Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. TESTER, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, and Mr. WYDEN):

S. Res. 19. A resolution honoring President Gerald Rudolph Ford; ordered held at the desk.

By Mrs. CLINTON:

S. Res. 20. A resolution recognizing the uncommon valor of Wesley Autry of New York, New York; to the Committee on the Judiciary.

By Mr. ALLARD:

S. Con. Res. 1. A concurrent resolution expressing the sense of Congress that an artistic tribute to commemorate the speech given by President Ronald Reagan at the Brandenburg Gate on June 12, 1987, should be placed within the United States Capitol; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mr. MCCONNELL, Mr. DURBIN, Mr. LOTT, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. SCHUMER, Ms. MIKULSKI, Mrs. CANTWELL, Mr. LEAHY, Ms. STABENOW, Mr. WEBB, Mr. LAUTENBERG and Mr. MENENDEZ):

S. 1. A bill to provide greater transparency in the legislative process; placed on the calendar.

S. 1

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

Sec. 101. Short title.
Sec. 102. Out of scope matters in conference reports.
Sec. 103. Earmarks.
Sec. 104. Availability of conference reports on the Internet.
Sec. 105. Elimination of floor privileges for former Members, Senate officers, and Speakers of the House who are lobbyists or seek financial gain.
Sec. 106. Ban on gifts from lobbyists.
Sec. 107. Travel restrictions and disclosure.
Sec. 108. Post employment restrictions.
Sec. 109. Public disclosure by Members of Congress of employment negotiations.
Sec. 110. Prohibit official contact with spouse or immediate family member of Member who is a registered lobbyist.
Sec. 111. Influencing hiring decisions.
Sec. 112. Sense of the Senate that any applicable restrictions on Congressional branch employees should apply to the Executive and Judicial branches.
Sec. 113. Amounts of COLA adjustments not paid to certain Members of Congress.
Sec. 114. Requirement of notice of intent to proceed.
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TITLE II—LOBBYING TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

Sec. 201. Short title.

Subtitle A—Enhancing Lobbying Disclosure

Sec. 211. Quarterly filing of lobbying disclosure reports.
Sec. 212. Annual report on contributions.
Sec. 213. Public database of lobbying disclosure information.
Sec. 214. Disclosure by registered lobbyists of all past executive and Congressional employment.
Sec. 215. Disclosure of lobbyist travel and payments.
Sec. 216. Increased penalty for failure to comply with lobbying disclosure requirements.
Sec. 217. Disclosure of lobbying activities by certain coalitions and associations.
Sec. 218. Disclosure of enforcement for noncompliance.
Sec. 219. Electronic filing of lobbying disclosure reports.
Sec. 220. Disclosure of paid efforts to stimulate grassroots lobbying.
Sec. 221. Electronic filing and public database for lobbyists for foreign governments.
Sec. 222. Effective date.

Subtitle B—Oversight of Ethics and Lobbying

Sec. 231. Comptroller General audit and annual report.
Sec. 232. Mandatory Senate ethics training for Members and staff.
Sec. 233. Sense of the Senate regarding self-regulation within the Lobbying community.
Sec. 234. Annual ethics committees reports.

Subtitle C—Slowing the Revolving Door

Sec. 241. Amendments to restrictions on former officers, employees, and elected officials of the executive and legislative branches.

Subtitle D—Ban on Provision of Gifts or Travel by Lobbyists in Violation of the Rules of Congress

Sec. 251. Prohibition on provision of gifts or travel by registered lobbyists to Members of Congress and to Congressional employees.

Subtitle E—Commission to Strengthen Confidence in Congress Act of 2007

Sec. 261. Short title.
Sec. 262. Establishment of commission.
Sec. 263. Purposes.
Sec. 264. Composition of commission.
Sec. 265. Functions of Commission.
Sec. 266. Powers of Commission.
Sec. 267. Administration.
Sec. 268. Security clearances for Commission Members and staff.
Sec. 269. Commission reports; termination.
Sec. 270. Funding.

TITLE I—LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

SEC. 101. SHORT TITLE.

This title may be cited as the ''Legislative Transparency and Accountability Act of 2007''.

SEC. 102. OUT OF SCOPE MATTERS IN CONFERENCE REPORTS.

(a) IN GENERAL.—A point of order may be made by any Senator against consideration of a conference report that includes any matter not committed to the conferees by either House. The point of order shall be made and voted on separately for each item in violation of this section.

(b) DISPOSITION.—If the point of order against a conference report under subsection (a) is sustained, then—

(1) the matter in such conference report shall be deemed to have been struck;

(2) when all other points of order under this section have been disposed of—

(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck;

(B) the question shall be debatable; and

(C) no further amendment shall be in order; and

(3) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 103. EARMARKS.

The Standing Rules of the Senate are amended by adding at the end the following:

''RULE XLIV

''EARMARKS

''1. In this rule—

''(1) the term 'earmark' means a provision that specifies the identity of a non-Federal entity to receive assistance and the amount of the assistance; and

''(2) the term 'assistance' means budget authority, contract authority, loan authority, and other expenditures, and tax expenditures or other revenue items.

''2. It shall not be in order to consider any Senate bill or Senate amendment or conference report on any bill, including an appropriations bill, a revenue bill, and an authorizing bill, unless a list of—

''(1) all earmarks in such measure;

''(2) an identification of the Member or Members who proposed the earmark; and

''(3) an explanation of the essential governmental purpose for the earmark;

is available along with any joint statement of managers associated with the measure to all Members and made available on the Internet to the general public for at least 48 hours before its consideration.''.

SEC. 104. AVAILABILITY OF CONFERENCE REPORTS ON THE INTERNET.

(a) IN GENERAL.—

(1) AMENDMENT.—Rule XXVIII of all the Standing Rules of the Senate is amended by adding at the end the following:

''7. It shall not be in order to consider a conference report unless such report is available to all Members and made available to the general public by means of the Internet for at least 48 hours before its consideration.''.

(2) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this title.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this title, the Secretary of the Senate, in consultation with the Clerk of the House of Representatives, the Government Printing Office, and the Committee on Rules and Administration, shall develop a website capable of complying with the requirements of paragraph 7 of rule XXVIII of the Standing Rules of the Senate, as added by subsection (a).

SEC. 105. ELIMINATION OF FLOOR PRIVILEGES FOR FORMER MEMBERS, SENATE OFFICERS, AND SPEAKERS OF THE HOUSE WHO ARE LOBBYISTS OR SEEK FINANCIAL GAIN.

Rule XXIII of the Standing Rules of the Senate is amended by—

(1) inserting ''1.'' before ''Other'';

(2) inserting after ''Ex-Senators and Senators elect'' the following: '', except as provided in paragraph 2'';

(3) inserting after ''Ex-Secretaries and ex-Sergeants at Arms of the Senate'' the following: '', except as provided in paragraph 2'';

(4) inserting after ''Ex-Speakers of the House of Representatives'' the following: '', except as provided in paragraph 2''; and

(5) adding at the end the following:

''2. (a) The floor privilege provided in paragraph 1 shall not apply to an individual covered by this paragraph who is—

''(1) a registered lobbyist or agent of a foreign principal; or

''(2) is in the employ of or represents any party or organization for the purpose of influencing, directly, or indirectly, the passage, defeat, or amendment of any legislative proposal.

''(b) The Committee on Rules and Administration may promulgate regulations to allow individuals covered by this paragraph floor privileges for ceremonial functions and events designated by the Majority Leader and the Minority Leader.''.

SEC. 106. BAN ON GIFTS FROM LOBBYISTS.

Paragraph 1(a)(2) of rule XXXV of the Standing Rules of the Senate is amended by—

(1) inserting ''(A)'' after ''(2)''; and

(2) adding at the end the following:

''(B) This clause shall not apply to a gift from a registered lobbyist or an agent of a foreign principal.''.

SEC. 107. TRAVEL RESTRICTIONS AND DISCLOSURE.

(a) IN GENERAL.—Paragraph 2 of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

''(f)(1) Before a Member, officer, or employee may accept transportation or lodging otherwise permissible under this paragraph from any person, other than a governmental entity, such Member, officer, or employee shall—

''(A) obtain a written certification from such person (and provide a copy of such certification to the Select Committee on Ethics) that—

''(i) the trip was not financed in whole, or in part, by a registered lobbyist or foreign agent;

''(ii) the person did not accept, directly or indirectly, funds from a registered lobbyist or foreign agent specifically earmarked for the purpose of financing the travel expenses;

''(iii) the trip was not planned, organized, or arranged by or at the request of a registered lobbyist or foreign agent; and

''(iv) registered lobbyists will not participate in or attend the trip;

''(B) provide the Select Committee on Ethics (in the case of an employee, from the supervising Member or officer), in writing—

''(i) a detailed itinerary of the trip; and

''(ii) a determination that the trip—

''(I) is primarily educational (either for the invited person or for the organization sponsoring the trip);

''(II) is consistent with the official duties of the Member, officer, or employee;

''(III) does not create an appearance of use of public office for private gain; and

''(iii) has a minimal or no recreational component; and

''(C) obtain written approval of the trip from the Select Committee on Ethics.

''(2) Not later than 30 days after completion of travel, approved under this subparagraph, the Member, officer, or employee shall file with the Select Committee on Ethics and the Secretary of the Senate a description of meetings and events attended during such travel and the names of any registered lobbyist who accompanied the Member, officer, or employee during the travel, except when disclosure of such information is deemed by the Member or supervisor under whose direct supervision the employee is employed to jeopardize the safety of an individual or adversely affect national security. Such information shall also be posted on the Member's official website not later than 30 days after the completion of the travel, except when disclosure of such information is deemed by the Member to jeopardize the safety of an individual or adversely affect national security.''.

(b) DISCLOSURE OF NONCOMMERCIAL AIR TRAVEL.—

(1) RULES.—Paragraph 2 of rule XXXV of the Standing Rules of the Senate, as amended by subsection (a), is amended by adding at the end the following:

''(g) A Member, officer, or employee of the Senate shall—

''(1) disclose a flight on an aircraft that is not licensed by the Federal Aviation Administration to operate for compensation or hire, excluding a flight on an aircraft owned, operated, or leased by a governmental entity, taken in connection with the duties of the Member, officer, or employee as an officeholder or Senate officer or employee; and

''(2) with respect to the flight, file a report with the Secretary of the Senate, including the date, destination, and owner or lessee of the aircraft, the purpose of the trip, and the persons on the trip, except for any person flying the aircraft.''.

(2) FECA.—Section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)) is amended—

(A) by striking ''and'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(C) by adding at the end the following:

''(9) in the case of a principal campaign committee of a candidate (other than a candidate for election to the office of President or Vice President), any flight taken by the candidate (other than a flight designated to transport the President, Vice President, or a candidate for election to the office of President or Vice President) during the reporting period on an aircraft that is not licensed by the Federal Aviation Administration to operate for compensation or hire, together with the following information:

''(A) The date of the flight.

''(B) The destination of the flight.

''(C) The owner or lessee of the aircraft.

''(D) The purpose of the flight.

''(E) The persons on the flight, except for any person flying the aircraft.''.

(c) PUBLIC AVAILABILITY.—Paragraph 2(e) of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

''(e) The Secretary of the Senate shall make available to the public all disclosures filed pursuant to subparagraphs (f) and (g) as soon as possible after they are received and such matters shall be posted on the Member's official website but no later than 30 days after the trip or flight.''.

SEC. 108. POST EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Paragraph 9 of rule XXXVII of the Standing Rules of the Senate is amended by—

(1) designating the first sentence as subparagraph (a);

(2) designating the second sentence as subparagraph (b); and

(3) adding at the end the following:

''(c) If an employee on the staff of a Member or on the staff of a committee whose rate of pay is equal to or greater than 75 percent of the rate of pay of a Member and employed at such rate for more than 60 days in a calendar year, upon leaving that position, becomes a registered lobbyist under the Lobbying Disclosure Act of 1995, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby any Member, officer, or employee of the Senate for a period of 1 year after leaving that position.''.

(b) EFFECTIVE DATE.—This section shall take effect 60 days after the date of enactment of this title.

SEC. 109. PUBLIC DISCLOSURE BY MEMBERS OF CONGRESS OF EMPLOYMENT NEGOTIATIONS.

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

''14. A Member shall not directly negotiate or have any arrangement concerning prospective private employment until after the election for his or her successor has been held, unless such Member files a statement with the Secretary of the Senate, for public disclosure, regarding such negotiations or arrangements within 3 business days after the commencement of such negotiation or arrangement, including the name of the private entity or entities involved in such negotiations or arrangements, the date such negotiations or arrangements commenced, and must be signed by the Member.''.

SEC. 110. PROHIBIT OFFICIAL CONTACT WITH SPOUSE OR IMMEDIATE FAMILY MEMBER OF MEMBER WHO IS A REGISTERED LOBBYIST.

Rule XXXVII of the Standing Rules of the Senate is amended by—

(1) redesignating paragraphs 10 through 12 as paragraphs 11 through 13, respectively; and

(2) inserting after paragraph 9, the following:

''10. (a) If a Member's spouse or immediate family member is a registered lobbyist under the Lobbying Disclosure Act of 1995, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, the Member shall prohibit all staff employed by that Member (including staff in personal, committee and leadership offices) from having any official contact with the Member's spouse or immediate family member.

''(b) In this paragraph, the term 'immediate family member' means the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of the Member.''.

SEC. 111. INFLUENCING HIRING DECISIONS.

Rule XLIII of the Standing Rules of the Senate is amended by adding at the end the following:

''6. No Member shall, with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of any private entity—

''(1) take or withhold, or offer or threaten to take or withhold, an official act; or

''(2) influence, or offer or threaten to influence the official act of another.''.

SEC. 112. SENSE OF THE SENATE THAT ANY APPLICABLE RESTRICTIONS ON CONGRESSIONAL BRANCH EMPLOYEES SHOULD APPLY TO THE EXECUTIVE AND JUDICIAL BRANCHES.

It is the sense of the Senate that any applicable restrictions on Congressional branch employees in this title should apply to the Executive and Judicial branches.

SEC. 113. AMOUNTS OF COLA ADJUSTMENTS NOT PAID TO CERTAIN MEMBERS OF CONGRESS.

(a) IN GENERAL.—Any adjustment under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to the

cost of living adjustments for Members of Congress) shall not be paid to any Member of Congress who voted for any amendment (or against the tabling of any amendment) that provided that such adjustment would not be made.

(b) DEPOSIT IN TREASURY.—Any amount not paid to a Member of Congress under subsection (a) shall be transmitted to the Treasury for deposit in the appropriations account under the subheading ''**medical services**'' under the heading ''**veterans health administration**''.

(c) ADMINISTRATION.—The salary of any Member of Congress to whom subsection (a) applies shall be deemed to be the salary in effect after the application of that subsection, except that for purposes of determining any benefit (including any retirement or insurance benefit), the salary of that Member of Congress shall be deemed to be the salary that Member of Congress would have received, but for that subsection.

(d) EFFECTIVE DATE.—This section shall take effect on the first day of the first applicable pay period beginning on or after February 1, 2008.

SEC. 114. REQUIREMENT OF NOTICE OF INTENT TO PROCEED.

(a) IN GENERAL.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent of a Senator who is a member of their caucus to object to proceeding to a measure or matter only if the Senator—

(1) submits the notice of intent in writing to the appropriate leader or their designee; and

(2) within 3 session days after the submission under paragraph (1), submits for inclusion in the Congressional Record and in the applicable calendar section described in subsection (b) the following notice:

''I, Senator ____, intend to object to proceeding to ____, dated ____.''.

(b) CALENDAR.—The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled ''Notices of Intent to Object to Proceeding''. Each section shall include the name of each Senator filing a notice under subsection (a)(2), the measure or matter covered by the calendar that the Senator objects to, and the date the objection was filed.

(c) REMOVAL.—A Senator may have an item with respect to the Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

''I, Senator ____, do not object to proceeding to ____, dated ____.''.

SEC. 115. EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall take effect on the date of enactment of this title.

TITLE II—LOBBYING TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

SEC. 201. SHORT TITLE.

This title may be cited as the ''Legislative Transparency and Accountability Act of 2007''.

Subtitle A—Enhancing Lobbying Disclosure

SEC. 211. QUARTERLY FILING OF LOBBYING DISCLOSURE REPORTS.

(a) QUARTERLY FILING REQUIRED.—Section 5 of the Lobbying Disclosure Act of 1995 (in this title referred to as the ''Act'') (2 U.S.C. 1604) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking ''Semiannual'' and inserting ''Quarterly'';

(B) by striking ''the semiannual period'' and all that follows through ''July of each year'' and inserting ''the quarterly period beginning on the 20th day of January, April, July, and October of each year or on the first business day after the 20th day if that day is not a business day''; and

(C) by striking ''such semiannual period'' and inserting ''such quarterly period''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''semiannual report'' and inserting ''quarterly report'';

(B) in paragraph (2), by striking ''semiannual filing period'' and inserting ''quarterly period'';

(C) in paragraph (3), by striking ''semiannual period'' and inserting ''quarterly period''; and

(D) in paragraph (4), by striking ''semiannual filing period'' and inserting ''quarterly period''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 3(10) of the Act (2 U.S.C. 1602) is amended by striking ''six month period'' and inserting ''three-month period''.

(2) REGISTRATION.—Section 4 of the Act (2 U.S.C. 1603) is amended—

(A) in subsection (a)(3)(A), by striking ''semiannual period'' and inserting ''quarterly period''; and

(B) in subsection (b)(3)(A), by striking ''semiannual period'' and inserting ''quarterly period''.

(3) ENFORCEMENT.—Section 6(a)(6) of the Act (2 U.S.C. 1605(6)) is amended by striking ''semiannual period'' and inserting ''quarterly period''.

(4) ESTIMATES.—Section 15 of the Act (2 U.S.C. 1610) is amended—

(A) in subsection (a)(1), by striking ''semiannual period'' and inserting ''quarterly period''; and

(B) in subsection (b)(1), by striking ''semiannual period'' and inserting ''quarterly period''.

(5) DOLLAR AMOUNTS.—

(A) REGISTRATION.—Section 4 of the Act (2 U.S.C. 1603) is amended—

(i) in subsection (a)(3)(A)(i), by striking ''$5,000'' and inserting ''$2,500'';

(ii) in subsection (a)(3)(A)(ii), by striking ''$20,000'' and inserting ''$10,000'';

(iii) in subsection (b)(3)(A), by striking ''$10,000'' and inserting ''$5,000''; and

(iv) in subsection (b)(4), by striking ''$10,000'' and inserting ''$5,000''.

(B) REPORTS.—Section 5 of the Act (2 U.S.C. 1604) is amended—

(i) in subsection (c)(1), by striking ''$10,000'' and ''$20,000'' and inserting ''$5,000'' and ''$10,000'', respectively; and

(ii) in subsection (c)(2), by striking ''$10,000'' both places such term appears and inserting ''$5,000''.

SEC. 212. ANNUAL REPORT ON CONTRIBUTIONS.

Section 5 of the Act (2 U.S.C. 1604) is amended by adding at the end the following:

''(d) ANNUAL REPORT ON CONTRIBUTIONS.—Not later than 45 days after the end of the quarterly period beginning on the first day of October of each year referred to in subsection (a), a lobbyist registered under section 4(a)(1), or an employee who is a lobbyist of an organization registered under section 4(a)(2), shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives containing—

''(1) the name of the lobbyist;

''(2) the employer of the lobbyist;

''(3) the name of each Federal candidate or officeholder, leadership PAC, or political party committee, to whom a contribution equal to or exceeding $200 was made within the past year, and the date and amount of such contribution; and

''(4) the name of each Federal candidate or officeholder, leadership PAC, or political party committee for whom a fundraising event was hosted, co-hosted, or otherwise sponsored, within the past year, and the date and location of the event.''.

