a court would likely deem our legislation to be within Congress’s lawmaking power, in light of Congress’s constitutional authority to raise and support armies, and in light of cases in which the Supreme Court has upheld Congress’s power to regulate private property for the benefit of the military.

Our legislation is supported by veterans groups in Illinois and across America. I received a letter from Retired U.S. Army Colonel Aaron J. Wolff, President of the Illinois Council of Chapters of the Military Officers Association of America, who said: “The Respect for America’s Fallen Heroes Act passed by Congress in May 2006, and signed into law, was an initial step in stopping demonstrations at funerals of our fallen heroes.... On behalf of all veterans and their families, I strongly support your bill to expand coverage of the demonstration ban to include all the funerals of our veterans, wherever they are held.”

Tanna K. Schmidli, chairman of the Board of Governors of the National Military Family Association, wrote to me and said: “The National Military Family Association supports this legislation to ban demonstrations at all military funerals. Grieving military families, who had made the ultimate sacrifice, should not be subjected to these intrusions. This should be a time for military families to reflect and say goodbye to their loved one and a time for the nation to honor its heroes.”

The men and women who served our country in uniform, and their families and friends, are entitled to funeral ceremonies that can be conducted in peace and without disruption. It’s time to protect the funerals of all our fallen heroes. I hope that my colleagues from both parties will cosponsor this bill and join me in seeking to provide the protection they deserve.

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

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

S. 4042

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

**SECTION 1. RESPECT FOR THE FUNERALS OF FALLEN HEROES.**

(a) IN GENERAL.—Chapter 67 of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces**

“(a) PROHIBITION.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery

Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 60 minutes before and ending 60 minutes after such funeral, any part of which activity—

“(1)(A) takes place within the boundaries of the location of such funeral or takes place within 150 feet of the point of the intersection between—

“(i) the boundary of the location of such funeral; and

“(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

“(B) includes any individual willfully making or assisting in the making of any noise or diversion that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral with the intent of disturbing the peace or good order of that funeral; or

“(2)(A) is within 300 feet of the boundary of the location of such funeral; and

“(B) includes any individual willfully and without proper authorization impeding the access to or egress from such location with the intent to impede the access to or egress from such location.

“(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘Armed Forces’ has the meaning given the term in section 101 of title 10.

“(2) The term ‘funeral of a member or former member of the Armed Forces’ means any ceremony or memorial service held in connection with the burial or cremation of a member or former member of the Armed Forces.

“(3) The term ‘boundary of the location’, with respect to a funeral of a member or former member of the Armed Forces, means—

“(A) in the case of a funeral of a member or former member of the Armed Forces that is held at a cemetery, the property line of the cemetery;

“(B) in the case of a funeral of a member or former member of the Armed Forces that is held at a mortuary, the property line of the mortuary;

“(C) in the case of a funeral of a member or former member of the Armed Forces that is held at a house of worship, the property line of the house of worship; and

“(D) in the case of a funeral of a member or former member of the Armed Forces that is held at any other kind of location, the reasonable property line of that location.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 67 of such title is amended by inserting after the item related to section 1387 the following new item:

“1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces.”.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 4045. A bill to designate the United States courthouse located at the intersections of Broad Street, Seventh Street, Grace Street, and Eighth Street in Richmond, Virginia, as the “Spottswood W. Robinson III and Robert Merhige Jr. Courthouse”; to the Committee on Environment and Public Works.

Mr. WARNER. I rise today to join my colleague from Virginia, Senator ALLEN, in offering a bill to name the new Richmond Courthouse for two distinguished jurists and sons of Virginia.

We are privileged in the Commonwealth to have a long history, beginning with Jamestown as the first permanent English settlement on the American Continent. As a young republic, the College of William and Mary was selected as a site for the Nation's first law school.

The two men to be honored in the naming of the new U.S. Courthouse in Richmond were lawyers who throughout their careers adhered to the principle of "equal justice under law."

Spottswood William Robinson, III was born in Richmond, VA on July 26, 1916. He attended Virginia Union University and then attended Howard University School of Law, graduating first in his class in 1939 and serving as a member of the faculty until 1947.

Judge Robinson was one of the core attorneys of the NAACP Legal Defense and Educational Fund from 1948 to 1960, achieving national prominence in the legal community with his representation of the Virginia plaintiffs in the 1954 U.S. Supreme Court case *Brown v. Board of Education*. *Brown* outlawed public school segregation declaring "separate but equal" schools unconstitutional.