SEC. 213. PUBLIC DATABASE OF LOBBYING DISCLOSURE INFORMATION.

(a) DATABASE REQUIRED.—Section 6 of the Act (2 U.S.C. 1605) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) maintain, and make available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and downloadable manner, an electronic database that—

''(A) includes the information contained in registrations and reports filed under this Act;

''(B) directly links the information it contains to the information disclosed in reports filed with the Federal Election Commission under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434); and

''(C) is searchable and sortable, at a minimum, by each of the categories of information described in section 4(b) or 5(b).''.

(b) AVAILABILITY OF REPORTS.—Section 6(a)(4) of the Act is amended by inserting before the semicolon the following: ''and, in the case of a report filed in electronic form under section 5(e), shall make such report available for public inspection over the Internet not more than 48 hours after the report is filed''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (9) of section 6(a) of the Act, as added by subsection (a).

SEC. 214. DISCLOSURE BY REGISTERED LOBBYISTS OF ALL PAST EXECUTIVE AND CONGRESSIONAL EMPLOYMENT.

Section 4(b)(6) of the Act (2 U.S.C. 1603) is amended by striking ''or a covered legislative branch official'' and all that follows through ''as a lobbyist on behalf of the client,'' and inserting ''or a covered legislative branch official,''.

SEC. 215. DISCLOSURE OF LOBBYIST TRAVEL AND PAYMENTS.

Section 5(b) of the Act (2 U.S.C. 1604(b)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon;

(2) in paragraph (4), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(5) the name of each covered legislative branch official or covered executive branch official for whom the registrant provided, or directed or arranged to be provided, or the employee listed as a lobbyist directed or arranged to be provided, any payment or reimbursements for travel and related expenses in connection with the duties of such covered official, including for each such official—

''(A) an itemization of the payments or reimbursements provided to finance the travel and related expenses and to whom the payments or reimbursements were made, including any payment or reimbursement made with the express or implied understanding or agreement that such funds will be used for travel and related expenses;

''(B) the purpose and final itinerary of the trip, including a description of all meetings, tours, events, and outings attended;

''(C) the names of any registrant or individual employed by the registrant who traveled on any such trip;

''(D) the identity of the listed sponsor or sponsors of travel; and

''(E) the identity of any person or entity, other than the listed sponsor or sponsors of

the travel, which directly or indirectly provided for payment of travel and related expenses at the request or suggestion of the registrant or the employee;

''(6) the date, recipient, and amount of funds contributed or disbursed by, or arranged by, a registrant or employee listed as a lobbyist—

''(A) to pay the costs of an event to honor or recognize a covered legislative branch official or covered executive branch official;

''(B) to, or on behalf of, an entity that is named for a covered legislative branch official or covered executive branch official, or to a person or entity in recognition of such official;

''(C) to an entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or an entity designated by such official; or

''(D) to pay the costs of a meeting, retreat, conference or other similar event held by, or for the benefit of, 1 or more covered legislative branch officials or covered executive branch officials;

except that this paragraph shall not apply to any payment or reimbursement made from funds required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434); and

''(7) the date, recipient, and amount of any gift (that under the rules of the House of Representatives or Senate counts towards the one hundred dollar cumulative annual limit described in such rules) valued in excess of $20 given by a registrant or employee listed as a lobbyist to a covered legislative branch official or covered executive branch official;

''(8) for each client, immediately after listing the client, an identification of whether the client is a public entity, including a State or local government or a department, agency, special purpose district, or other instrumentality controlled by a State or local government, or a private entity.

For purposes of paragraph (7), the term 'gift' means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. Information required by paragraph (5) shall be disclosed as provided in this Act not later than 30 days after the travel.''.

SEC. 216. INCREASED PENALTY FOR FAILURE TO COMPLY WITH LOBBYING DISCLOSURE REQUIREMENTS.

Section 7 of the Act (2 U.S.C. 1606) is amended by striking ''$50,000'' and inserting ''$100,000''.

SEC. 217. DISCLOSURE OF LOBBYING ACTIVITIES BY CERTAIN COALITIONS AND ASSOCIATIONS.

(a) IN GENERAL.—Section 4(b)(3)(B) of the Act (2 U.S.C. 1603(b)(3)(B)) is amended to read as follows:

''(B) participates in a substantial way in the planning, supervision or control of such lobbying activities;''.

(b) NO DONOR OR MEMBERSHIP LIST DISCLOSURE.—Section 4(b) of the Act (2 U.S.C. 1603(b)) is amended by adding at the end the following:

''No disclosure is required under paragraph (3)(B) if it is publicly available knowledge that the organization that would be identified is affiliated with the client or has been publicly disclosed to have provided funding to the client, unless the organization in whole or in major part plans, supervises or controls such lobbying activities. Nothing in paragraph (3)(B) shall be construed to require the disclosure of any information about individuals who are members of, or donors to, an entity treated as a client by this Act or an organization identified under that paragraph.''.

SEC. 218. DISCLOSURE OF ENFORCEMENT FOR NONCOMPLIANCE.

Section 6 of the Act (2 U.S.C. 1605) is amended—

(1) by inserting ''(a)'' before ''The Secretary of the Senate'';

(2) in paragraph (8), by striking ''and'' at the end;

(3) in paragraph (9), by striking the period and inserting ''; and'';

(4) after paragraph (9), by inserting the following:

''(10) provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives the aggregate number of lobbyists and lobbying firms, separately accounted, referred to the United States Attorney for the District of Columbia for noncompliance as required by paragraph (8) on a semi-annual basis''; and

(5) by inserting at the end the following:

''(b) ENFORCEMENT REPORT.—The United States Attorney for the District of Columbia shall report to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Government Reform and the Committee on the Judiciary of the House of Representatives on a semi-annual basis the aggregate number of enforcement actions taken by the Attorney's office under this Act and the amount of fines, if any, by case, except that such report shall not include the names of individuals or personally identifiable information.''.

SEC. 219. ELECTRONIC FILING OF LOBBYING DISCLOSURE REPORTS.

Section 5 of the Act (2 U.S.C. 1604) is amended by adding at the end the following:

''(e) ELECTRONIC FILING REQUIRED.—A report required to be filed under this section shall be filed in electronic form, in addition to any other form. The Secretary of the Senate and the Clerk of the House of Representatives shall use the same electronic software for receipt and recording of filings under this Act.''.

SEC. 220. DISCLOSURE OF PAID EFFORTS TO STIMULATE GRASSROOTS LOBBYING.

(a) DEFINITIONS.—Section 3 of the Act (2 U.S.C. 1602) is amended—

(1) in paragraph (7), by adding at the end of the following: ''Lobbying activities include paid efforts to stimulate grassroots lobbying, but do not include grassroots lobbying.''; and

(2) by adding at the end of the following:

''(17) GRASSROOTS LOBBYING.—The term 'grassroots lobbying' means the voluntary efforts of members of the general public to communicate their own views on an issue to Federal officials or to encourage other members of the general public to do the same.

''(18) PAID EFFORTS TO STIMULATE GRASSROOTS LOBBYING.—

''(A) IN GENERAL.—The term 'paid efforts to stimulate grassroots lobbying' means any paid attempt in support of lobbying contacts on behalf of a client to influence the general public or segments thereof to contact one or more covered legislative or executive branch officials (or Congress as a whole) to urge such officials (or Congress) to take specific action with respect to a matter described in section 3(8)(A), except that such term does not include any communications by an entity directed to its members, employees, officers, or shareholders.

''(B) PAID ATTEMPT TO INFLUENCE THE GENERAL PUBLIC OR SEGMENTS THEREOF.—The term 'paid attempt to influence the general public or segments thereof' does not include an attempt to influence directed at less than 500 members of the general public.

''(C) REGISTRANT.—For purposes of this paragraph, a person or entity is a member of a registrant if the person or entity—

''(i) pays dues or makes a contribution of more than a nominal amount to the entity;

''(ii) makes a contribution of more than a nominal amount of time to the entity;

''(iii) is entitled to participate in the governance of the entity;

''(iv) is 1 of a limited number of honorary or life members of the entity; or

''(v) is an employee, officer, director or member of the entity.

''(19) GRASSROOTS LOBBYING FIRM.—The term 'grassroots lobbying firm' means a person or entity that—

''(A) is retained by 1 or more clients to engage in paid efforts to stimulate grassroots lobbying on behalf of such clients; and

''(B) receives income of, or spends or agrees to spend, an aggregate of $25,000 or more for such efforts in any quarterly period.''.

(b) REGISTRATION.—Section 4(a) of the Act (2 U.S.C. 1603(a)) is amended—

(1) in the flush matter at the end of paragraph (3)(A), by adding at the end the following: ''For purposes of clauses (i) and (ii), the term 'lobbying activities' shall not include paid efforts to stimulate grassroots lobbying.''; and

(2) by inserting after paragraph (3) the following:

''(4) FILING BY GRASSROOTS LOBBYING FIRMS.—Not later than 45 days after a grassroots lobbying firm first is retained by a client to engage in paid efforts to stimulate grassroots lobbying, such grassroots lobbying firm shall register with the Secretary of the Senate and the Clerk of the House of Representatives.''.

(c) SEPARATE ITEMIZATION OF PAID EFFORTS TO STIMULATE GRASSROOTS LOBBYING.—Section 5(b) of the Act (2 U.S.C. 1604(b)) is amended—

(1) in paragraph (3), by—

(A) inserting after ''total amount of all income'' the following: ''(including a separate good faith estimate of the total amount of income relating specifically to paid efforts to stimulate grassroots lobbying and, within that amount, a good faith estimate of the total amount specifically relating to paid advertising)''; and

(B) inserting ''or a grassroots lobbying firm'' after ''lobbying firm'';

(2) in paragraph (4), by inserting after ''total expenses'' the following: ''(including a good faith estimate of the total amount of expenses relating specifically to paid efforts to stimulate grassroots lobbying and, within that total amount, a good faith estimate of the total amount specifically relating to paid advertising)''; and

(3) by adding at the end the following:

''Subparagraphs (B) and (C) of paragraph (2) shall not apply with respect to reports relating to paid efforts to stimulate grassroots lobbying activities.''.

(d) GOOD FAITH ESTIMATES AND DE MINIMIS RULES FOR PAID EFFORTS TO STIMULATE GRASSROOTS LOBBYING.—

(1) IN GENERAL.—Section 5(c) of the Act (2 U.S.C. 1604(c)) is amended to read as follows:

''(c) ESTIMATES OF INCOME OR EXPENSES.—For purposes of this section, the following shall apply:

''(1) Estimates of income or expenses shall be made as follows:

''(A) Estimates of amounts in excess of $10,0000 shall be rounded to the nearest $20,000.

''(B) In the event income or expenses do not exceed $10,000, the registrant shall include a statement that income or expenses

totaled less than $10,000 for the reporting period.

''(2) Estimates of income or expenses relating specifically to paid efforts to stimulate grassroots lobbying shall be made as follows:

''(A) Estimates of amounts in excess of $25,000 shall be rounded to the nearest $20,000.

''(B) In the event income or expenses do not exceed $25,000, the registrant shall include a statement that income or expenses totaled less than $25,000 for the reporting period.''.

(2) TAX REPORTING.—Section 15 of the Act (2 U.S.C. 1610) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''and'' after the semicolon;

(ii) in paragraph (2), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(3) in lieu of using the definition of paid efforts to stimulate grassroots lobbying in section 3(18), consider as paid efforts to stimulate grassroots lobbying only those activities that are grassroots expenditures as defined in section 4911(c)(3) of the Internal Revenue Code of 1986.''; and

(B) in subsection (b)—

(i) in paragraph (1), by striking ''and'' after the semicolon;

(ii) in paragraph (2), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(3) in lieu of using the definition of paid efforts to stimulate grassroots lobbying in section 3(18), consider as paid efforts to stimulate grassroots lobbying only those activities that are grassroots expenditures as defined in section 4911(c)(3) of the Internal Revenue Code of 1986.''.

SEC. 221. ELECTRONIC FILING AND PUBLIC DATABASE FOR LOBBYISTS FOR FOREIGN GOVERNMENTS.

(a) ELECTRONIC FILING.—Section 2 of the Foreign Agents Registration Act (22 U.S.C. 612) is amended by adding at the end the following new subsection:

''(g) ELECTRONIC FILING OF REGISTRATION STATEMENTS AND UPDATES.—A registration statement or update required to be filed under this section shall be filed in electronic form, in addition to any other form that may be required by the Attorney General.''.

(b) PUBLIC DATABASE.—Section 6 of the Foreign Agents Registration Act (22 U.S.C. 616) is amended by adding at the end the following new subsection:

''(d) PUBLIC DATABASE OF REGISTRATION STATEMENTS AND UPDATES.—

''(1) IN GENERAL.—The Attorney General shall maintain, and make available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and downloadable manner, an electronic database that—

''(A) includes the information contained in registration statements and updates filed under this Act;

''(B) directly links the information it contains to the information disclosed in reports filed with the Federal Election Commission under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434); and

''(C) is searchable and sortable, at a minimum, by each of the categories of information described in section 2(a).

''(2) ACCOUNTABILITY.—Each registration statement and update filed in electronic form pursuant to section 2(g) shall be made available for public inspection over the internet not more than 48 hours after the registration statement or update is filed.''.

SEC. 222. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect January 1, 2008.

Subtitle B—Oversight of Ethics and Lobbying

SEC. 231. COMPTROLLER GENERAL AUDIT AND ANNUAL REPORT.

(a) AUDIT REQUIRED.—The Comptroller General shall audit on an annual basis lobbying registration and reports filed under the Lobbying Disclosure Act of 1995 to determine the extent of compliance or noncompliance with the requirements of that Act by lobbyists and their clients.

(b) ANNUAL REPORTS.—Not later than April 1 of each year, the Comptroller General shall submit to Congress a report on the review required by subsection (a). The report shall include the Comptroller General's assessment of the matters required to be emphasized by that subsection and any recommendations of the Comptroller General to—

(1) improve the compliance by lobbyists with the requirements of that Act; and

(2) provide the Secretary of the Senate and the Clerk of the House of Representatives with the resources and authorities needed for effective oversight and enforcement of that Act.

SEC. 232. MANDATORY SENATE ETHICS TRAINING FOR MEMBERS AND STAFF.

(a) TRAINING PROGRAM.—The Select Committee on Ethics shall conduct ongoing ethics training and awareness programs for Members of the Senate and Senate staff.

(b) REQUIREMENTS.—The ethics training program conducted by the Select Committee on Ethics shall be completed by—

(1) new Senators or staff not later than 60 days after commencing service or employment; and

(2) Senators and Senate staff serving or employed on the date of enactment of this Act not later than 120 days after the date of enactment of this Act.

SEC. 233. SENSE OF THE SENATE REGARDING SELF-REGULATION WITHIN THE LOBBYING COMMUNITY.

It is the sense of the Senate that the lobbying community should develop proposals for multiple self-regulatory organizations which could provide—

(1) for the creation of standards for the organizations appropriate to the type of lobbying and individuals to be served;

(2) training for the lobbying community on law, ethics, reporting requirements, and disclosure requirements;

(3) for the development of educational materials for the public on how to responsibly hire a lobbyist or lobby firm;

(4) standards regarding reasonable fees to clients;

(5) for the creation of a third-party certification program that includes ethics training; and

(6) for disclosure of requirements to clients regarding fee schedules and conflict of interest rules.

SEC. 234. ANNUAL ETHICS COMMITTEES REPORTS.

The Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate shall each issue an annual report due no later than January 31, describing the following:

(1) The number of alleged violations of Senate or House rules including the number received from third parties, from Members or staff within each House, or inquires raised by a Member or staff of the respective House or Senate committee.

(2) A list of the number of alleged violations that were dismissed—

(A) for lack of subject matter jurisdiction; or

(B) because they failed to provide sufficient facts as to any material violation of the House or Senate rules beyond mere allegation or assertion.

(3) The number of complaints in which the committee staff conducted a preliminary inquiry.

(4) The number of complaints that staff presented to the committee with recommendations that the complaint be dismissed.

(5) The number of complaints that the staff presented to the committee with recommendation that the investigation proceed.

(6) The number of ongoing inquiries.

(7) The number of complaints that the committee dismissed for lack of substantial merit.

(8) The number of private letters of admonition or public letters of admonition issued.

(9) The number of matters resulting in a disciplinary sanction.

Subtitle C—Slowing the Revolving Door

SEC. 241. AMENDMENTS TO RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCHES.

(a) VERY SENIOR EXECUTIVE PERSONNEL.—The matter after subparagraph (C) in section 207(d)(1) of title 18, United States Code, is amended by striking ''within 1 year'' and inserting ''within 2 years''.

(b) RESTRICTIONS ON LOBBYING BY MEMBERS OF CONGRESS AND EMPLOYEES OF CONGRESS.—Subsection (e) of section 207 of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by striking ''within 1 year'' and inserting ''within 2 years'';

(2) by striking paragraphs (2) through (5) and inserting the following:

''(2) CONGRESSIONAL STAFF.—

''(A) PROHIBITION.—Any person who is an employee of a House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

''(B) CONTACT PERSONS COVERED.—persons referred to in subparagraph (A) with respect to appearances or communications are any Member, officer, or employee of the House of Congress in which the person subject to subparagraph (A) was employed. This subparagraph shall not apply to contacts with staff of the Secretary of the Senate or the Clerk of the House of Representatives regarding compliance with lobbying disclosure requirements under the Lobbying Disclosure Act of 1995.'';

(3) in paragraph (6)—

(A) by striking ''paragraphs (2), (3), and (4)'' and inserting ''paragraph (2)'';

(B) by striking ''(A)'';

(C) by striking subparagraph (B); and

(D) by redesignating the paragraph as paragraph (3); and

(4) by redesignating paragraph (7) as paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect 60 days after the date of enactment of this Act.

Subtitle D—Ban on Provision of Gifts or Travel by Lobbyists in Violation of the Rules of Congress

SEC. 251. PROHIBITION ON PROVISION OF GIFTS OR TRAVEL BY REGISTERED LOBBYISTS TO MEMBERS OF CONGRESS AND TO CONGRESSIONAL EMPLOYEES.

The Lobbying Disclosure Act of 1995 is amended by adding at the end the following:

"SEC. 25. PROHIBITION ON PROVISION OF GIFTS OR TRAVEL BY REGISTERED LOBBYISTS TO MEMBERS OF CONGRESS AND TO CONGRESSIONAL EMPLOYEES.

''(a) PROHIBITION.—A registered lobbyist may not knowingly make a gift or provide travel to a Member, Delegate, Resident Commissioner, officer, or employee of Congress, unless the gift or travel may be accepted under the rules of the House of Representatives or the Senate.

''(b) PENALTY.—Any registered lobbyist who violates this section shall be subject to penalties provided in section 7.''.

Subtitle E—Commission to Strengthen Confidence in Congress Act of 2007

SEC. 261. SHORT TITLE.

This subtitle may be cited as the ''Commission to Strengthen Confidence in Congress Act of 2007''.

SEC. 262. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch a commission to be known as the ''Commission to Strengthen Confidence in Congress'' (in this subtitle referred to as the ''Commission'').

SEC. 263. PURPOSES.

The purposes of the Commission are to—

(1) evaluate and report the effectiveness of current congressional ethics requirements, if penalties are enforced and sufficient, and make recommendations for new penalties;

(2) weigh the need for improved ethical conduct with the need for lawmakers to have access to expertise on public policy issues;

(3) determine whether the current system for enforcing ethics rules and standards of conduct is sufficiently effective and transparent;

(4) determine whether the statutory framework governing lobbying disclosure should be expanded to include additional means of attempting to influence Members of Congress, senior staff, and high-ranking executive branch officials;

(5) analyze and evaluate the changes made by this Act to determine whether additional changes need to be made to uphold and enforce standards of ethical conduct and disclosure requirements; and

(6) investigate and report to Congress on its findings, conclusions, and recommendations for reform.

SEC. 264. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) the chair and vice chair shall be selected by agreement of the majority leader and minority leader of the House of Representatives and the majority leader and minority leader of the Senate;

(2) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party, 1 of which is a former member of the Senate;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party, 1 of which is a former member of the Senate;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party, 1 of which is a former member of the House of Representatives; and

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party, 1 of which is a former member of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Five members of the Commission shall be Democrats and 5 Republicans.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in professions such as governmental service, government consulting, government contracting, the law, higher education, historian, business, public relations, and fundraising.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on a date 3 months after the date of enactment of this Act.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 265. FUNCTIONS OF COMMISSION.

The functions of the Commission are to submit to Congress a report required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules and regulations—

(1) related to section 263; or

(2) related to any other areas the commission unanimously votes to be relevant to its mandate to recommend reforms to strengthen ethical safeguards in Congress.

SEC. 266. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths.

(b) OBTAINING INFORMATION.—Upon request of the Commission, the head of any agency or instrumentality of the Federal Government shall furnish information deemed necessary by the panel to enable it to carry out its duties.

(c) LIMIT ON COMMISSION AUTHORITY.—The Commission shall not conduct any law enforcement investigation, function as a court of law, or otherwise usurp the duties and responsibilities of the ethics committee of the House of Representatives or the Senate.

SEC. 267. ADMINISTRATION.

(a) COMPENSATION.—Except as provided in subsection (b), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(b) TRAVEL EXPENSES AND PER DIEM.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) STAFF AND SUPPORT SERVICES.—

(1) STAFF DIRECTOR.—

(A) APPOINTMENT.—The Chair (or Co-Chairs) in accordance with the rules agreed upon by the Commission shall appoint a staff director for the Commission.

(B) COMPENSATION.—The staff director shall be paid at a rate not to exceed the rate established for level V of the Executive Schedule under section 5315 of title 5, United States Code.

(2) STAFF.—The Chair (or Co-Chairs) in accordance with the rules agreed upon by the Commission shall appoint such additional personnel as the Commission determines to be necessary.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff director and other members of the staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the staff director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(d) PHYSICAL FACILITIES.—The Architect of the Capitol, in consultation with the appropriate entities in the legislative branch, shall locate and provide suitable office space for the operation of the Commission on a nonreimbursable basis. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) ADMINISTRATIVE SUPPORT SERVICES AND OTHER ASSISTANCE.—

(1) IN GENERAL.—Upon the request of the Commission, the Architect of the Capitol and the Administrator of General Services shall provide to the Commission on a nonreimbursable basis such administrative support services as the Commission may request.

(2) ADDITIONAL SUPPORT.—In addition to the assistance set forth in paragraph (1), departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support services as the Commission may deem advisable and as may be authorized by law.

(f) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(g) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

SEC. 268. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 269. COMMISSION REPORTS; TERMINATION.

(a) ANNUAL REPORTS.—The Commission shall submit—

(1) an initial report to Congress not later than July 1, 2007; and

(2) annual reports to Congress after the report required by paragraph (1);

containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADMINISTRATIVE ACTIVITIES.—During the 60-day period beginning on the date of submission of each annual report and the final report under this section, the Commission shall—

(1) be available to provide testimony to committees of Congress concerning such reports; and

(2) take action to appropriately disseminate such reports.

(c) TERMINATION OF COMMISSION.—

(1) FINAL REPORT.—Five years after the date of enactment of this Act, the Commission shall submit to Congress a final report containing information described in subsection (a).

(2) TERMINATION.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under paragraph (1), and the Commission may use such 60-day period for the purpose of concluding its activities.

SEC. 270. FUNDING.

There are authorized such sums as necessary to carry out this title.

Ms. COLLINS. Mr. President, I rise today to join my colleagues in cosponsoring S. 1, a bill to provide greater transparency in the legislative process.

The recent elections sent a clear message to Congress that the American people have lost confidence in their government. Without the support of the people, we cannot tackle the difficult issues that this Congress must face. This bill, then, is a critical part of restoring the people's trust by reforming ethics and lobbying rules.

It is important to remember that the conduct of most Members and their staffs is beyond reproach. Likewise, it is important to recognize that lobbying—whether done on behalf of the business community, an environmental organization, a children's advocacy group, or any other cause—can provide us with useful information and analysis that aids, but does not dictate, the decision-making process. Unfortunately, in the minds of many Americans, ''lobbying'' has come to be associated with expensive paid vacations masquerading as fact-finding trips, special access to Members and staff that an ordinary citizen could never hope to have, and undue influence that leads to decisions made in the best interest of the lobbyist and his or her client instead of the American people.

S. 1 which is nearly identical to a bill that was the product of bipartisan efforts by the Senate Committee on Homeland Security and Governmental Affairs and the Senate Committee on Rules and Administration and that was passed by this Senate just last year—includes a number of important provisions that will help to restore the public image of the United States Congress.

S. 1 bans gifts from lobbyists. This is clear, brightline rule that diminishes the appearance of impropriety that gifts can create.

S. 1 requires greater disclosure of the sponsors of and the purposes for earmarks included in a bill so that the people can know where tax dollars are being spent and why.

S. 1 eliminates floor privileges for former Members who are seeking to lobby other members. They will enjoy no more access to Senators and Congressmen than any other citizen.

S. 1 will eliminate the practice of anonymous holds in the Senate so that we can bring debate into the open and not simply kill a bill with a secret hold.

S. 1 will require enhanced disclosure of the activities of groups lobbying Congress so that the public can easily find out which interests are trying to influence the decisions we make.

S. 1 will slow the revolving door between the Hill and the private sector by limiting the ability of departing Members and staff to lobby their former colleagues.

While I am pleased to be a cosponsor of this bill, I also believe strongly that it would be improved by the addition of an independent Office of Public Integrity within the Legislative Branch. This Office would be able to conduct nonpartisan investigations of possible ethics violations. These investigations would help to promote public confidence in the enforcement of any laws that we pass to enhance congressional ethics. During debate on this bill last year, an amendment that Senator LIEBERMAN, Senator MCCAIN, and I offered to create this Office was defeated. However, I hope my colleagues have taken the lessons of the recent elections to heart and that the idea of an Office of Public Integrity will be approved this year. To that end, I am also cosponsoring Senator MCCAIN's lobbying reform package, which he has introduced today and which contains a number of the provisions of S. 1 as well as creating an independent Office of Public Integrity.

I once again commend my colleagues on recognizing the importance of this issue by making it our first priority in the 110th Congress. I urge the Senate to work quickly to get this legislation finished so that we can move on from the task of governing ourselves and get down to the business of governing our Nation.

By Mr. REID (for himself, Mr. KENNEDY, Mr. SCHUMER, Mr. LIEBERMAN, Mr. AKAKA, Mr. BIDEN, Ms. CANTWELL, Mr. LEAHY, Mr. LAUTENBERG, Ms. STABENOW, Mr. WEBB, Mr. KERRY, Mr. REED, Ms. LANDRIEU, Mr. HARKIN. Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mrs. CLINTON, Mr. OBAMA, Mr. LEVIN, Mr. KOHL, Mrs. FEINSTEIN, Mrs. BOXER, Mr. FEINGOLD, Mr. DURBIN, Mr. PRYOR, Mr. MENENDEZ, Mr. BAYH, and Mrs. LINCOLN):

S. 2. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; read the first time.

By Mr. REID (for himself, Mr. BAUCUS, Mr. LEAHY, Ms. MIKULSKI, Mr. SCHUMER, Mrs. CLINTON, Ms. CANTWELL, Mr. KOHL, Ms. STABENOW, and Mr. WEBB):

S. 3. A bill to amend part D of title XVIII of the Social Security Act to provide for fair prescription drug prices for Medicare beneficiaries; to the Committee on Finance.

S. 3

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

SECTION 1. SHORT TITLE; SENSE OF THE CONGRESS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Prescription Drug Price Negotiation Act of 2007''.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Congress should enact, and the President should sign, legislation to amend part D of title XVIII of the Social Security Act to provide for fair prescription drug prices for Medicare beneficiaries.

BY Mr. REID (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, Mr. SCHUMER, Ms. CANTWELL, Mr. LAUTENBERG, Ms. STABENOW, Mr. WEBB, MR. MENENDEZ, and Ms. LANDRIEU):

S. 4. A bill to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

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

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

S. 4

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 ''Improving America's Security by Implementing Unfinished Recommendations of the 9/11 Commission Act of 2007''.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that Congress should enact, and the President should sign, legislation to make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively and to improve homeland security.

By Mr. REID (for himself, Mr. HARKIN, Mr. SPECTER, Mr. KENNEDY, Mr. HATCH, Mrs. FEINSTEIN, Mr. SMITH, Mr. DURBIN, Mr. LAUTENBERG, Ms. SNOWE, Mr. SCHUMER, Ms. MIKULSKI, Mrs. CLINTON, Ms. CANTWELL, Mr. FEINGOLD, Mr. LEAHY, Mr. KOHL, Ms. STABENOW, Mr. WEBB, Mr. KERRY, Mrs. LINCOLN, Mr. DODD, Mr. MENENDEZ, Mr. REED, Mr. AKAKA, Mrs. BOXER, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. LEVIN, Mr. OBAMA, and Mr. INOUYE):

S. 5. A bill to amend the Public Health Service Act to provide for human embryonic stem cell research; read the first time.

(The bill will be printed in a future edition of the RECORD.)

By Mr. REID (for himself, Mr. BINGAMAN, Mrs. BOXER, Mr. SCHUMER, Mr. LIEBERMAN, Mr. LAUTENBERG, Ms. CANTWELL, Mr. LEAHY, Ms. STABENOW, Mr. WEBB, Mr. SALAZAR, and Mr. MENENDEZ):

S. 6. A bill to enhance the security of the United States by reducing the dependence of the United States on foreign and unsustainable energy sources

and the risks of global warming, and for other purposes; to the Committee on Finance.

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

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

S. 6

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Energy and Environmental Security Act of 2007''.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that Congress should enact, and the President should sign, legislation to enhance the security of the United States by reducing the dependence of the United States on foreign and unsustainable energy sources and the risks of global warming by—

(1) requiring reductions in emissions of greenhouse gases;

(2) diversifying and expanding the use of secure, efficient, and environmentally-friendly energy supplies and technologies;

(3) reducing the burdens on consumers of rising energy prices;

(4) eliminating tax giveaways to large energy companies; and

(5) preventing energy price gouging, profiteering, and market manipulation.

By Mr. REID (for himself, Mr. KENNEDY, Mr. SCHUMER, Mrs. CLINTON, Ms. MIKULSKI, Mrs. MURRAY, Mr. LIEBERMAN, Mr. AKAKA, Ms. CANTWELL, Mr. BINGAMAN, Mr. LEAHY, Mr. LAUTENBERG, Mr. LEVIN, Ms. STABENOW, Mr. WEBB, Mr. MENENDEZ, Ms. LANDRIEU, Mr. SANDERS, Mr. REED, and Mr. DODD):

S. 7. A bill to amend title IV of the Higher Education Act of 1965 and other laws and provisions and urge Congress to make college more affordable through increased Federal Pell Grants and providing more favorable student loans and other benefits, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 7

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 ''College Opportunity Act of 2007''.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that the Congress should enact, and the President should sign, legislation to amend title IV of the Higher Education Act of 1965 and other laws and provisions to make college more affordable through increased Federal Pell Grants and providing more favorable student loans and other benefits.

By Mr. REID (for himself, Mr. LEVIN, Mr. SCHUMER, Mr. LAUTENBERG, Ms. CANTWELL, Mr. LEAHY, Ms. STABENOW, Mr. WEBB, Mr. MENENDEZ, and Ms. LANDRIEU):

S. 8. A bill to restore and enhance the capabilities of the Armed Forces, to enhance the readiness of the Armed Forces, to support the men and women of the Armed Forces, and for other purposes; to the Committee on Armed Services.

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

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

S. 8

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 ''Rebuilding America's Military Act of 2007''.

SEC. 2. SENSE OF CONGRESS ON RESTORATION AND ENHANCEMENT OF THE ARMED FORCES OF THE UNITED STATES.

It is the sense of Congress that Congress should enact legislation—

(1) to restore and enhance the capabilities of the Armed Forces for deterrence, combat, and post-conflict operations;

(2) to enhance the readiness of the Armed Forces, including by the reset of military equipment; and

(3) to support the men and women of the Armed Forces, including the members of the National Guard and Reserves, through the provision of quality health care and enhanced educational assistance.

By Mr. REID (for himself, Mr. LEAHY, Mr. SCHUMER, Ms. CANTWELL, and Ms. STABENOW):

S. 9. A bill to recognize the heritage of the United States as a nation of immigrants and to amend the Immigration and Nationality Act to provide for more effective border and employment enforcement, to prevent illegal immigration, and to reform and rationalize avenues for legal immigration, and for other purposes; 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 text of the bill was ordered to be printed in the RECORD, as follows:

S. 9

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 ''Comprehensive Immigration Reform Act of 2007''.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that the Senate and the House of Representatives should pass, and the President should sign, legislation to recognize the heritage of the United States as a nation of immigrants and to amend the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) to provide for more effective border and employment enforcement, to prevent illegal immigration, and to reform and rationalize avenues for legal immigration.

By Mr. REID (for himself, Mr. CONRAD, Mr. FEINGOLD, Mr. SCHUMER, Mr. SALAZAR, Ms. CANTWELL, Mr. LEAHY, Ms. STABENOW, Mr. MENENDEZ, Mr. KERRY, Mr. HARKIN, Ms. LANDRIEU, Mr. DURBIN, and Mr. OBAMA):

S. 10 A bill to reinstate the pay-as-you-go requirement and reduce budget deficits by strengthening budget enforcement and fiscal responsibility; to the Committee on the Budget.

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

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

S. 10

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 ''Restoring Fiscal Discipline Act of 2007''.

SEC. 2. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

(a) PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.—

(1) IN GENERAL.—For purposes of Senate enforcement, it shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the 4 applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term ''applicable time periods'' means any 1 of the 4 following periods:

(A) The current year.

(B) The budget year.

(C) The period of the 5 fiscal years following the current year.

(D) The period of the 5 fiscal years following the 5 fiscal years referred to in subparagraph (C).

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term ''direct-spending legislation'' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms ''direct-spending legislation'' and ''revenue legislation'' do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not

accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) SUNSET.—This section shall expire on September 30, 2012.

SEC. 3. RECONCILIATION FOR DEFICIT REDUCTION OR INCREASING THE SURPLUS IN THE SENATE.

(a) IN GENERAL.—It shall not be in order in the Senate to consider under the expedited procedures applicable to reconciliation in sections 305 and 310 of the Congressional Budget Act of 1974 any bill, resolution, amendment, amendment between Houses, motion, or conference report that increases the deficit or reduces the surplus in the first fiscal year covered by the most recently adopted concurrent resolution on the budget, the period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget, or the period of the 5 fiscal years following the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(b) BUDGET RESOLUTION.—It shall not be in order in the Senate to consider pursuant to sections 301, 305, or 310 of the Congressional Budget Act of 1974 pertaining to concurrent resolutions on the budget any resolution, concurrent resolution, amendment, amendment between the Houses, motion, or conference report that contains any reconciliation directive that would increase the deficit or reduce the surplus in the first fiscal year covered by the most recently adopted concurrent resolution on the budget, the period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget, or the period of the 5 fiscal years following the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

By Mr. REID (for himself, Mrs. CLINTON, MRS. MURRAY, Mrs. BOXER, Mr. AKAKA, Mr. KERRY, Mr. LEAHY, Mr. OBAMA, Mr. SCHUMER, Mr. LAUTENBERG, Mr. KENNEDY, Mr. HARKIN, Mr. MENENDEZ, and Mr. INOUYE):

S. 21. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce abortions, and improve access to women's health care; to the Committee on Health, Education, Labor, and Pensions.

S. 21

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 ''Prevention First Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—TITLE X OF PUBLIC HEALTH SERVICE ACT

Sec. 101. Short title.
Sec. 102. Authorization of appropriations.

TITLE II—EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE

Sec. 201. Short title.
Sec. 202. Amendments to Employee Retirement Income Security Act of 1974.
Sec. 203. Amendments to Public Health Service Act relating to the group market.
Sec. 204. Amendment to Public Health Service Act relating to the individual market.

TITLE III—EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION

Sec. 301. Short title.
Sec. 302. Emergency contraception education and information programs.

TITLE IV—COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES

Sec. 401. Short title.
Sec. 402. Survivors of sexual assault; provision by hospitals of emergency contraceptives without charge.

TITLE V—AT-RISK COMMUNITIES TEEN PREGNANCY PREVENTION ACT

Sec. 501. Short title.
Sec. 502. Teen pregnancy prevention.
Sec. 503. School-based projects.
Sec. 504. Multimedia campaigns.
Sec. 505. National clearinghouse.
Sec. 506. Research.
Sec. 507. General requirements.
Sec. 508. Definitions.

TITLE VI—ACCURACY OF CONTRACEPTIVE INFORMATION

Sec. 601. Short title.
Sec. 602. Accuracy of contraceptive information.

TITLE VII—UNINTENDED PREGNANCY REDUCTION ACT

Sec. 701. Short title.
Sec. 702. Medicaid; clarification of coverage of family planning services and supplies.
Sec. 703. Expansion of family planning services.
Sec. 704. Effective date.

TITLE VIII—RESPONSIBLE EDUCATION ABOUT LIFE ACT

Sec. 801. Short title.
Sec. 802. Assistance to reduce teen pregnancy, HIV/AIDS, and other sexually transmitted diseases and to support healthy adolescent development.
Sec. 803. Sense of Congress.
Sec. 804. Evaluation of programs.
Sec. 805. Definitions.
Sec. 806. Appropriations.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Healthy People 2010 sets forth a reduction of unintended pregnancies as an important health objective for the Nation to achieve over the first decade of the new century, a goal first articulated in the 1979 Surgeon General's Report, Healthy People, and reiterated in Healthy People 2000: National Health Promotion and Disease Prevention Objectives.

(2) Although the Centers for Disease Control and Prevention (referred to in this section as the ''CDC'') included family planning in its published list of the Ten Great Public Health Achievements in the 20th Century, the United States still has one of the highest rates of unintended pregnancies among industrialized nations.

(3) Each year, 3,000,000 pregnancies, nearly half of all pregnancies, in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(4) In 2004, 34,400,000 women, half of all women of reproductive age, were in need of contraceptive services and supplies to help prevent unintended pregnancy, and nearly half of those were in need of public support for such care.

(5) The United States has the highest rate of infection with sexually transmitted diseases of any industrialized country. In 2005, there were approximately 19,000,000 new cases of sexually transmitted diseases, almost half of them occurring in young people ages 15 to 24. According to the CDC, these sexually transmitted diseases impose a tremendous economic burden with direct medical costs as high as $14,100,000,000 per year.

(6) Increasing access to family planning services will improve women's health and reduce the rates of unintended pregnancy, abortion, and infection with sexually transmitted diseases. Contraceptive use saves public health dollars. For every dollar spent to increase funding for family planning programs under title X of the Public Health Service Act, $3.80 is saved.