In 1964, Judge Robinson became the first African-American to be appointed to the United States District Court for the District of Columbia. In 1966, President Johnson appointed Judge Robinson the first African-American to the United States Court of Appeals for the District of Columbia Circuit. On May 7, 1981, Judge Robinson became the first African American to serve as Chief Judge of the District of Columbia Circuit.

Judge Merhige was born in New York in 1919 and he attended college at High Point College in North Carolina. He earned his law degree from the T.C. Williams School of Law at the University of Richmond, from which he graduated at the top of his class in 1942.

From 1942 to 1945, Judge Merhige served in the United States Air Force and practiced law in Richmond from 1945 to 1967, establishing himself as a formidable trial lawyer representing criminal defendants as well as dozens of insurance companies.

On August 30, 1967, Judge Merhige was appointed U.S. District Court Judge for the Eastern District of Virginia, Richmond Division by President Lyndon B. Johnson serving as a Federal judge until 1998. In 1972, Judge Merhige ordered the desegregation of dozens of Virginia school districts. He considered himself to be a "strict constructionist" who went by the law as spelled out in precedents by the higher courts. In 1970, he ordered the University of Virginia to admit women. As evidence of Judge Merhige's ground breaking decisions, he was given 24-hour protection by Federal marshals due to repeated threats of violence against him and his family. His courage in the face of significant opposition of the times is a testimony to his dedication to the rule of law.

Senator ALLEN and I carefully took this responsibility in naming the U.S. Federal Courthouse in Richmond. We worked on it for several years and consulted the Virginia Bar Association and sought the views of the bench and bar. The Virginia Congressional delegation, the Virginia Bar Association, the Mayor of Richmond, and many others decided that the best way to honor both men was to have them equally share the honor of having the courthouse so named. I attach a letter from the former Virginia Governor, the current Mayor of Richmond, L. Douglas Wilder. I value greatly the views of a friend and fellow public servant and one who has joined me on many issues to benefit the people of Virginia.

I thank the Senate for the consideration of this bill and look forward to working with my colleagues seeking its passage.

CITY OF RICHMOND,

Richmond, VA, September 29, 2006.

Senator JOHN WARNER  
225 Russell Senate Office Building, Washington, DC.

Senator GEORGE ALLEN,  
204 Russell Senate Office Building, Washington, DC.

DEAR SENATORS WARNER AND ALLEN: On behalf of the City of Richmond, please accept this brief note in support of your collective decision to name the new U.S. District Court in Richmond for "Spottswood W. Robinson III and Robert Merhige, Jr." Both men played a significant role in Virginia's history and are remembered as "giants" within Richmond's legal community.

Sincerely,

L. DOUGLAS WILDER,  
Mayor.

Mr. ALLEN. Mr. President, I am pleased to join with my colleague the Senior Senator from Virginia JOHN WARNER in introducing legislation to name the new Federal courthouse in Richmond, VA for two great men and leaders of the civil rights movement, Spottswood W. Robinson III and Robert Merhige, Jr.

Judge Spottswood Robinson was a brilliant champion of civil rights for all Americans. As a student at Howard Law School, Judge Spottswood W. Robinson III earned the highest GPA ever achieved at the law school. Following law school, he returned to Richmond, VA to establish a law firm with another pioneer of civil rights, Oliver W. Hill. Through the years he was involved in many important civil rights cases in State and Federal courts, but it was his vital role in the seminal case of *Brown v. Board of Education* that placed Judge Robinson into legal history. Judge Robinson is widely recognized as the architect of the legal strategies that led to success in intergrading the nations public schools.

Judge Robinson left the private practice of law in 1960 to become Dean of the Howard Law School. In October 1963, President Kennedy nominated him to become a District Court Judge for the District of Columbia. Subsequently, Judge Robinson became the first African-American to serve as a Judge on the Court of Appeals for the

District of Columbia and in 1981 became the Chief Judge for the Court. Upon retiring from the Court in 1992, Judge Robinson returned to his home in Richmond and continued to be an active member of the community until his passing in 1998.

The other fine jurist who the new courthouse in Richmond will be named is another hero of the civil rights movement, Judge Robert R. Merhige, Jr. Judge Merhige served this country for 31 years on the bench and as a member of the United States Army Air Force as a B-17 bombardier. Born in 1919, Judge Merhige attended the T.C. Williams School of Law at the University of Richmond, from which he graduated at the top of his class in 1942. Over the next 21 years, Judge Merhige tried hundreds of both criminal and civil cases in both State and Federal court. He served as President of the Richmond Bar Association from 1963 to 1964.