(7) Contraception is basic health care that improves the health of women and children by enabling women to plan and space births.

(8) Women experiencing unintended pregnancy are at greater risk for physical abuse and women having closely spaced births are at greater risk of maternal death.

(9) A child born from an unintended pregnancy is at greater risk than a child born from an intended pregnancy of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

(10) The ability to control fertility allows couples to achieve economic stability by facilitating greater educational achievement and participation in the workforce.

(11) Without contraception, a sexually active woman has an 85 percent chance of becoming pregnant within a year.

(12) The percentage of sexually active women ages 15 through 44 who were not using contraception increased from 5.4 percent to 7.4 percent in 2002, an increase of 37 percent, according to the CDC. This represents an apparent increase of 1,430,000 women and could raise the rate of unintended pregnancy.

(13) Many poor and low-income women cannot afford to purchase contraceptive services and supplies on their own. In 2003, 20.5 percent of all women ages 15 through 44 were uninsured.

(14) Public health programs, such as the Medicaid program and family planning programs under title X of the Public Health Service Act, provide high-quality family planning services and other preventive health care to underinsured or uninsured individuals who may otherwise lack access to health care.

(15) The Medicaid program is the single largest source of public funding for family planning services and HIV/AIDS care in the

United States. Half of all public dollars spent on contraceptive services and supplies in the United States are provided through the Medicaid program and more than 6,000,000 low-income women of reproductive age rely on such program for their basic health care needs.

(16) Each year, family planning services provided under title X of the Public Health Service Act enable people in the United States to prevent approximately 1,000,000 unintended pregnancies, and one in three women of reproductive age who obtains testing or treatment for sexually transmitted diseases does so at a clinic receiving funds under such title. In 2005, such clinics provided 2.5 million Pap smears, over 5.3 million sexually transmitted disease tests, and over 6.2 million HIV tests.

(17) The combination of an increasing number of uninsured individuals, stagnant funding for family planning, health care inflation, new and expensive contraceptive technologies, increasing costs of contraceptives, and improved but expensive screening and treatment for cervical cancer and sexually transmitted diseases, has diminished the ability of clinics receiving funds under title X of the Public Health Service Act to adequately serve all individuals in need of services of such clinics. Taking inflation into account, funding for the family planning programs under such title declined by 59 percent between 1980 and 2005.

(18) While the Medicaid program remains the largest source of subsidized family planning services, States are facing significant budgetary pressures to cut their Medicaid programs, putting many women at risk of losing coverage for family planning services.

(19) In addition, eligibility under the Medicaid program in many States is severely restricted, which leaves family planning services financially out of reach for many poor women. Many States have demonstrated tremendous success with Medicaid family planning waivers that allow States to expand access to Medicaid family planning services. However, the administrative burden of applying for a waiver poses a significant barrier to States that would like to expand their coverage of family planning programs through Medicaid.

(20) As of December of 2006, 24 States offered expanded family planning benefits as a result of Medicaid family planning waivers. The cost-effectiveness of these waivers was affirmed by a recent evaluation funded by the Centers for Medicare & Medicaid Services. This evaluation of six waivers found that all family planning programs under such waivers resulted in significant savings to both the Federal and State governments. Moreover, the researchers found measurable reductions in unintended pregnancy.

(21) Although employer-sponsored health plans have improved coverage of contraceptive services and supplies, largely in response to State contraceptive coverage laws, there is still significant room for improvement. The ongoing lack of coverage in health insurance plans, particularly in self-insured and individual plans, continues to place effective forms of contraception beyond the financial reach of many women.

(22) Including contraceptive coverage in private health care plans saves employers money. Not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

(23) Approved for use by the Food and Drug Administration, emergency contraception is a safe and effective way to prevent unintended pregnancy after unprotected sex. New research confirms that easier access to emergency contraceptives does not increase sexual risk-taking or sexually transmitted diseases.

(24) The available evidence shows that many women do not know about emergency contraception, do not know where to get it, or are unable to access it. Overcoming these obstacles could help ensure that more women use emergency contraception consistently and correctly.

(25) A November 2006 study of declining pregnancy rates among teens concluded that the reduction in teen pregnancy between 1995 and 2002 is primarily the result of increased use of contraceptives. As such, it is critically important that teens receive accurate, unbiased information about contraception.

(26) The American Medical Association, the American Nurses Association, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Public Health Association, and the Society for Adolescent Medicine, support responsible sexuality education that includes information about both abstinence and contraception.

(27) Teens who receive comprehensive sexuality education that includes discussion of contraception as well as abstinence are more likely than those who receive abstinence-only messages to delay sex, to have fewer partners, and to use contraceptives when they do become sexually active.

(28) Government-funded abstinence-only-until-marriage programs are precluded from discussing contraception except to talk about failure rates. An October 2006 report by the Government Accountability Office found that the Department of Health and Human Services does not review the materials of recipients of grants administered by such department for scientific accuracy and requires grantees to review their own materials for scientific accuracy. The GAO also reported on the Department's total lack of appropriate and customary measurements to determine if funded programs are effective. In addition, a separate letter from the Government Accountability Office found that the Department of Health and Human Services is in violation of Federal law by failing to enforce a requirement under the Public Health Service Act that Federally-funded grantees working to address the prevention of sexually transmitted diseases, including abstinence-only-until-marriage programs, must provide medically accurate information about the effectiveness of condoms.

(29) Recent scientific reports by the Institute of Medicine, the American Medical Association, and the Office on National AIDS Policy stress the need for sexuality education that includes messages about abstinence and provides young people with information about contraception for the prevention of teen pregnancy, HIV/AIDS, and other sexually transmitted diseases.

(30) A 2006 statement from the American Public Health Association (''APHA'') ''recognizes the importance of abstinence education, but only as part of a comprehensive sexuality education program . . . APHA calls for repealing current federal funding for abstinence-only programs and replacing it with funding for a new Federal program to promote comprehensive sexuality education, combining information about abstinence with age-appropriate sexuality education.''

(31) Comprehensive sexuality education programs respect the diversity of values and beliefs represented in the community and will complement and augment the sexuality education children receive from their families.

(32) Nearly half of the 40,000 annual new cases of HIV infections in the United States occur in youth ages 13 through 24. African American and Latino youth have been disproportionately affected by the HIV/AIDS epidemic. Although African American adolescents, ages 13 through 19, represent only 15 percent of the adolescent population in the United States, they accounted for 73 percent of new AIDS cases reported among adolescents in 2004. Latino adolescents, ages age 13 through 19, accounted for 14 percent of AIDS cases among adolescents, compared to 16 percent of all adolescents in the United States, in 2004. Teens in the United States contract an estimated 9.1 million sexually transmitted infections each year. By age 24, at least one in four sexually active people between the ages of 15 and 24 will have contracted a sexually transmitted disease.

(33) Approximately 50 young people a day, an average of two young people every hour of every day, are infected with HIV in the United States.

TITLE I—TITLE X OF PUBLIC HEALTH SERVICE ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Title X Family Planning Services Act of 2007''.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants and contracts under section 1001 of the Public Health Service Act, there are authorized to be appropriated $700,000,000 for fiscal year 2008 and such sums as may be necessary for each subsequent fiscal year.

TITLE II—EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Equity in Prescription Insurance and Contraceptive Coverage Act of 2007''.

SEC. 202. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for participants or beneficiaries that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Standards relating to benefits for contraceptives''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2008.

SEC. 203. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for enrollees that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2008.

SEC. 204. AMENDMENT TO PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

"SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2008.

TITLE III—EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION

SEC. 301. SHORT TITLE.

This title may be cited as the ''Emergency Contraception Education Act of 2007''.

SEC. 302. EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION PROGRAMS.

(a) DEFINITIONS.—For purposes of this section:

(1) EMERGENCY CONTRACEPTION.—The term ''emergency contraception'' means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) or a drug regimen that is—

(A) used after sexual relations;

(B) prevents pregnancy, by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus; and

(C) approved by the Food and Drug Administration.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such license.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) EMERGENCY CONTRACEPTION PUBLIC EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) DISSEMINATION.—The Secretary may disseminate information under paragraph (1) directly or through arrangements with nonprofit organizations, consumer groups, institutions of higher education, Federal, State, or local agencies, clinics, and the media.

(3) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum, a description of emergency contraception and an explanation of the use, safety, efficacy, and availability of such contraception.

(c) EMERGENCY CONTRACEPTION INFORMATION PROGRAM FOR HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with major medical and public health organizations, shall develop and disseminate to health care providers information on emergency contraception.

(2) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum—

(A) information describing the use, safety, efficacy, and availability of emergency contraception;

(B) a recommendation regarding the use of such contraception in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under subsection (b) for distribution to the patients of the providers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2008 through 2012.

TITLE IV—COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Compassionate Assistance for Rape Emergencies Act of 2007''.

SEC. 402. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital and states that she is a victim of sexual assault, or is accompanied by someone who states she is a victim of sexual assault; and

(2) any woman who presents at the hospital whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her on her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''emergency contraception'' means a drug, drug regimen, or device that—

(A) is used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) The term ''hospital'' has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) The term ''Secretary'' means the Secretary of Health and Human Services.

(4) The term ''sexual assault'' means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—This section takes effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

TITLE V—AT-RISK COMMUNITIES TEEN PREGNANCY PREVENTION ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''At-Risk Communities Teen Pregnancy Prevention Act of 2007''.

SEC. 502. TEEN PREGNANCY PREVENTION.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this title as the ''Secretary'') shall make grants to public and nonprofit private entities for the purpose of carrying out projects to prevent teen pregnancies in communities with a substantial incidence or prevalence of cases of teen pregnancy as compared to the average number of such cases in communities in the State involved (referred to in this title as ''eligible communities'').

(b) REQUIREMENTS REGARDING PURPOSE OF GRANTS.—A grant may be made under subsection (a) only if, with respect to the expenditure of the grant to carry out the purpose described in such subsection, the applicant involved agrees to use one or more of the following strategies:

(1) Promote effective communication among families about preventing teen pregnancy, particularly communication among parents or guardians and their children.

(2) Educate community members about the consequences of teen pregnancy.

(3) Encourage young people to postpone sexual activity and prepare for a healthy, successful adulthood.

(4) Provide educational information, including medically accurate contraceptive information, for young people in such communities who are already sexually active or are at risk of becoming sexually active and inform young people in such communities about the responsibilities and consequences of being a parent, and how early pregnancy and parenthood can interfere with educational and other goals.

(c) UTILIZING EFFECTIVE STRATEGIES.—A grant may be made under subsection (a) only if the applicant involved agrees that, in carrying out the purpose described in such subsection, the applicant will, whenever possible, use strategies that have been demonstrated to be effective, or that incorporate characteristics of effective programs.

(d) REPORT.—A grant may be made under subsection (a) only if the applicant involved agrees to submit to the Secretary, in accordance with the criteria of the Secretary, a report that provides information on the project under such subsection, including outcomes. The Secretary shall make such reports available to the public.

(e) EVALUATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall, directly or through contract, provide for evaluations of six projects under subsection (a). Such evaluations shall describe—

(1) the activities carried out with the grant; and

(2) how such activities increased education and awareness services relating to the prevention of teen pregnancy.

(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 the fiscal years 2008 through 2012.

SEC. 503. SCHOOL-BASED PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of establishing and operating for eligible communities, in association with public secondary schools for such communities, projects for one or more of the following:

(1) To carry out activities, including counseling, to prevent teen pregnancy.

(2) To provide necessary social and cultural support services regarding teen pregnancy.

(3) To provide health and educational services related to the prevention of teen pregnancy.

(4) To promote better health and educational outcomes among pregnant teens.

(5) To provide training for individuals who plan to work in school-based support programs regarding the prevention of teen pregnancy.

(b) PRIORITY.—In making grants under subsection (a), the Secretary shall give priority to providing for projects under such subsection in eligible communities.

(c) REQUIRED COALITION.—A grant may be made under subsection (a) only if the applicant involved has formed an appropriate coalition of entities for purposes of carrying out a project under such subsection, including—

(1) one or more public secondary schools for the eligible community involved; and

(2) entities to provide the services of the project.

(d) TRAINING.—A grant under subsection (a) may be expended to train individuals to provide the services described in paragraphs (1) and (2) of such subsection for the project involved.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2012.

SEC. 504. MULTIMEDIA CAMPAIGNS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall make grants to public and nonprofit private entities for the purpose of carrying out multimedia campaigns to provide public education and increase awareness with respect to the issue of teen pregnancy and related social and emotional issues.

(b) PRIORITY.—In making grants under subsection (a), the Secretary shall give priority to campaigns described in such subsection that are directed toward eligible communities.

(c) REQUIREMENTS.—A grant may be made under subsection (a) only if the applicant involved agrees that the multimedia campaign under such subsection will—

(1) provide information on the prevention of teen pregnancy;

(2) provide information that identifies organizations in the communities involved that—

(A) provide health and educational services related to the prevention of teen pregnancy; and

(B) provide necessary social and cultural support services; and

(3) coincide with efforts of the National Clearinghouse for Teen Pregnancy Prevention that are made under section 505(b)(1).

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2012.

SEC. 505. NATIONAL CLEARINGHOUSE.

(a) IN GENERAL.—The Secretary shall make grants to a nonprofit private entity to establish and operate a National Clearinghouse for Teen Pregnancy Prevention (referred to in this section as the ''Clearinghouse'') for the purposes described in subsection (b).

(b) PURPOSES OF CLEARINGHOUSE.—The purposes referred to in subsection (a) regarding the Clearinghouse are as follows:

(1) To provide information and technical assistance to States, Indian tribes, local communities, and other public or private entities to develop content and messages for teens and adults that address and seek to reduce the rate of teen pregnancy.

(2) To support parents in their essential role in preventing teen pregnancy by equipping parents with information and resources to promote and strengthen communication with their children about sex, values, and positive relationships, including healthy relationships.

(c) REQUIREMENTS FOR GRANTEE.—A grant may be made under subsection (a) only if the applicant involved is an organization that meets the following conditions:

(1) The organization is a nationally recognized, nonpartisan organization that focuses exclusively on preventing teen pregnancy and has at least 10 years of experience in working with diverse groups to reduce the rate of teen pregnancy.

(2) The organization has a demonstrated ability to work with and provide assistance to a broad range of individuals and entities, including teens; parents; the entertainment and news media; State, tribal, and local organizations; networks of teen pregnancy prevention practitioners; businesses; faith and community leaders; and researchers.

(3) The organization has experience in the use of culturally competent and linguistically appropriate methods to address teen pregnancy in eligible communities.

(4) The organization conducts or supports research and has experience with scientific analyses and evaluations.

(5) The organization has comprehensive knowledge and data about strategies for the prevention of teen pregnancy.

(6) The organization has experience in carrying out functions similar to the functions described in subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2012.

SEC. 506. RESEARCH.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall make grants to public or nonprofit private entities to conduct, support, and coordinate research on the prevention of teen pregnancy in eligible communities, including research on the factors contributing to the disproportionate rates of teen pregnancy in such communities.

(b) RESEARCH.—In carrying out subsection (a), the Secretary shall support research that—

(1) investigates and determines the incidence and prevalence of teen pregnancy in communities described in such subsection;

(2) examines—

(A) the extent of the impact of teen pregnancy on—

(i) the health and well-being of teenagers in the communities; and

(ii) the scholastic achievement of such teenagers;

(B) the variance in the rates of teen pregnancy by—

(i) location (such as inner cities, inner suburbs, and outer suburbs);

(ii) population subgroup (such as Hispanic, Asian-Pacific Islander, African-American, Native American); and

(iii) level of acculturation;

(C) the importance of the physical and social environment as a factor in placing communities at risk of increased rates of teen pregnancy; and

(D) the importance of aspirations as a factor affecting young women's risk of teen pregnancy; and

(3) is used to develop—

(A) measures to address race, ethnicity, socioeconomic status, environment, and educational attainment and the relationship to the incidence and prevalence of teen pregnancy; and

(B) efforts to link the measures to relevant databases, including health databases.

(c) PRIORITY.—In making grants under subsection (a), the Secretary shall give priority to research that incorporates—

(1) interdisciplinary approaches; or

(2) a strong emphasis on community-based participatory research.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2012.

SEC. 507. GENERAL REQUIREMENTS.

(a) MEDICALLY ACCURATE INFORMATION.—A grant may be made under this title only if the applicant involved agrees that all information provided pursuant to the grant will be age-appropriate, factually and medically accurate and complete, and scientifically based.

(b) CULTURAL CONTEXT OF SERVICES.—A grant may be made under this title only if the applicant involved agrees that information, activities, and services under the grant that are directed toward a particular population group will be provided in the language and cultural context that is most appropriate for individuals in such group.

(c) APPLICATION FOR GRANT.—A grant may be made under this title only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the program involved.

SEC. 508. DEFINITIONS.

For purposes of this title:

(1) The term ''eligible community'' has the meaning indicated for such term in section 502(a).

(2) The term ''racial or ethnic minority or immigrant communities'' means communities with a substantial number of residents who are members of racial or ethnic minority groups or who are immigrants.

(3) The term ''Secretary'' has the meaning indicated for such term in section 502(a).

TITLE VI—ACCURACY OF CONTRACEPTIVE INFORMATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Truth in Contraception Act of 2007''.

SEC. 602. ACCURACY OF CONTRACEPTIVE INFORMATION.

Notwithstanding any other provision of law, any information concerning the use of a contraceptive provided through any federally funded sex education, family life education, abstinence education, comprehensive health education, or character education program shall be medically accurate and shall include health benefits and failure rates relating to the use of such contraceptive.

TITLE VII—UNINTENDED PREGNANCY REDUCTION ACT

SEC. 701. SHORT TITLE.

This title may be cited as the ''Unintended Pregnancy Reduction Act of 2007''.

SEC. 702. MEDICAID; CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.

Section 1937(b) of the Social Security Act (42 U.S.C. 1396u–7(b)) is amended by adding at the end the following:

''(5) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark-equivalent coverage under this section unless such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.''.

SEC. 703. EXPANSION OF FAMILY PLANNING SERVICES.

(a) COVERAGE AS MANDATORY CATEGORICALLY NEEDY GROUP.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—

(A) in subclause (VI), by striking ''or'' at the end;

(B) in subclause (VII), by adding ''or'' at the end; and

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

''(VIII) who are described in subsection (dd) (relating to individuals who meet the income standards for pregnant women);''.

(2) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd)(1) Individuals described in this subsection are individuals who—

''(A) meet at least the income eligibility standards established under the State plan as of January 1, 2007, for pregnant women or such higher income eligibility standard for such women as the State may establish; and

''(B) are not pregnant.

''(2) At the option of a State, individuals described in this subsection may include individuals who are determined to meet the income eligibility standards referred to in paragraph (1)(A) under the terms and conditions applicable to making eligibility determinations for medical assistance under this title under a waiver to provide the benefits described in clause (XV) of the matter following subparagraph (G) of section 1902(a)(10) granted to the State under section 1115 as of January 1, 2007.''.

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

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

(B) by inserting '', and (XV) the medical assistance made available to an individual described in subsection (dd) who is eligible for medical assistance only because of subparagraph (A)(10)(i)(VIII) shall be limited to family planning services and supplies described in 1905(a)(4)(C) and, at the State's option, medical diagnosis or treatment services that are provided in conjunction with a family planning service in a family planning setting provided during the period in which such an individual is eligible;'' after ''cervical cancer''.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (xii), by striking ''or'' at the end;

(B) in clause (xii), by adding ''or'' at the end; and

(C) by inserting after clause (xiii) the following:

''(xiv) individuals described in section 1902(dd),''.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

''PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES

''SEC. 1920C. (a) STATE OPTION.—A State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(dd) (relating to individuals who meet the income eligibility standard for pregnant women in the State) during a presumptive eligibility period. In the case of an individual described in section 1902(dd) who is eligible for medical assistance only because of subparagraph (A)(10)(i)(VIII), such medical assistance may be limited to family planning services and supplies described in 1905(a)(4)(C) and, at the State's option, medical diagnosis or treatment services that are provided in conjunction with a family planning service in a family planning setting provided during the period in which such an individual is eligible.

''(b) DEFINITIONS.—For purposes of this section:

''(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term 'presumptive eligibility period' means, with respect to an individual described in subsection (a), the period that—

''(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(dd); and

''(B) ends with (and includes) the earlier of—

''(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

''(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

''(2) QUALIFIED ENTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'qualified entity' means any entity that—

''(i) is eligible for payments under a State plan approved under this title; and

''(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

''(B) REGULATIONS.—The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

''(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The State agency shall provide qualified entities with—

''(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

''(B) information on how to assist such individuals in completing and filing such forms.

''(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

''(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

''(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

''(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

''(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

''(1) is furnished to an individual described in subsection (a)—

''(A) during a presumptive eligibility period;

''(B) by a entity that is eligible for payments under the State plan; and

''(2) is included in the care and services covered by the State plan, shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: ''and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a presumptive eligibility period in accordance with such section.''.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking ''or for'' and inserting '', for''; and

(ii) by inserting before the period the following: '', or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section''.

SEC. 704. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title take effect on October 1, 2007.

(b) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this title, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE VIII—RESPONSIBLE EDUCATION ABOUT LIFE ACT

SEC. 801. SHORT TITLE.

This title may be cited as the ''Responsible Education About Life Act of 2007''.

SEC. 802. ASSISTANCE TO REDUCE TEEN PREGNANCY, HIV/AIDS, AND OTHER SEXUALLY TRANSMITTED DISEASES AND TO SUPPORT HEALTHY ADOLESCENT DEVELOPMENT.

(a) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary of Health and Human Services, for each of the fiscal years 2008 through 2012, a grant to conduct programs of family life education, including education on both abstinence and contraception for the prevention of teenage pregnancy and sexually transmitted diseases, including HIV/AIDS.

(b) REQUIREMENTS FOR FAMILY LIFE PROGRAMS.—For purposes of this title, a program of family life education is a program that—

(1) is age-appropriate and medically accurate;

(2) does not teach or promote religion;

(3) teaches that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases;

(4) stresses the value of abstinence while not ignoring those young people who have had or are having sexual intercourse;

(5) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy;

(6) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to reduce the risk of contracting sexually transmitted diseases, including HIV/AIDS;

(7) encourages family communication between parent and child about sexuality;

(8) teaches young people the skills to make responsible decisions about sexuality, including how to avoid unwanted verbal, physical, and sexual advances and how not to make unwanted verbal, physical, and sexual advances; and

(9) teaches young people how alcohol and drug use can effect responsible decision making.

(c) ADDITIONAL ACTIVITIES.—In carrying out a program of family life education, a State may expend a grant under subsection (a) to carry out educational and motivational activities that help young people—

(1) gain knowledge about the physical, emotional, biological, and hormonal changes of adolescence and subsequent stages of human maturation;

(2) develop the knowledge and skills necessary to ensure and protect their sexual and reproductive health from unintended pregnancy and sexually transmitted disease, including HIV/AIDS throughout their lifespan;

(3) gain knowledge about the specific involvement and responsibility of males in sexual decision making;

(4) develop healthy attitudes and values about adolescent growth and development, body image, racial and ethnic diversity, and other related subjects;

(5) develop and practice healthy life skills, including goal-setting, decision making, negotiation, communication, and stress management;

(6) promote self-esteem and positive interpersonal skills focusing on relationship dynamics, including friendships, dating, romantic involvement, marriage and family interactions; and

(7) prepare for the adult world by focusing on educational and career success, including developing skills for employment preparation, job seeking, independent living, financial self-sufficiency, and workplace productivity.

SEC. 803. SENSE OF CONGRESS.

It is the sense of Congress that while States are not required under this title to provide matching funds, with respect to grants authorized under section 802(a), they are encouraged to do so.

SEC. 804. EVALUATION OF PROGRAMS.

(a) IN GENERAL.—For the purpose of evaluating the effectiveness of programs of family life education carried out with a grant under section 802, evaluations of such program shall be carried out in accordance with subsections (b) and (c).

(b) NATIONAL EVALUATION.—

(1) IN GENERAL.—The Secretary shall provide for a national evaluation of a representative sample of programs of family life education carried out with grants under section 802. A condition for the receipt of such a grant is that the State involved agree to cooperate with the evaluation. The purposes of the national evaluation shall be the determination of—

(A) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(B) the effectiveness of such programs in preventing adolescent pregnancy;

(C) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS;

(D) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs; and

(E) a list of best practices based upon essential programmatic components of evaluated programs that have led to success in subparagraphs (A) through (D).

(2) REPORT.—A report providing the results of the national evaluation under paragraph (1) shall be submitted to Congress not later than March 31, 2011, with an interim report provided on an annual basis at the end of each fiscal year.

(c) INDIVIDUAL STATE EVALUATIONS.—

(1) IN GENERAL.—A condition for the receipt of a grant under section 802 is that the State involved agree to provide for the evaluation of the programs of family education carried out with the grant in accordance with the following:

(A) The evaluation will be conducted by an external, independent entity.

(B) The purposes of the evaluation will be the determination of—

(i) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(ii) the effectiveness of such programs in preventing adolescent pregnancy;

(iii) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS; and

(iv) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs.

(2) USE OF GRANT.—A condition for the receipt of a grant under section 802 is that the State involved agree that not more than 10 percent of the grant will be expended for the evaluation under paragraph (1).

SEC. 805. DEFINITIONS.

For purposes of this title:

(1) The term ''eligible State'' means a State that submits to the Secretary an application for a grant under section 802 that is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

(2) The term ''HIV/AIDS'' means the human immunodeficiency virus, and includes acquired immune deficiency syndrome.

(3) The term ''medically accurate'', with respect to information, means information that is supported by research, recognized as accurate and objective by leading medical, psychological, psychiatric, and public health organizations and agencies, and where relevant, published in peer review journals.

(4) The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 806. APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2012.

(b) ALLOCATIONS.—Of the amounts appropriated under subsection (a) for a fiscal year—

(1) not more than 7 percent may be used for the administrative expenses of the Secretary in carrying out this title for that fiscal year; and

(2) not more than 10 percent may be used for the national evaluation under section 804(b).

By Mr. WEBB:

S. 22. A bill to amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes; to the Committee on Veterans' Affairs.

Mr. WEBB. Mr. President, I rise today to speak in support of a bill that I am introducing, entitled the Post–9/11 Veterans Educational Assistance Act of 2007. This bill is designed to expand the educational benefits that our Nation offers to the brave men and women who have served us so honorably since the terrorist attacks of September 11, 2001.

As a veteran who hails from a family with a long history of military service, I am proud to offer this bill as my first piece of legislation in the United States Senate.

Most of us know that our country has a tradition—since World War II—of offering educational assistance to returning veterans. In the 1940s, the first G.I. bill helped transform notions of equality in American society. The G.I. bill program was designed to help veterans readjust to civilian life, avoid high levels of unemployment, and give veterans the opportunity to receive the education and training that they missed while bravely serving in the military.

To achieve these goals, the post-World War II G.I. bill paid for veterans' tuition, books, fees, and other training costs, and also gave a monthly stipend. After World War II, 7.8 million veterans used the benefits given under the original G.I. bill in some form, out of a wartime veteran population of 15 million.

Over the last several decades, Congress subsequently passed several other G.I. bills, which also gave educational benefits to veterans. However, benefits awarded under those subsequent bills have not been as generous as our Nation's original G.I. bill.

Currently, veterans' educational benefits are administered under the Montgomery G.I. bill. This program periodically adjusts veterans' educational benefits, but the program is designed primarily for peacetime—not wartime—service.

Yet, now our Nation is fighting a worldwide war against terrorism. Since 9/11, we have witnessed a sharp increase in the demands placed upon our military. Many of our military members are serving two or three tours of duty in Iraq and Afghanistan. In light of these immense hardships, it is now time to implement a more robust educational assistance program for our heroic veterans who have sacrificed so much for our great Nation.

The Post–9/11 Veterans Educational Assistance Act of 2007 does just that. This bill is designed to give our returning troops educational benefits identical to the benefits provided to veterans after World War II.

The new benefits package under the bill I am introducing today will include the costs of tuition, room and board, and a monthly stipend of $1,000. By contrast, existing law under the Montgomery G.I. bill provides educational support of up to $1,000 per month for four years, totaling $9,000 for each academic year. This benefit simply is insufficient after 9/11.

For example, costs of tuition, room, and board for an in-state student at George Mason University, located in

Fairfax, Virginia, add up to approximately $14,000 per year. In addition, existing law requires participating service members to pay $1,200 during their first year of service in order to even qualify for the benefit.

Let me briefly summarize some of the reforms that are contained in the bill I am introducing today.

First, these increased educational benefits will be available to those members of the military who have served on active duty since September 11, 2001. In general, to qualify, veterans must have served at least two years of active duty, with at least some period of active duty time served beginning on or after September 11, 2001.

Next, the bill provides for educational benefits to be paid for a duration of time that is linked to time served in the military. Generally, veterans will not receive assistance for more than a total of 36 months, which equals four academic years.

Third, as I mentioned a moment ago, my bill would allow veterans pursuing an approved program of education to receive payments covering the established charges of their program, room and board, and a monthly stipend of $1,000. Moreover, the bill would allow additional payments for tutorial assistance, as well as licensure and certification tests.

Fourth, veterans would have up to 15 years to use their educational assistance entitlement. But veterans would be barred from receiving concurrent assistance from this program and another similar program, such as the Montgomery G.I. bill program.

Finally, under this bill, the Secretary of Veterans Affairs would administer the program, promulgate rules to carry out the new law, and pay for the program from funds made available to the Department of Veterans Affairs for the payment of readjustment benefits.

Again, I note that the benefits I have outlined today essentially mirror the benefits allowed under the G.I. bill enacted after World War II. That bill helped spark economic growth and expansion for a whole generation of Americans. The bill I introduce today likely will have similar beneficial effects. As the post-World War II experience so clearly indicated, better educated veterans have higher income levels, which in the long run will increase tax revenues.

Moreover, a strong G.I. bill will have a positive effect on military recruitment, broadening the socio-economic makeup of the military and reducing the direct costs of recruitment.

Perhaps more importantly, better-educated veterans have a more positive readjustment experience. This experience lowers the costs of treating post-traumatic stress disorder and other readjustment-related difficulties.

The United States has never erred when it has made sustained new investments in higher education and job training. Enacting the Post-9/11 Veterans Educational Assistance Act of 2007 is not only the right thing to do for our men and women in uniform, but it also is a strong tonic for an economy plagued by growing disparities in wealth, stagnant wages, and the outsourcing of American jobs.

Mr. President I am a proud veteran who is honored to serve this great Nation. As long as I represent Virginians in the United States Senate, I will make it a priority to help protect our brave men and women in uniform.

I am honored that the Senate Majority Leader has agreed to join with me to be a defender and advocate of our veterans. The Majority Leader has included the concepts of the bill I introduce today in his leadership bill designed to rebuild the United States military. Additionally, I plan to work closely with Veterans' Affairs Committee Chairman AKAKA—and all of my Senate colleagues—to statutorily update G.I. benefits.

Together we can provide the deserving veterans of the 9/11 with the same program of benefits that our fathers and grandfathers received after World War II.

Mr. President, I ask that the bill I introduce today—the Post-9/11 Veterans Educational Assistance Act of 2007—be printed in the RECORD along with this statement.

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

S. 22

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 ''Post-9/11 Veterans Educational Assistance Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many ''G.I. Bills'' enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who served on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

SEC. 3. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001.

(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

"CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE

''SUBCHAPTER I—DEFINITIONS

''Sec.
''3301. Definitions.
''SUBCHAPTER II—EDUCATIONAL ASSISTANCE
''3311. Educational assistance for service in the Armed Forces after September 11, 2001: entitlement.
''3312. Educational assistance: duration.
''3313. Educational assistance: payment; amount.
''3314. Tutorial assistance.
''3315. Licensing and certification tests.
''SUBCHAPTER III—ADMINISTRATIVE PROVISIONS
''3321. Time limitation for use of and eligibility for entitlement.
''3322. Bar to duplication of educational assistance benefits.
''3323. Administration.
''3324. Allocation of administration and costs.

''SUBCHAPTER I—DEFINITIONS

"§ 3301. Definitions

''In this chapter:

''(1) The term 'active duty' has the meaning given such term in sections 101 and 3002(7) of this title and includes the limitations specified in section 3002(6) of this title.

''(2) The terms 'program of education', 'Secretary of Defense', and 'Selected Reserve' have the meaning given such terms in section 3002 of this title.

''SUBCHAPTER II—EDUCATIONAL ASSISTANCE

"§ 3311. Educational assistance for service in the Armed Forces after September 11, 2001: entitlement

''(a) ENTITLEMENT.—Except as provided in subsection (c) and subject to subsections (d) through (f), each individual described in subsection (b) is entitled to educational assistance under this chapter.

''(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

''(1) An individual who—

''(A) as of September 11, 2001, is a member of the Armed Forces and has served an aggregate of at least two years of active duty in the Armed Forces; and

''(B) after September 10, 2001—

''(i) serves at least 30 days of active duty in the Armed Forces; or

''(ii) is discharged or released as described in subsection (d)(1).

''(2) An individual who—

''(A) as of September 10, 2001, is a member of the Armed Forces;

''(B) as of any date on or after September 11, 2001—

''(i) has served an aggregate of at least two years of active duty in the Armed Forces; or

''(ii) before completion of service as described in clause (i), is discharged or released as described in subsection (d)(1); and

''(C) if described by subparagraph (B)(i), after September 11, 2001—

''(i) serves at least 30 days of active duty in the Armed Forces; or

''(ii) is discharged or released as described in subsection (d)(1).

''(3) An individual who—

''(A) on or after September 11, 2001, first becomes a member of the Armed Forces or

first enters on active duty as a member of the Armed Forces and—

''(i) serves an aggregate of at least two years of active duty in the Armed Forces; or

''(ii) before completion of service as described in clause (i), is discharged or released as described in subsection (d);

''(B) before applying for benefits under this chapter, completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

''(C) after completion of the service described in subparagraph (A)(i)—

''(i) continues on active duty;

''(ii) is discharged from active duty with an honorable discharge;

''(iii) is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability list; or

''(iv) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

''(4) An individual who—

''(A) on or after September 11, 2001, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

''(i)(I) serves an aggregate of at least two years of active duty in the Armed Forces characterized by the Secretary concerned as honorable service; or

''(II) before completion of service as described in subclause (I), is discharged or released as described in subsection (d); and

''(ii) beginning within one year after completion of service on active duty as described in clause (i)(I)—

''(I) serves at least four years of continuous active duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

''(II) during the four years described in subclause (I), is discharged or released as described in subsection (d);

''(B) before applying for benefits under this chapter, completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

''(C) after completion of the service described in subparagraph (A)—

''(i) is discharged from service with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

''(ii) continues on active duty or in the Selected Reserve.

''(c) EXCEPTIONS.—The following individuals are not entitled to educational assistance under this chapter:

''(1) An individual who, after September 11, 2001, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy.

''(2) An individual who, after September 11, 2001, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under section 2107 of title 10 if while participating in such program such individual received an aggregate of $25,000 or more for participation in such program.

''(d) CERTAIN DISCHARGE OR RELEASE PROVIDING EXCEPTION FROM SERVICE REQUIREMENTS.—A discharge or release described in this subsection is a discharge or release (whether from service on active duty in the Armed Forces under subsection (b)(1)(B)(i), (b)(2)(B)(i), (b)(2)(C)(i), (b)(3)(A)(i), or (b)(4)(A)(i)(I) or from service in the Selected Reserve under subsection (b)(4)(A)(ii)(I)) for—

''(1) a service-connected disability;

''(2) a medical condition which preexisted such service and which the Secretary determines is not service-connected;

''(3) hardship; or

''(4) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense.

''(e) CERTAIN INTERRUPTION IN SELECTED RESERVE SERVICE PROVIDING EXCEPTION FROM SERVICE REQUIREMENT.—After an individual begins service in the Selected Reserve as described in subsection (b)(4)(A)(ii), the continuity of service of the individual as a member of the Selected Reserve shall not be considered to be broken—

''(1) by any period of time (not to exceed a maximum period prescribed in regulations by the Secretary concerned) during which the member is not able to locate a unit of the member's Armed Force that the member is eligible to join or that has a vacancy; or

''(2) by any other period of time (not to exceed a maximum period so prescribed) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

''(f) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—A period of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based if the period of service is terminated because of a defective enlistment and induction based on—

''(1) the individual's being a minor for purposes of service in the Armed Forces;

''(2) an erroneous enlistment or induction; or

''(3) a defective enlistment agreement.

''§ 3312. Educational assistance: duration

''(a) IN GENERAL.—Subject to section 3695 of this title and subsection (b), an individual entitled to educational assistance under section 3311 of this title is entitled to a number of months of educational assistance under section 3313 of this title as follows:

''(1) In the case of an individual described by paragraph (1) section 3311(b) of this title—

''(A) if the individual is described by subparagraph (B)(i) of such paragraph, the aggregate number of months served by the individual on active duty in the Armed Forces after September 11, 2001; or

''(B) if the individual is described by subparagraph (B)(ii) of such paragraph, 36 months.

''(2) In the case of an individual described by paragraph (2) of section 3311(b) of this title—

''(A) if the individual is described by both subparagraphs (B)(i) and (C)(i) of such paragraph, the aggregate number of months served by the individual on active duty in the Armed Forces after September 11, 2001; or

''(B) if the individual is described by subparagraph (B)(ii) or (C)(ii) of such paragraph, 36 months.

''(3) In the case of an individual described by paragraph (3) of section 3311(b) of this title—

''(A) if the individual is described by subparagraph (A)(i) of such paragraph, the aggregate number of months served by the individual on active duty in the Armed Forces after September 11, 2001; or

''(B) if the individual is described by subparagraph (A)(ii) of such paragraph—

''(i) if the discharge or release of the individual is described by paragraph (1) of section 3311(d) of this title, 36 months; or

''(ii) if the discharge or release of the individual is described by paragraph (2), (3), or (4) of section 3311(d) of this title, the aggregate number of months served by the individual on active duty in the Armed Forces after September 11, 2001.

''(4) In the case of an individual described by paragraph (4) of section 3311(b) of this title—

''(A) if the individual is described by subparagraph (A)(i) of such paragraph—

''(i) if the individual is further described by subclause (I) of such subparagraph, 24 months;

''(ii) if the individual is further described by subclause (II) of such subparagraph and has a discharge or release described by paragraph (1) of section 3311(d) of this title, 36 months; or

''(iii) if the individual is further described by subclause (II) of such subparagraph and has a discharge or release described by paragraph (2), (3), of (4) of section 3311(d) of this title, the aggregate number of months served by the individual on active duty in the Armed Forces after September 11, 2001; and

''(B) if the individual is also described by subparagraph (A)(ii) of such paragraph—

''(i) if the individual is further described by subclause (I) of such subparagraph, an additional one month for each four months served by the individual in the Selected Reserve (other than any month in which the individual served on active duty) after September 11, 2001; or

''(ii) if the individual is further described by subclause (II) of such subparagraph and the individual—

''(I) has a discharge or release described by paragraph (1) of section 3311(d) of this title, 12 months; or

''(II) has a discharge or release described by paragraph (2), (3), or (4) of section 3311(d) of this title, an additional one month for each four months served by the individual in the Selected Reserve (other than any month in which the individual served on active duty) after September 11, 2001.