In 1967, President Lyndon Johnson appointed Judge Merhige to be a United States District Judge. Respected and admired by lawyers from coast to coast, Judge Merhige became known for his integrity and intellect. Despite the personal hardship placed on both himself and his family from those who disagreed with his rulings to enforce civil rights law, Judge Merhige continued to uphold the law and follow the constitution in the face of grave threats.

In deciding whom to name this courthouse after, I have taken great care to listen to all Virginians after securing funds for this impressive courthouse for downtown Richmond and its revitalization. I have worked with the Virginia Congressional delegation, the distinguished Mayor of Richmond, L. Douglas Wilder, State Senator Benjamin Lambert, the Virginia Bar Association, the Richmond Bar Association, and many others.

I am honored to join with my colleague Senator WARNER in ensuring that when people walk by the new Federal courthouse, they are reminded of these two distinguished jurists who helped change the face of society for the better with equal justice for all.

By Mrs. DOLE:

S.J. Res. 41. A joint resolution recognizing the contributions of the Christmas tree industry to the United States economy and urging the Secretary of Agriculture to establish programs to raise awareness of the importance of the Christmas tree industry; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. DOLE. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 41

Whereas Christmas trees have been sold commercially in the United States since the 1850s;

Whereas, by 1900, one in five American families decorated a tree during the Christmas season, while, by 1930, a decorated Christmas tree had become a nearly universal part of the American Christmas celebration;

Whereas 32.8 million households in the United States purchased a live-cut Christmas tree in 2005;

Whereas the placement and decoration of live-cut Christmas trees in town squares across the country have become an American tradition;

Whereas, for generations, American families have traveled hundreds and even thousands of miles to celebrate the Christmas season together around a live-cut Christmas tree;

Whereas 36 million live-cut Christmas trees are produced each year, and 98 percent of these trees are shipped or sold directly from Christmas tree farms;

Whereas North Carolina, Oregon, Michigan, Washington, Wisconsin, Pennsylvania, New York, Minnesota, Virginia, California, and Ohio are the top producers of live-cut Christmas tree, but Christmas trees are grown in all 50 States;

Whereas there are more than 21,000 growers of Christmas trees in the United States, and approximately 100,000 people are employed in the live-cut Christmas tree industry;

Whereas many Christmas tree growers grow trees on a part-time basis to supplement their other farm and non-farm income;

Whereas growing Christmas trees provides wildlife habitat;

Whereas more than a half million acres of land were planted in Christmas trees in 2005;

Whereas 73 million new Christmas trees will be planted in 2006, and, on average, over 1,500 Christmas trees can be planted per acre; and

Whereas the retail value of all Christmas trees harvested in 2005 was \$1.4 billion: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—*

(1) recognizes the important contributions of the live-cut Christmas tree industry, Christmas tree growers, and persons employed in the live-cut Christmas tree industry to the United States economy; and

(2) urges the Secretary of Agriculture to establish programs to raise awareness of the importance of the live-cut Christmas tree industry.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 591—CALLING FOR THE STRENGTHENING OF THE EFFORTS OF THE UNITED STATES TO DEFEAT THE TALIBAN AND TERRORIST NETWORKS IN AFGHANISTAN AND TO HELP AFGHANISTAN DEVELOP LONG-TERM POLITICAL STABILITY AND ECONOMIC PROSPERITY

Mr. FEINGOLD (for himself and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 591

Whereas global terrorist networks, including those that attacked the United States on September 11, 2001, continue to threaten the security of the United States and are recruiting new members and developing the capability and plans to attack the United States and its allies throughout the world;

Whereas winning the fight against terrorist networks requires a comprehensive and global effort;

Whereas, according to the Final Report of the National Commission on the Terrorist Attacks Upon the United States, “The U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power.”;

Whereas a democratic, stable, and prosperous Afghanistan is a vital security interest of the United States;

Whereas a strong and enduring strategic partnership between the United States and Afghanistan must continue to be a primary objective of both countries to advance a shared vision of peace, freedom, security, and broad-based economic development in Afghanistan and throughout the world;

Whereas the long-term political stability of Afghanistan requires sustained economic development, and the United States has an interest in helping Afghanistan achieve this goal;