''(b) LIMITATION.—Except as provided in section 3321(b)(2) of this title, an individual may not receive educational assistance under section 3313 of this title for a number of months in excess of 36 months, which is the equivalent of four academic years

''§ 3313. Educational assistance: payment; amount

''(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) through (i)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

''(b) APPROVED PROGRAMS OF EDUCATION.—Except as provided in subsections (g) through (i), a program of education is an approved program of education for purposes of this chapter if the program of education is

approved for purposes of chapter 30 of this title.

''(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—(1) The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

''(A) An amount equal to the established charges for the program of education.

''(B) Subject to paragraph (2), an amount equal to the room and board of the individual.

''(C) A monthly stipend in the amount of $1,000.

''(2) The amount payable under paragraph (1)(B) for room and board of an individual may not exceed an amount equal to the standard dormitory fee, or such equivalent fee as the Secretary shall specify in regulations, which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay.

''(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subparagraphs (A) and (B) of subsection (c)(1) for pursuit of a program of education shall be made in a lump-sum amount for the entire quarter, semester, or term, as applicable, of the program of education before the commencement of such quarter, semester, or term.

''(2) Payment of the amount payable under subparagraph (C) of subsection (c)(1) for pursuit of a program of education shall be made on a monthly basis.

''(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts for pursuit of a program of education on a quarter, semester, term, or other basis.

''(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

''(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

''(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

''(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

''(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made in a lump-sum amount for the entire quarter, semester, or term, as applicable, of the program of education before the commencement of such quarter, semester, or term.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (c)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

''(f) PROGRAMS OF EDUCATION PURSUED ON LESS THAN HALF-TIME BASIS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on less than half-time basis.

''(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education on less than half-time basis is the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay.

''(3) Payment of the amount payable under this chapter to an individual for pursuit of a program of education on less than half-time basis shall be made in a lump-sum, and shall be made not later than the last day of the month immediately following the month in which certification is received from the educational institution involved that the individual has enrolled in and is pursuing a program of education at the institution.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (c)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

''(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

''(B) the number of course hours for full-time pursuit of such program of education.

''(g) APPRENTICESHIP OR OTHER ON-JOB TRAINING.—(1) Educational assistance is payable under this chapter for full-time pursuit of a program of apprenticeship or other on-job training described in paragraphs (1) and (2) of section 3687(a) of this title.

''(2)(A) The educational assistance payable under this chapter to an individual for pursuit of a program of apprenticeship or training referred to in paragraph (1) is the amounts as follows:

''(i) The established charge which similarly circumstances nonveterans enrolled in the program would be required to pay.

''(ii) A monthly stipend in the amount of $1,000.

''(B) The nature and amount of the tuition, fees, and other expenses constituting the established charge for a program of apprenticeship or training under this subsection shall be determined in accordance with regulations prescribed by the Secretary. Such expenses may include room and board under such circumstances as the Secretary shall prescribe in the regulations.

''(3)(A) Payment of the amount payable under paragraph (2)(A)(i) for pursuit of a program of apprenticeship or training shall be made, at the election of the Secretary—

''(i) in a lump sum for such period of the program as the Secretary shall determine before the commencement of such period of the program; or

''(ii) on a monthly basis.

''(B) Payment of the amount payable under paragraph (2)(A)(ii) for pursuit of a program of apprenticeship or training shall be made on a monthly basis.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (c)(3) in the case of payments made in accordance with paragraph (3)(A)(i)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

''(h) PROGRAMS OF EDUCATION BY CORRESPONDENCE.—(1) Educational assistance is payable under this chapter for pursuit of a program of education exclusively by correspondence.

''(2)(A) The amount of educational assistance payable under this chapter to an individual who is pursuing a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

''(B) In this paragraph, the term 'established charge', in the case of a program of education, means the lesser of—

''(i) the charge for the course or courses under the program of education, as determined on the basis of the lowest extended time payment plan offered by the institution involved and approved by the appropriate State approving agency; or

''(ii) the actual charge to the individual for such course or courses.

''(3) Payment of the amount payable under this chapter for pursuit of a program of education by correspondence shall be made quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution involved.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (c)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

''(i) FLIGHT TRAINING.—(1) Educational assistance is payable under this chapter for a program of education consisting of flight training as follows:

''(A) Courses of flight training approved under section 3860A(b) of this title.

''(B) Flight training meeting the requirements of section 3034(d) of this title.

''(2) Paragraphs (2) and (4) of section 3032(e) of this title shall apply with respect to the availability of educational assistance under this chapter for pursuit of flight training covered by paragraph (1).

''(3)(A) The educational assistance payable under this chapter to an individual for pursuit of a program of education consisting of flight training covered by paragraph (1) is the amounts as follows:

''(i) The established charge which similarly circumstances nonveterans enrolled in the program would be required to pay.

''(ii) A monthly stipend in the amount of $1,000.

''(B) The nature and amount of the tuition, fees, and other expenses constituting the established charge for a program of flight training under this subsection shall be determined in accordance with regulations prescribed by the Secretary.

''(4) Payment of the amounts payable under paragraph (3) for pursuit of a program of flight training shall be made on a monthly basis.

''(5) For each month for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

''(j) ESTABLISHED CHARGES DEFINED.—(1) In subsections (c) and (e), the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition, fees (including required supplies, books, and equipment), and other educational costs which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

''(2) Established charges shall be determined for purposes of this subsection on the following basis:

''(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''§ 3314. Tutorial assistance

''(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

''(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

''(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

''(A) such benefits are essential to correct a deficiency of the individual in such course; and

''(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

''(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed $100 per month, for a maximum of 12 months, or until a maximum of $1,200 is utilized.

''(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

''(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

''§ 3315. Licensure and certification tests

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

''(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

''(1) $2,000; or

''(2) the fee charged for the test.

''(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

''SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

''§ 3321. Time limitation for use of and eligibility for entitlement

''(a) IN GENERAL.—(1) Except as otherwise provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

''(2) In the case of an individual described in paragraph (1) who becomes entitled to educational assistance under this chapter under section 3311(b)(4) of this title, the 15-year period described in paragraph (1) shall begin on the later of—

''(A) the date of such individual's last discharge or release from active duty; or

''(B) the date on which the four-year requirement described in section 3311(b)(4)(A)(ii) of this title is met.

''(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

''(2) Section 3031(f) of this title shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

''(3) For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in paragraph (1), (2), or (3) of section 3311(d) of this title.

''§ 3322. Bar to duplication of educational assistance benefits

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

''(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

''(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

''(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of the date of the enactment of the Post-9/11 Veterans Educational Assistance Act of 2007, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 3(c) of the Post-9/11 Veterans Educational Assistance Act of 2007.

''§ 3323. Administration

''(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall apply to the provision of educational assistance under this chapter.

''(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term 'eligible veteran' shall be deemed to refer to an individual entitled to educational assistance under this chapter.

''(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term 'educational assistance allowance' shall be deemed to refer to educational assistance payable under section 3313 of this title.

''(4) In applying section 3482(g) of this title to an individual entitled to educational assistance under this chapter for purposes of this section—

''(A) the first reference to the term 'educational assistance allowance' in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

''(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with 'equipment'.

''(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

''(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

''(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

''(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

''(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

''§ 3324. Allocation of administration and costs

''(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

''(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.''.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

''33. Post-9/11 Educational Assistance 3301''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by inserting ''33,'' after ''32,''; and

(ii) in subsection (c), by striking ''both the program established by this chapter and the program established by chapter 106 of title 10'' and inserting ''two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10''.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

''(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.''.

(C) Section 16163(e) of title 10, United States Code, is amended by inserting ''33,'' after ''32,''.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting ''33,'' after ''32,'' each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking ''or 32'' and inserting ''32, or 33''.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of the date of the enactment of this Act—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, such entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, such entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any such entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has not used any such entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual's election under this paragraph—

(i) otherwise meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added); or

(ii) is making progress toward meeting such requirements.

(2) ELECTION ON TREATMENT OF TRANSFERRED ENTITLEMENT.—

(A) ELECTION.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), as provided in paragraph (3)(B).

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the eligible dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(3) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i), the number of months of entitlement of such individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to the number of months of unused entitlement of such individual under chapter 30 of title 38, United States Code, as of the date of the election, including any number of months entitlement revoked by the individual under paragraph (2)(A).

(4) CONTINUING EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—

(A) IN GENERAL.—If the aggregate amount of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), that is accumulated by an individual described in subparagraph (A)(i), (A)(ii), or (A)(iii) of paragraph (1) who makes an election under that paragraph is less than 36 months, the individual shall retain, and may utilize, any unutilized entitlement of the individual to educational assistance under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, for a number of months equal to the lesser of—

(i) 36 months minus the number of months of entitlement so accumulated by the individual; or

(ii) the number of months of such unutilized entitlement of the individual.

(B) UTILIZATION OF RETAINED ENTITLEMENT.—The utilization of entitlement retained by an individual under this paragraph shall be governed by the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(5) TREATMENT OF CONTRIBUTIONS TOWARD BASIC EDUCATIONAL ASSISTANCE.—

(A) REFUND OF CONTRIBUTIONS.—Except as provided in subparagraph (B), the Secretary of Veterans Affairs shall pay to each individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph an amount equal to the total amount of contributions made by such individual under subchapter II of chapter 30 of title 38, United States Code, for basic educational assistance under that chapter, including any contributions made under subsection (b) or (e) of section 3011 of such title or any contributions made under subsection (c) or (f) of section 3012 of such title.

(B) EXCEPTION.—In the case of an individual described by subparagraph (A) who is entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of paragraph (4)(A), the amount payable to the individual under this paragraph shall be an amount equal to—

(i) the amount otherwise payable to the individual under subparagraph (A), multiplied by

(ii) a fraction—

(I) the numerator of which is the number equal to the number of months of basic educational assistance under chapter 30 of title 38, United States Code, to which the individual is entitled by reason of paragraph (4)(A); and

(II) the denominator of which is 36.

(C) CESSATION OF CONTRIBUTIONS.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of such individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to such person.

(6) TERMINATION OF ENTITLEMENT UNDER MONTGOMERY GI BILL.—Except as otherwise provided in paragraph (4), effective on the last day of the month in which an individual makes an election under paragraph (1), the entitlement, if any, of the individual to basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, shall terminate.

(7) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (2)(A) is irrevocable.

By Mr. HARKIN (for himself, Mr. LUGAR, Mr. DORGAN, Mr. BIDEN, and Mr. OBAMA):

S. 23. A bill to promote renewable fuel and energy security of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HARKIN. Mr. President, over the past several years, our national energy security has deteriorated rapidly. Petroleum and natural gas prices have gone up and appear to be staying up. Almost daily, we hear projections of increases in electricity prices around the country. The environmental impacts of energy use, especially from autos and power plants, are still a major health concern. The evidence of climate change is absolutely clear and very ominous, especially in the disappearance of glaciers, the break up of polar ice sheets and the increasing intensity of storms. We know that combustion of fossil fuels is the primary contributor of the anthropogenic greenhouse gases emissions that drive this global warming. Despite these negative consequences, our dependence on petroleum is rising steadily, and we are importing over 60 percent of that petroleum from foreign sources, many of whom are politically unstable or unfriendly to the United States. In short, we need to initiate a major transition of our energy sector, to one that is far more efficient, is much less reliant on fossil fuels and imported oil, and is utilizing vastly more domestically produced renewable energy.

We have seen waxing and waning concerns about our national energy economy now for over 30 years. Many of us have believed all along that we should be doing more to promote energy efficiency and to accelerate the development and use of clean, domestic renewable energy, but during most of that time, cheap energy supplies have lulled us into relatively minimal actions. Over the past three years, however, there has been an increasingly acute awareness of the dire nature of our overall energy situation. It is now clear that our energy situation is a serious threat not only to our economy but to our national security. We can no longer postpone action.

Today I am joined by my esteemed colleagues, Senator LUGAR of Indiana, Senator DORGAN of North Dakota, Senator BIDEN of Delaware, and Senator

OBAMA of Illinois, in introducing the Biofuels Security Act of 2007. This bill directly addresses one of the most critical pieces of a sound national energy transition policy. It charts a clear path forward for significantly increasing our national use of renewable fuels over the next 24 years, reaching a total of 30 billion gallons per year by 2020, and 60 billion gallons per year by 2030. That latter figure represents about one-third of our nation's current annual fuel use for highway transportation. The production of the two most common forms of biofuels, ethanol and biodiesel, is expanding rapidly. We have reason to believe that this provision will provide strong impetus to increasing biofuels' production and use because it is an extension of the renewable fuels standard that I promoted in the Energy Policy Act of 2005. That standard mandates using a total of 7.5 billion gallons of renewable fuels by 2012, and already we are on a path to exceed that requirement by 2008. Thus, we can be very optimistic about the success of setting these longer term and more aggressive targets.

This bill also will ensure that the vehicles to use these renewable fuels are readily available by requiring auto manufacturers over time to produce and sell increasing numbers of dual-fuel vehicles—that is, vehicles that can be fueled by gasoline or gasoline/ethanol blends. Because the turnover of vehicles on the highway takes many years, our bill requires the fraction of dual-fuel vehicles to increase from 10 percent in 2008 up to 100 percent in 2017 and beyond. In order to assure availability of alternative fuels, our bill requires installation of increasing numbers of E–85 pumps by major oil companies at fueling stations that they own or license under their brand. These pumps will dispense E–85, a blend of 85 percent ethanol and 15 percent gasoline, which is a very popular renewable fuel because of its high ethanol content. The bill will require 50 percent of such owned and licensed stations to have pumps dispensing E–85 fuel by 2017. In addition, the bill includes a clause to ensure geographic distribution of such E–85 marketing stations.

Today I urge my Senate colleagues to join us in taking action to boost the transition to a cleaner, more resilient, and more secure energy economy. I request support for this bill and its rapid enactment.

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. 23

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 ''Biofuels Security Act of 2007''.

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

Sec. 1. Short title; table of contents.

TITLE I—RENEWABLE FUELS

Sec. 101. Renewable fuel program.

Sec. 102. Installation of E–85 fuel pumps by major oil companies at owned stations and branded stations.

Sec. 103. Minimum Federal fleet requirement.

Sec. 104. Application of Gasohol Competition Act of 1980.

TITLE II—DUAL FUELED AUTOMOBILES

Sec. 201. Requirement to manufacture dual fueled automobiles.

Sec. 202. Manufacturing incentives for dual fueled automobiles.

TITLE I—RENEWABLE FUELS

SEC. 101. RENEWABLE FUEL PROGRAM.

Section 211(o)(2) of the Clean Air Act (42 U.S.C. 7545(o)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) APPLICABLE VOLUME.—

''(i) IN GENERAL.—For the purpose of subparagraph (A), the applicable volume for calendar year 2010 and each calendar year thereafter shall be determined, by rule, by the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, in a manner that ensures that—

''(I) the requirements described in clause (ii) for specified calendar years are met; and

''(II) the applicable volume for each calendar year not specified in clause (ii) is determined on an annual basis.

''(ii) REQUIREMENTS.—The requirements referred to in clause (i) are—

''(I) for calendar year 2010, at least 10,000,000,000 gallons of renewable fuel;

''(II) for calendar year 2020, at least 30,000,000,000 gallons of renewable fuel; and

''(III) for calendar year 2030, at least 60,000,000,000 gallons of renewable fuel.''.

SEC. 102. 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:

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. 103. MINIMUM FEDERAL FLEET REQUIREMENT.

Section 303(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)) is amended—

(1) in subparagraph (C), by striking ''and'' after the semicolon;

(2) in subparagraph (D), by striking ''fiscal year 1999 and thereafter,'' and inserting ''each of fiscal years 1999 through 2007; and''; and

(3) by inserting after subparagraph (D) the following:

''(E) 100 percent in fiscal year 2008 and thereafter,''.

SEC. 104. APPLICATION OF GASOHOL COMPETITION ACT OF 1980.

Section 26 of the Clayton Act (15 U.S.C. 26a) is amended—

(1) by redesignating subsection (c) as subsection (d);

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

''(c) For purposes of subsection (a), restricting the right of a franchisee to install on the premises of that franchisee a renewable fuel pump, such as one that dispenses E85, shall be considered an unlawful restriction.''; and

(3) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking ''section,'' and inserting the following: ''section—

''(1) the term'';

(B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(2) the term 'gasohol' includes any blend of ethanol and gasoline such as E–85.''.

TITLE II—DUAL FUELED AUTOMOBILES

SEC. 201. 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 each of the following model years:	The percentage of dual fueled automobiles manufactured shall be not less than:
2008	10
2009	20
2010	30
2011	40
2012	50
2013	60
2014	70
2015	80
2016	90
2017 and beyond	100.

''(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 the 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. 202. MANUFACTURING INCENTIVES FOR DUAL FUELED AUTOMOBILES.

Section 32905(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting ''(1)'' before ''Except'';

(3) by striking ''model years 1993–2010'' and inserting ''model year 1993 through the first model year beginning not less than 18 months after the date of enactment of the Biofuels Security Act of 2007''; and

(4) by adding at the end the following:

''(2) Except as provided in paragraph (5), subsection (d), or section 32904(a)(2), the Administrator shall measure the fuel economy for each model of dual fueled automobiles manufactured by a manufacturer in the first model year beginning not less than 30 months after the date of enactment of the Biofuels Security Act of 2007 by dividing 1.0 by the sum of—

''(A) 0.7 divided by the fuel economy measured under section 32904(c) when operating the model on gasoline or diesel fuel; and

''(B) 0.3 divided by the fuel economy measured under subsection (a) when operating the model on alternative fuel.

''(3) Except as provided in paragraph (5), subsection (d), or section 32904(a)(2), the Administrator shall measure the fuel economy for each model of dual fueled automobiles manufactured by a manufacturer in the first model year beginning not less than 42 months after the date of enactment of the Biofuels Security Act of 2007 by dividing 1.0 by the sum of—

''(A) 0.9 divided by the fuel economy measured under section 32904(c) when operating the model on gasoline or diesel fuel; and

''(B) 0.1 divided by the fuel economy measured under subsection (a) when operating the model on alternative fuel.

''(4) Except as provided in subsection (d) or section 32904(a)(2), the Administrator shall measure the fuel economy for each model of dual fueled automobiles manufactured by a manufacturer in each model year beginning not less than 54 months after the date of enactment of the Biofuels Security Act of 2007 in accordance with section 32904(c).

''(5) Notwithstanding paragraphs (2) through (4), the fuel economy for all dual fueled automobiles manufactured to comply with the requirements under section 32902A(a), including automobiles for which dual fueled automobile credits have been used or traded under section 32902A(b), shall be measured in accordance with section 32904(c).''.

By Mrs. BOXER (for herself, Mr. FEINSTEIN, and Mr. LAUTENBERG):

S. 24. A bill to amend the Safe Drinking Water Act to require a health advisory and monitoring of drinking water for perchlorate; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I am introducing a bill that would require that tap water be tested for perchlorate, and would ensure the public's right to know about perchlorate in their drinking water. I am pleased that the senior Senator from California, Mrs. FEINSTEIN, and the senior Senator from New Jersey, Mr. LAUTENBERG, have joined as original cosponsors of this measure.

This toxin is a clear and present danger to California's and much of America's health, and EPA needs to get moving and protect our drinking water now. But until a perchlorate tap water standard is set, something must be done.

Therefore, my perchlorate monitoring and right to know bill will require that: EPA first swiftly set a health advisory for perchlorate that protects pregnant women, infants and children; second, that EPA order monitoring of drinking water for perchlorate until an enforceable standard is set; and, third, that the public be told about perchlorate and its health effects, if it is detected in their drinking water supply.

Drinking water sources for more than 20 million Americans are contaminated with perchlorate. The Government Accountability Office (GAO) says that perchlorate contamination has been found in water and soil at almost 400 sites in the U.S., with levels ranging from 4 parts per billion to millions of parts per billion. Perchlorate has polluted 35 States and the District of Columbia, and is known to have contaminated 153 public water systems in 26 States.

As we know, perchlorate can harm human health, especially that of pregnant women and children. Therefore, all citizens whose tap water system contains perchlorate have a right to know about that contamination, and about its potential health consequences. Only if their water is tested, and only if all systems are obligated to disclose the contamination and its health effects, will we be assured that the public is given the information that they deserve to protect themselves and their families.

EPA's original 1999 rule for monitoring of tap water for unregulated contaminants ordered testing for perchlorate. Just last year, on August 22, 2005, EPA proposed to extend the requirement that perchlorate be monitored in drinking water. However, on December 20, 2006, the Administrator reversed himself and signed a final rule removing perchlorate from the list of contaminants for which monitoring is required under the Unregulated Contaminant Monitoring Regulation. I was shocked by this action.

As a result of this new rule, Americans will not be assured of up-to-date information on whether their tap water is contaminated with this toxin. Until EPA sets a tap water standard for perchlorate, at the very least we should know if it's in our drinking water.

My bill will ensure that EPA acts swiftly to require water systems to test for and to inform the public about this threat to our health and welfare. I look forward to working with my colleagues to pass this important legislation.

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

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

S. 24

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 ''Perchlorate Monitoring and Right-to-Know Act of 2007''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) perchlorate—

(A) is a chemical used as the primary ingredient of solid rocket propellant;

(B) is also used in fireworks, road flares, and other applications.

(2) waste from the manufacture and improper disposal of chemicals containing perchlorate is increasingly being discovered in soil and water;

(3) according to the Government Accountability Office, perchlorate contamination has been detected in water and soil at almost 400 sites in the United States, with concentration levels ranging from 4 parts per billion to millions of parts per billion;

(4) the Government Accountability Office has determined that the Environmental Protection Agency does not centrally track or monitor perchlorate detections or the status of perchlorate cleanup, so a greater number of contaminated sites may already exist;

(5) according to the Government Accountability Office, limited Environmental Protection Agency data show that perchlorate has been found in 35 States and the District of Columbia and is known to have contaminated 153 public water systems in 26 States;

(6) those data are likely underestimates of total drinking water exposure, as illustrated by the finding of the California Department of Health Services that perchlorate contamination sites have affected approximately 276 drinking water sources and 77 drinking water systems in the State of California alone;

(7) Food and Drug Administration scientists and other scientific researchers have detected perchlorate in the United States food supply, including in lettuce, milk, cucumbers, tomatoes, carrots, cantaloupe, wheat, and spinach, and in human breast milk;

(8)(A) perchlorate can harm human health, especially in pregnant women and children, by interfering with uptake of iodide by the thyroid gland, which is necessary to produce important hormones that help control human health and development;

(B) in adults, the thyroid helps to regulate metabolism;

(C) in children, the thyroid helps to ensure proper mental and physical development; and

(D) impairment of thyroid function in expectant mothers or infants may result in effects including delayed development and decreased learning capability;

(9)(A) in October 2006, researchers from the Centers for Disease Control and Prevention published the largest, most comprehensive study to date on the effects of low levels of perchlorate exposure in women, finding that—

(i) significant changes existed in thyroid hormones in women with low iodine levels who were exposed to perchlorate; and

(ii) even low-level perchlorate exposure may affect the production of hormones by the thyroid in iodine-deficient women; and

(B) in the United States, about 36 percent of women have iodine levels equivalent to or below the levels of the women in the study described in subparagraph (A);

(10) the Environmental Protection Agency has not established a health advisory or national primary drinking water regulation for perchlorate, but instead established a ''Drinking Water Equivalent Level'' of 24.5 parts per billion for perchlorate, which—

(A) does not take into consideration all routes of exposure to perchlorate;

(B) has been criticized by experts as failing to sufficiently consider the body weight, unique exposure, and vulnerabilities of certain pregnant women and fetuses, infants, and children; and

(C) is based primarily on a small study and does not take into account new, larger studies of the Centers for Disease Control and Prevention or other data indicating potential effects at lower perchlorate levels than previously found;

(11) on August 22, 2005 (70 Fed. Reg. 49094), the Administrator proposed to extend the requirement that perchlorate be monitored in drinking water under the final rule entitled ''Unregulated Contaminant Monitoring Regulation (UCMR) for Public Water Systems Revisions'' promulgated pursuant to section 1445(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–4(a)(2)); and

(12) on December 20, 2006, the Administrator signed a final rule removing perchlorate from the list of contaminants for which monitoring is required under the final rule entitled ''Unregulated Contaminant Monitoring Regulation (UCMR) for Public Water Systems Revisions'' (72 Fed. Reg. 368 (January 4, 2007)).

(b) PURPOSE.—The purpose of this Act is to require the Administrator of the Environmental Protection Agency—

(1) to establish, not later than 90 days after the date of enactment of this Act, a health advisory that—

(A) is fully protective of, and considers, the body weight and exposure patterns of pregnant women, fetuses, newborns, and children;

(B) provides an adequate margin of safety; and

(C) takes into account all routes of exposure to perchlorate;

(2) to promulgate, not later than 120 days after the date of enactment of this Act, a final regulation requiring monitoring for perchlorate in drinking water; and

(3) to ensure the right of the public to know about perchlorate in drinking water by requiring that consumer confidence reports disclose the presence and potential health effects of perchlorate in drinking water.

SEC. 3. MONITORING AND HEALTH ADVISORY FOR PERCHLORATE.

Section 1412(b)(12) of the Safe Drinking Water Act (42 U.S.C. 300g-1(b)(12)) is amended by adding at the end the following:

''(C) PERCHLORATE.—

''(i) HEALTH ADVISORY.—Not later than 90 days after the date of enactment of this subparagraph, the Administrator shall publish a health advisory for perchlorate that fully protects, with an adequate margin of safety, the health of vulnerable persons (including pregnant women, fetuses, newborns, and children), considering body weight and exposure patterns and all routes of exposure.

''(ii) MONITORING REGULATIONS.—

''(I) IN GENERAL.—The Administrator shall propose (not later than 60 days after the date of enactment of this subparagraph) and promulgate (not later than 120 days after the date of enactment of this subparagraph) a final regulation requiring—

''(aa) each public water system serving more than 10,000 individuals to monitor for perchlorate beginning not later than October 31, 2007; and

''(bb) the collection of a representative sample of public water systems serving 10,000 individuals or fewer to monitor for perchlorate in accordance with section 1445(a)(2).

''(II) DURATION.—The regulation shall be in effect unless and until monitoring for perchlorate is required under a national primary drinking water regulation for perchlorate.

''(iii) CONSUMER CONFIDENCE REPORTS.—Each consumer confidence report issued under section 1414(c)(4) shall disclose the presence of any perchlorate in drinking water, and the potential health risks of exposure to perchlorate in drinking water, consistent with guidance issued by the Administrator.''.

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

S. 25. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KOHL. Mr. President, I rise today on the first day of this new Congress to introduce the Citizen Petition Fairness and Accuracy Act of 2007. This legislation will help speed the introduction of cost-saving generic drugs by preventing abuses of the Food and Drug Administration citizen petition process.

Consumers continue to suffer all across our country from the high—and ever rising—cost of prescription drugs. A recent independent study found that prescription drug spending has more than quadrupled since 1990, and now accounts for 11 percent of all health care spending. At the same time, the pharmaceutical industry is one of the most profitable industries in the world, returning more than 15 percent on their investments.

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

This is why I have been so active in pursuing legislation designed to combat practices which impede the introduction of generic drugs. The legislation I introduce today, which I first introduced last year with Senator LEAHY in last Congress, targets one particularly pernicious practice by brand name drug companies to impede or block the marketing of generic drugs—abuse of the FDA citizen petition process.

FDA rules permit any person to file a so-called ''citizen petition'' to raise concerns about the safety or efficacy of a generic drug that a manufacturer is seeking FDA approval to bring to market. While this citizen petition process was put in place for a laudable purpose, unfortunately in recent years it has been abused by frivolous petitions submitted by brand name drug manufacturers (or individuals acting at their behest) whose only purpose is to delay the introduction of generic competition. The FDA has a policy of not

granting any new generic manufacturer's drug application until after it has considered and evaluated any citizen petitions regarding that drug. The process of resolving a citizen petition (even if ultimately found to be groundless) can delay the approval by months or years. Indeed, brand name drug manufacturers often wait to file citizen petitions until just before the FDA is about to grant the application to market the new generic drug solely for the purpose of delaying the introduction of the generic competitor for the maximum amount of time possible. This gaming of the system should not be tolerated.

In recent years, FDA officials have expressed serious concerns about the abuse of the citizen petition process. In 2005, FDA Chief Counsel Sheldon Bradshaw noted that ''[t]he citizen petition process is in some cases being abused. Sometimes, stakeholders try to use this mechanism to unnecessarily delay approval of a competitor's products.'' He added that he found it ''particularly troublesome'' that he had ''seen several examples of citizen petitions that appear designed not to raise timely concerns with respect to the legality or scientific soundness of approving a drug application, but rather to delay approval by compelling the agency to take the time to consider the arguments raised in the petition, regardless of their merits, and regardless of whether the petitioner could have made those very arguments months and months before.''

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

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

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

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

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

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

S. 25

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Citizen Petition Fairness and Accuracy Act of 2007''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

By Mrs. FEINSTEIN (for herself and Mr. BOXER):

S. A bill to authorize the implementation of the San Joaquin River Restoration Settlement; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that will bring to a close 18 years of litigation between the Natural Resources Defense Council, the Friant Water Users Authority and the U.S. Department of the Interior. It is identical to the bill that we introduced in the waning days of the 109th Congress.

This historic bill will enact a settlement that restores California's second longest river, the San Joaquin, while maintaining a stable water supply for the farmers who have made the Valley the richest agricultural area in the world.

Without this consensus resolution to a long-running western water battle the parties will continue the fight, resulting in a court imposed settlement. To my knowledge, every farmer and every environmentalist who has considered the possibility of continued litigation believes that an outcome imposed by a judge is likely to be worse for everyone on all counts: more costly, riskier for the farmers, and less beneficial for the environment.

The Settlement provides a framework that the affected interests can accept. As a result, this legislation has the strong support of the Bush Administration, the Schwarzenegger Administration, the environmental and fishing communities and numerous California farmers and water districts, including all 22 Friant water districts that have been part of the litigation.

In announcing the signing of this San Joaquin River settlement in September, the Assistant Secretary of the Interior praised it as a ''monumental agreement.'' And when the Federal Court then approved the Settlement in late October, Secretary of the Interior Dirk Kempthorne further praised Settlement for launching ''one of the largest environmental restoration projects in California's history.'' The Secretary further observed that, ''This Settlement closes a long chapter of conflict and uncertainty in California's San Joaquin Valley . . . and open[s] a new chapter of environmental restoration and water supply certainty for the farmers and their communities.''

I share the Secretary's strong support for this balanced and historic agreement, and it is my honor to join with Senator BOXER and a bipartisan group of California House Members in introducing legislation to approve and authorize this Settlement.

The legislation indicates how the settlement forged by the parties is going to be implemented. It involves the Departments of the Interior and Commerce, and essentially gives the Secretary of the Interior the additional authority to: take the actions to restore the San Joaquin River; reintroduce the California Central Valley Spring Run Chinook Salmon; minimize water supply impacts on Friant water districts; and avoid reductions in water supply for third-party water contractors.

One of the major benefits of this settlement is the restoration of a long-lost salmon fishery. The return of one of California's most important salmon runs will create significant benefits for local communities in the San Joaquin Valley, helping to restore a beleaguered fishing industry while improving recreation and quality of life.

The legislation provides for improvements to the San Joaquin river channel to allow salmon restoration to begin in 2014. Beginning in that year, the river would see an annual flow regime mandated by the Settlement, with pulses of additional water in the spring and greater flows available in wetter years. There is flexibility to add or subtract up to 10 percent from the annual flows, as the best science dictates.

A visitor to the revitalized river channel in a decade will find an entirely different place providing recreation for residents of small towns like Mendota, and a refuge for residents of larger cities like Fresno.

The legislation I am introducing today includes provisions to benefit the farmers of the San Joaquin Valley as well as the salmon. In wet years, Friant contractors can purchase surplus flows at $10 per acre-foot for use in dry years, far less than the approximately $35 per acre-foot that they would otherwise pay for this water.

The Secretary of the Interior is authorized to recirculate new restoration flows from the Delta via the California aqueduct and the Cross-Valley Canal to provide additional supply for Friant.

Today's legislation also includes substantial protections for other water districts in California who were not party to the original settlement negotiations. These other water contractors will be able to avoid all but the smallest water impacts as a result of the settlement, except on a voluntary basis.

In addition, the restoration of flows for over 150 miles below Friant Dam, and reconnecting the upper River to the critical San Joaquin-Sacramento Delta, will be a welcome change for the more than 22 million Californians who rely on that crucial source for their drinking water.

Finally, restoring the San Joaquin as a living salmon river may ultimately help struggling fishing communities on California's North Coast—and even into Southern Oregon. The restoration of the San Joaquin and the government's commitment to reintroduce and rebuild historic salmon populations provide a rare bright spot for these communities.

In addition to congratulating the parties for making a settlement that will enable the long-sought restoration of the San Joaquin River, I am mindful of and remain committed to progress in implementing and funding the December 19, 2000, Trinity River restoration record of decision and the Hoopa Valley Tribe's co-management of the decision's important goal of restoring the fishery resources that the United States holds in trust for the Tribe.

Support of this agreement is almost as far reaching as its benefits. This historic agreement would not have been possible without the participation of a remarkably broad group of agencies, stakeholders and legislators, reaching far beyond the settling parties. The Department of the Interior, the State of California, the Friant Water Users Authority, the Natural Resources Defense Council on behalf of 13 other environmental organizations and countless other stakeholders came together and spent countless hours with legislators in Washington to ensure that we found a solution that the large majority of those affected could support.

In November of last year, California voters showed their support by approving Propositions 84 and 1E that will help pay for the Settlement by committing at least $100 million and likely $200 million or more toward the restoration costs. Indeed, this Legislation includes a diverse mix of approximately $200 million in direct Water User payments, new State payments, $240 million in dedicated Friant Central Valley Project capital repayments, and future Federal appropriations limited to $250 million. This mix of funding sources is intended to ensure that the river restoration program will be sustainable over time and truly a joint effort of Federal, state and local agencies.

I would like to emphasize that the Federal funding in the bill is for implementation of both the Restoration Goal to reestablish a salmon fishery in the river, and the Water Management Goal to avoid or minimize water supply losses supplied by Friant Water Districts. It is critical to recognize that these efforts are of equal importance.

At the end of the day, I believe that this agreement is something that we can all feel very proud of, and I urge my colleagues in the Senate to move quickly to approve this legislation and provide the Administration the authorization it needs to fully carry out its

legal obligations and the extensive restoration opportunities under the settlement.

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. 27

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 ''San Joaquin River Restoration Settlement Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to authorize implementation of the Stipulation of Settlement dated September 13, 2006 (referred to in this Act as the ''Settlement''), in the litigation entitled NATURAL RESOURCES DEFENSE COUNCIL, et al. v. KIRK RODGERS, et al., United States District Court, Eastern District of California, No. CIV. S–88–1658–LKK/GGH.

SEC. 3. DEFINITIONS.

In this Act, the terms ''Friant Division long-term contractors'', ''Interim Flows'', ''Restoration Flows'', ''Recovered Water Account'', ''Restoration Goal'', and ''Water Management Goal'' have the meanings given the terms in the Settlement.

SEC. 4. IMPLEMENTATION OF SETTLEMENT.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') is hereby authorized and directed to implement the terms and conditions of the Settlement in cooperation with the State of California, including the following measures as these measures are prescribed in the Settlement:

(1) Design and construct channel and structural improvements as described in paragraph 11 of the Settlement, provided, however, that the Secretary shall not make or fund any such improvements to facilities or property of the State of California without the approval of the State of California and the State's agreement in 1 or more Memoranda of Understanding to participate where appropriate.

(2) Modify Friant Dam operations so as to provide Restoration Flows and Interim Flows.

(3) Acquire water, water rights, or options to acquire water as described in paragraph 13 of the Settlement, provided, however, such acquisitions shall only be made from willing sellers and not through eminent domain.

(4) Implement the terms and conditions of paragraph 16 of the Settlement related to recirculation, recapture, reuse, exchange, or transfer of water released for Restoration Flows or Interim Flows, for the purpose of accomplishing the Water Management Goal of the Settlement, subject to—

(A) applicable provisions of California water law;

(B) the Secretary's use of Central Valley Project facilities to make Project water (other than water released from Friant Dam pursuant to the Settlement) and water acquired through transfers available to existing south-of-Delta Central Valley Project contractors; and

(C) the Secretary's performance of the Agreement of November 24, 1986, between the United States of America and the Department of Water Resources of the State of California for the coordinated operation of the Central Valley Project and the State Water Project as authorized by Congress in section 2(d) of the Act of August 26, 1937 (50 Stat. 850, 100 Stat. 3051), including any agreement to resolve conflicts arising from said Agreement.

(5) Develop and implement the Recovered Water Account as specified in paragraph 16(b) of the Settlement, including the pricing and payment crediting provisions described in paragraph 16(b)(3) of the Settlement, provided that all other provisions of Federal reclamation law shall remain applicable.

(b) AGREEMENTS.—

(1) AGREEMENTS WITH THE STATE.—In order to facilitate or expedite implementation of the Settlement, the Secretary is authorized and directed to enter into appropriate agreements, including cost sharing agreements, with the State of California.

(2) OTHER AGREEMENTS.—The Secretary is authorized to enter into contracts, memoranda of understanding, financial assistance agreements, cost sharing agreements, and other appropriate agreements with State, tribal, and local governmental agencies, and with private parties, including agreements related to construction, improvement, and operation and maintenance of facilities, subject to any terms and conditions that the Secretary deems necessary to achieve the purposes of the Settlement.

(c) ACCEPTANCE AND EXPENDITURE OF NON-FEDERAL FUNDS.—The Secretary is authorized to accept and expend non-Federal funds in order to facilitate implementation of the Settlement.

(d) MITIGATION OF IMPACTS.—Prior to the implementation of decisions or agreements to construct, improve, operate, or maintain facilities that the Secretary determines are needed to implement the Settlement, the Secretary shall identify—

(1) the impacts associated with such actions; and

(2) the measures which shall be implemented to mitigate impacts on adjacent and downstream water users and landowners.

(e) DESIGN AND ENGINEERING STUDIES.—The Secretary is authorized to conduct any design or engineering studies that are necessary to implement the Settlement.