Whereas section 101(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7511(1)) declares, “The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.”;

Whereas the Government of Afghanistan continues to make progress in developing the capacity to deliver services to the people of Afghanistan, yet 40 percent of the population is unemployed and 90 percent of the population lacks regular electricity;

Whereas stability in Afghanistan is being threatened by antigovernment and Taliban forces that seek to disrupt political and economic developments throughout the country;

Whereas the Afghan National Army and the Afghan National Police have made some progress but still lack the ability to establish security throughout Afghanistan;

Whereas, despite the efforts of the international community, the United Nations, and the Government of Afghanistan, on September 2, 2006, the United Nations Office on Drugs and Crime reported that in 2006 opium poppy cultivation in Afghanistan increased 59 percent over 2005 levels and reached a record high;

Whereas the number of attacks waged by the Taliban on central, provincial, and local-level government officials and establishments, the Afghan National Army, the Afghan National Police, and North Atlantic Treaty Organisation (NATO) and United States military personnel increased significantly during 2006 over the number of such attacks that occurred during 2005;

Whereas the number of suicide bombings in Afghanistan doubled and the number of suicide attacks more than tripled from 2005 to 2006;

Whereas the number of United States troops in Afghanistan is approximately 23,000, approximately 1/2 of the number of troops currently in Iraq;

Whereas Osama bin Laden and Ayman al-Zawahiri are still at large and have been reported to be somewhere in the Afghanistan-Pakistan border region;

Whereas Afghan President Hamid Karzai said, “The same enemies that blew up themselves in . . . the twin towers in America are still around.”;

Whereas, on September 12, 2006, the United States Secretary of State said, “[A]n Afghanistan that does not complete its democratic evolution and become a stable ter-

rorist-fighting state is going to come back to haunt us. . . . [I]t will come back to haunt our successors and their successors.”, and “If we should have learned anything, it is that if you allow that kind of vacuum, if you allow a failed state in that strategic a location, you’re going to pay for it.”;

Whereas, on September 21, 2006, the Secretary General of NATO called for additional troops for Afghanistan, saying, “more can be done and should be done,” and on September 18, 2006, the top United Nations official in Afghanistan said that more troops and economic aid are still needed, saying, “These are difficult times for Afghanistan. . . . If we want to succeed in Afghanistan, the answer is clear: Afghanistan needs more sustained support from the international community.”;

Whereas United States assistance to Afghanistan was cut by approximately 30 percent in fiscal year 2006 and the President’s request for fiscal year 2007 cut that amount by an additional 67 percent;

Whereas only 50 percent of the money pledged by the international community for Afghanistan between 2002 and 2005 has actually been delivered;

Whereas, on September 20, 2006, NATO’s Supreme Allied Commander for Europe said, “Narcotics [are] at the core of everything that can go wrong in Afghanistan if it’s not properly tackled.” and “We’re not making progress—we’re losing ground.”;

Whereas, if the United States does not strengthen efforts to defeat the Taliban and to create long-term stability in Afghanistan and the region, Afghanistan will become what it was before the September 11, 2001, terrorist attacks, a haven for those who seek to harm the United States, and a source of instability that threatens the security of the United States: Now, therefore, be it

*Resolved, That it is the sense of the Senate that—*

(1) the United States must strengthen its commitment to establishing long-term stability and peace in Afghanistan;

(2) the United States, in partnership with the International Security Assistance Force (ISAF) and the Government of Afghanistan, must immediately increase its efforts to eradicate the Taliban, terrorist organizations, and criminal networks currently operating in Afghanistan, including by increasing United States military and other personnel and equipment in Afghanistan as necessary;

(3) the United States, in consultation with ISAF and the Government of Afghanistan, should consider all options necessary to implement a comprehensive new program to eliminate opium production in Afghanistan, including sending additional resources to Afghanistan and an increased role for the United States military and North Atlantic Treaty Organisation (NATO) forces in counternarcotics efforts;

(4) the United States should work aggressively to hold members of the international community accountable for delivering on the financial pledges they have made to support development and reconstruction efforts in Afghanistan;

(5) the United States and the international community, in concert with the Government of Afghanistan, should increase efforts to strengthen the legitimacy of the Government of Afghanistan and its ability to provide services to the people of Afghanistan;

(6) the United States, in support of the Government of Afghanistan, should significantly increase the amount of economic assistance available for reconstruction, social and economic development, counternarcotics efforts, and democracy promotion activities in Afghanistan;