(f) EFFECT ON CONTRACT WATER ALLOCATIONS.—Except as otherwise provided in this section, the implementation of the Settlement and the reintroduction of California Central Valley Spring Run Chinook salmon pursuant to the Settlement and section 10, shall not result in the involuntary reduction in contract water allocations to Central Valley Project long-term contractors, other than Friant Division long-term contractors.

(g) EFFECT ON EXISTING WATER CONTRACTS.—Except as provided in the Settlement and this Act, nothing in this Act shall modify or amend the rights and obligations of the parties to any existing water service, repayment, purchase or exchange contract.

SEC. 5. ACQUISITION AND DISPOSAL OF PROPERTY; TITLE TO FACILITIES.

(a) TITLE TO FACILITIES.—Unless acquired pursuant to subsection (b), title to any facility or facilities, stream channel, levees, or other real property modified or improved in the course of implementing the Settlement authorized by this Act, and title to any modifications or improvements of such facility or facilities, stream channel, levees, or other real property—

(1) shall remain in the owner of the property; and

(2) shall not be transferred to the United States on account of such modifications or improvements.

(b) ACQUISITION OF PROPERTY.—

(1) IN GENERAL.—The Secretary is authorized to acquire through purchase from willing sellers any property, interests in property, or options to acquire real property needed to implement the Settlement authorized by this Act.

(2) APPLICABLE LAW.—The Secretary is authorized, but not required, to exercise all of the authorities provided in section 2 of the Act of August 26, 1937 (50 Stat. 844, chapter 832), to carry out the measures authorized in this section and section 4.

(c) DISPOSAL OF PROPERTY.—

(1) IN GENERAL.—Upon the Secretary's determination that retention of title to property or interests in property acquired pursuant to this Act is no longer needed to be held by the United States for the furtherance of the Settlement, the Secretary is authorized to dispose of such property or interest in property on such terms and conditions as the Secretary deems appropriate and in the best interest of the United States, including possible transfer of such property to the State of California.

(2) RIGHT OF FIRST REFUSAL.—In the event the Secretary determines that property acquired pursuant to this Act through the exercise of its eminent domain authority is no longer necessary for implementation of the Settlement, the Secretary shall provide a right of first refusal to the property owner from whom the property was initially acquired, or his or her successor in interest, on the same terms and conditions as the property is being offered to other parties.

(3) DISPOSITION OF PROCEEDS.—Proceeds from the disposal by sale or transfer of any such property or interests in such property shall be deposited in the fund established by section 9(c).

SEC. 6. COMPLIANCE WITH APPLICABLE LAW.

(a) APPLICABLE LAW.—

(1) IN GENERAL.—In undertaking the measures authorized by this Act, the Secretary and the Secretary of Commerce shall comply with all applicable Federal and State laws, rules, and regulations, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as necessary.

(2) ENVIRONMENTAL REVIEWS.—The Secretary and the Secretary of Commerce are authorized and directed to initiate and expeditiously complete applicable environmental reviews and consultations as may be necessary to effectuate the purposes of the Settlement.

(b) EFFECT ON STATE LAW.—Nothing in this Act shall preempt State law or modify any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law.

(c) USE OF FUNDS FOR ENVIRONMENTAL REVIEWS.—

(1) DEFINITION OF ENVIRONMENTAL REVIEW.—For purposes of this subsection, the term ''environmental review'' includes any consultation and planning necessary to comply with subsection (a).

(2) PARTICIPATION IN ENVIRONMENTAL REVIEW PROCESS.—In undertaking the measures authorized by section 4, and for which environmental review is required, the Secretary may provide funds made available under this Act to affected Federal agencies, State agencies, local agencies, and Indian tribes if the Secretary determines that such funds are necessary to allow the Federal agencies, State agencies, local agencies, or Indian tribes to effectively participate in the environmental review process.

(3) LIMITATION.—Funds may be provided under paragraph (2) only to support activities that directly contribute to the implementation of the terms and conditions of the Settlement.

(d) NONREIMBURSABLE FUNDS.—The United States' share of the costs of implementing this Act shall be nonreimbursable under Federal reclamation law, provided that nothing in this subsection shall limit or be construed to limit the use of the funds assessed and

collected pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727), for implementation of the Settlement, nor shall it be construed to limit or modify existing or future Central Valley Project Ratesetting Policies.

SEC. 7. COMPLIANCE WITH CENTRAL VALLEY PROJECT IMPROVEMENT ACT.

Congress hereby finds and declares that the Settlement satisfies and discharges all of the obligations of the Secretary contained in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), provided, however, that—

(1) the Secretary shall continue to assess and collect the charges provided in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), as provided in the Settlement and section 9(d); and

(2) those assessments and collections shall continue to be counted towards the requirements of the Secretary contained in section 3407(c)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4726).

SEC. 8. NO PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Nothing in this Act confers upon any person or entity not a party to the Settlement a private right of action or claim for relief to interpret or enforce the provisions of this Act or the Settlement.

(b) APPLICABLE LAW.—This section shall not alter or curtail any right of action or claim for relief under any other applicable law.

SEC. 9. APPROPRIATIONS; SETTLEMENT FUND.

(a) IMPLEMENTATION COSTS.—

(1) IN GENERAL.—The costs of implementing the Settlement shall be covered by payments or in kind contributions made by Friant Division contractors and other non-Federal parties, including the funds provided in paragraphs (1) through (5) of subsection (c), estimated to total $440,000,000, of which the non-Federal payments are estimated to total $200,000,000 (at October 2006 price levels) and the amount from repaid Central Valley Project capital obligations is estimated to total $240,000,000, the additional Federal appropriation of $250,000,000 authorized pursuant to subsection (b)(1), and such additional funds authorized pursuant to subsection (b)(2); provided however, that the costs of implementing the provisions of section 4(a)(1) shall be shared by the State of California pursuant to the terms of a Memorandum of Understanding executed by the State of California and the Parties to the Settlement on September 13, 2006, which includes at least $110,000,000 of State funds.

(2) ADDITIONAL AGREEMENTS.—

(A) IN GENERAL.—The Secretary shall enter into 1 or more agreements to fund or implement improvements on a project-by-project basis with the State of California.

(B) REQUIREMENTS.—Any agreements entered into under subparagraph (A) shall provide for recognition of either monetary or in-kind contributions toward the State of California's share of the cost of implementing the provisions of section 4(a)(1).

(3) LIMITATION.—Except as provided in the Settlement, to the extent that costs incurred solely to implement this Settlement would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to the funds provided in paragraphs (1) through (5) of subsection (c), there are also authorized to be appropriated not to exceed $250,000,000 (at October 2006 price levels) to implement this Act and the Settlement, to be available until expended; provided however, that the Secretary is authorized to spend such additional appropriations only in amounts equal to the amount of funds deposited in the Fund (not including payments under subsection (c)(2), proceeds under subsection (c)(3) other than an amount equal to what would otherwise have been deposited under subsection (c)(1) in the absence of issuance of the bond, and proceeds under subsection (c)(4)), the amount of in-kind contributions, and other non-Federal payments actually committed to the implementation of this Act or the Settlement.

(2) OTHER FUNDS.—The Secretary is authorized to use monies from the Fund created under section 3407 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4727) for purposes of this Act.

(c) FUND.—There is hereby established within the Treasury of the United States a fund, to be known as the ''San Joaquin River Restoration Fund'', into which the following shall be deposited and used solely for the purpose of implementing the Settlement, to be available for expenditure without further appropriation:

(1) Subject to subsection (d), at the beginning of the fiscal year following enactment of this Act, all payments received pursuant to section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721).

(2) Subject to subsection (d), the capital component (not otherwise needed to cover operation and maintenance costs) of payments made by Friant Division long-term contractors pursuant to long-term water service contracts beginning the first fiscal year after the date of enactment of this Act. The capital repayment obligation of such contractors under such contracts shall be reduced by the amount paid pursuant to this paragraph and the appropriate share of the existing Federal investment in the Central Valley Project to be recovered by the Secretary pursuant to Public Law 99–546 (100 Stat. 3050) shall be reduced by an equivalent sum.

(3) Proceeds from a bond issue, federally-guaranteed loan, or other appropriate financing instrument, to be issued or entered into by an appropriate public agency or subdivision of the State of California pursuant to subsection (d)(2).

(4) Proceeds from the sale of water pursuant to the Settlement, or from the sale of property or interests in property as provided in section 5.

(5) Any non-Federal funds, including State cost-sharing funds, contributed to the United States for implementation of the Settlement, which the Secretary may expend without further appropriation for the purposes for which contributed.

(d) GUARANTEED LOANS AND OTHER FINANCING INSTRUMENTS.—

(1) IN GENERAL.—The Secretary is authorized to enter into agreements with appropriate agencies or subdivisions of the State of California in order to facilitate a bond issue, federally-guaranteed loan, or other appropriate financing instrument, for the purpose of implementing this Settlement.

(2) REQUIREMENTS.—If the Secretary and an appropriate agency or subdivision of the State of California enter into such an agreement, and if such agency or subdivision issues 1 or more revenue bonds, procures a federally secured loan, or other appropriate financing to fund implementation of the Settlement, and if such agency deposits the proceeds received from such bonds, loans, or financing into the Fund pursuant to subsection (c)(3), monies specified in paragraphs (1) and (2) of subsection (c) shall be provided by the Friant Division long-term contractors directly to such public agency or subdivision of the State of California to repay the bond, loan or financing rather than into the Fund.

(3) DISPOSITION OF PAYMENTS.—After the satisfaction of any such bond, loan, or financing, the payments specified in paragraphs (1) and (2) of subsection (c) shall be paid directly into the Fund authorized by this section.

(e) LIMITATION ON CONTRIBUTIONS.—Payments made by long-term contractors who receive water from the Friant Division and Hidden and Buchanan Units of the Central Valley Project pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727) and payments made pursuant to paragraph 16(b)(3) of the Settlement and subsection (c)(2) shall be the limitation of such entities' direct financial contribution to the Settlement, subject to the terms and conditions of paragraph 21 of the Settlement.

(f) NO ADDITIONAL EXPENDITURES REQUIRED.—Nothing in this Act shall be construed to require a Federal official to expend Federal funds not appropriated by Congress, or to seek the appropriation of additional funds by Congress, for the implementation of the Settlement.

(g) REACH 4B.—

(1) STUDY.—

(A) IN GENERAL.—In accordance with the Settlement and the Memorandum of Understanding executed pursuant to paragraph 6 of the Settlement, the Secretary shall conduct a study that specifies—

(i) the costs of undertaking any work required under paragraph 11(a)(3) of the Settlement to increase the capacity of Reach 4B prior to reinitiation of Restoration Flows;

(ii) the impacts associated with reinitiation of such flows; and

(iii) measures that shall be implemented to mitigate impacts.

(B) DEADLINE.—The study under subparagraph (A) shall be completed prior to restoration of any flows other than Interim Flows.

(2) REPORT.—

(A) IN GENERAL.—The Secretary shall file a report with Congress not later than 90 days after issuing a determination, as required by the Settlement, on whether to expand channel conveyance capacity to 4500 cubic feet per second in Reach 4B of the San Joaquin River, or use an alternative route for pulse flows, that—

(i) explains whether the Secretary has decided to expand Reach 4B capacity to 4500 cubic feet per second; and

(ii) addresses the following matters:

(I) The basis for the Secretary's determination, whether set out in environmental review documents or otherwise, as to whether the expansion of Reach 4B would be the preferable means to achieve the Restoration Goal as provided in the Settlement, including how different factors were assessed such as comparative biological and habitat benefits, comparative costs, relative availability of State cost-sharing funds, and the comparative benefits and impacts on water temperature, water supply, private property, and local and downstream flood control.

(II) The Secretary's final cost estimate for expanding Reach 4B capacity to 4500 cubic feet per second, or any alternative route selected, as well as the alternative cost estimates provided by the State, by the Restoration Administrator, and by the other parties to the Settlement.

(III) The Secretary's plan for funding the costs of expanding Reach 4B or any alternative route selected, whether by existing Federal funds provided under this Act, by non-Federal funds, by future Federal appropriations, or some combination of such sources.

(B) DETERMINATION REQUIRED.—The Secretary shall, to the extent feasible, make the determination in subparagraph (A) prior to undertaking any substantial construction work to increase capacity in Reach 4B.

(3) COSTS.—If the Secretary's estimated Federal cost for expanding Reach 4B in paragraph (2), in light of the Secretary's funding plan set out in paragraph (2), would exceed the remaining Federal funding authorized by this Act (including all funds reallocated, all funds dedicated, and all new funds authorized by this Act and separate from all commitments of State and other non-Federal funds and in-kind commitments), then before the Secretary commences actual construction work in Reach 4B (other than planning, design, feasibility, or other preliminary measures) to expand capacity to 4500 cubic feet per second to implement this Settlement, Congress must have increased the applicable authorization ceiling provided by this Act in an amount at least sufficient to cover the higher estimated Federal costs.

SEC. 10. CALIFORNIA CENTRAL VALLEY SPRING RUN CHINOOK SALMON.

(a) FINDING.—Congress finds that the implementation of the Settlement to resolve 18 years of contentious litigation regarding restoration of the San Joaquin River and the reintroduction of the California Central Valley Spring Run Chinook salmon is a unique and unprecedented circumstance that requires clear expressions of Congressional intent regarding how the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are utilized to achieve the goals of restoration of the San Joaquin River and the successful reintroduction of California Central Valley Spring Run Chinook salmon.

(b) REINTRODUCTION IN THE SAN JOAQUIN RIVER.—California Central Valley Spring Run Chinook salmon shall be reintroduced in the San Joaquin River below Friant Dam pursuant to section 10(j) of the Endangered Species Act of 1973 (16 U.S.C. 1539(j)) and the Settlement, provided that the Secretary of Commerce finds that a permit for the reintroduction of California Central Valley Spring Run Chinook salmon may be issued pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

(c) FINAL RULE.—

(1) DEFINITION OF THIRD PARTY.—For the purpose of this subsection, the term ''third party'' means persons or entities diverting or receiving water pursuant to applicable State and Federal law and shall include Central Valley Project contractors outside of the Friant Division of the Central Valley Project and the State Water Project.

(2) ISSUANCE.—The Secretary of Commerce shall issue a final rule pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) governing the incidental take of reintroduced California Central Valley Spring Run Chinook salmon prior to the reintroduction.

(3) REQUIRED COMPONENTS.—The rule issued under paragraph (2) shall provide that the reintroduction will not impose more than de minimus: water supply reductions, additional storage releases, or bypass flows on unwilling third parties due to such reintroduction.

(4) APPLICABLE LAW.—Nothing in this section—

(A) diminishes the statutory or regulatory protections provided in the Endangered Species Act for any species listed pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) other than the reintroduced population of California Central Valley Spring Run Chinook salmon, including protections pursuant to existing biological opinions or new biological opinions issued by the Secretary or Secretary of Commerce; or

(B) precludes the Secretary or Secretary of Commerce from imposing protections under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for other species listed pursuant to section 4 of that Act (16 U.S.C. 1533) because those protections provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of Commerce shall report to Congress on the progress made on the reintroduction set forth in this section and the Secretary's plans for future implementation of this section.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) an assessment of the major challenges, if any, to successful reintroduction;

(B) an evaluation of the effect, if any, of the reintroduction on the existing population of California Central Valley Spring Run Chinook salmon existing on the Sacramento River or its tributaries; and

(C) an assessment regarding the future of the reintroduction.

(e) FERC PROJECTS.—

(1) IN GENERAL.—With regard to California Central Valley Spring Run Chinook salmon reintroduced pursuant to the Settlement, the Secretary of Commerce shall exercise its authority under section 18 of the Federal Power Act (16 U.S.C. 811) by reserving its right to file prescriptions in proceedings for projects licensed by the Federal Energy Regulatory Commission on the Calaveras, Stanislaus, Tuolumne, Merced, and San Joaquin rivers and otherwise consistent with subsection (c) until after the expiration of the term of the Settlement, December 31, 2025, or the expiration of the designation made pursuant to subsection (b), whichever ends first.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection shall preclude the Secretary of Commerce from imposing prescriptions pursuant to section 18 of the Federal Power Act (16 U.S.C. 811) solely for other anadromous fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(f) EFFECT OF SECTION.—Nothing in this section is intended or shall be construed—

(1) to modify the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.); or

(2) to establish a precedent with respect to any other application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.).

By Mr. KOHL:

S. 28. A bill to amend title XVIII of the Social Security Act to require the use of generic drugs under the Medicare part D prescription drug program when available unless the brand name drug is determined to be medically necessary; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Generics First Act. This legislation requires the use of available generic drugs under the Medicare Part D prescription drug program, unless the brand name drug is determined to be medically necessary by a physician.

Everywhere I go in Wisconsin, I see how prescription drug costs are a drain on seniors, families, and businesses that are struggling to pay their health care bills. They want help now and we can respond by expanding access to generic drugs. Generics, which on average cost 63 percent less than their brand-name counterparts, are a big part of the solution to health care costs that are spiraling out of control.

The private and public sectors, as well as individuals, are seeking relief from high drug costs, and Senate Special Committee on Aging has heard some remarkable success stories from some who have turned to generic drugs. Last year, General Motors testified that, in 2005, they spent $1.9 billion dollars on prescription drugs, 40 percent of their total health care spending. Their program to use generics first, when a generic drug is available, saves GM nearly $400 million a year.

Last year, millions of seniors exceeded the initial $2,250 Medicare drug benefit and fell into the ''donut hole,'' where they had to pay the full price of their drugs. Using less expensive, but equally effective, generic drugs will keep seniors out of the ''donut hole'' longer and help them survive the gap in coverage.

Generic drugs approved by the FDA must meet the same rigorous standards for safety and effectiveness as brand-name drugs. In addition to being safe and effective, the generic must have the same active ingredient or ingredients, be the same strength, and have the same labeling for the approved uses as the brand drug. Generics perform the same as their respective brand name product.

Modeled after similar provisions in many state-administered Medicaid programs, this measure would reduce the high costs of the new prescription drug program and keep seniors from reaching the current gap in coverage or ''donut hole'' by guiding beneficiaries toward cost-saving generic drug alternatives.

We know generic drugs have the potential to save seniors thousands of dollars, and curb health spending for the Federal Government, employers, and families. And every year, more blockbuster drugs are coming off patent, setting up the potential for billions of dollars in savings. This legislation is one piece of a larger agenda I'm pushing to remove the obstacles that prevent generics from getting to market, and making sure that every senior, every family, every business, and every government program knows the value of generics and uses them to bring costs down. 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. 28

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 ''Generics First Act of 2007''.

SEC. 2. REQUIRED USE OF GENERIC DRUGS UNDER THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.

(a) IN GENERAL.—Section 1860D–2(e)(2) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)) is amended by adding at the end the following new subparagraph:

''(C) NON-GENERIC DRUGS UNLESS CERTAIN REQUIREMENTS ARE MET.—

''(i) IN GENERAL.—Such term does not include a drug that is a nongeneric drug unless–

''(I) no generic drug has been approved under the Federal Food, Drug, and Cosmetic Act with respect to the drug; or

''(II) the nongeneric drug is determined to be medically necessary by the individual prescribing the drug and prior authorization for the drug is obtained from the Secretary.

''(ii) DEFINITIONS.—In this subparagraph:

''(I) GENERIC DRUG.—The term 'generic drug' means a drug that is the subject of an application approved under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, for which the Secretary has made a determination that the drug is the therapeutic equivalent of a listed drug under section 505(j)(7) of such Act.

''(II) NONGENERIC DRUG.—The term 'nongeneric drug' means a drug that is the subject of an application approved under—

''(aa) section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act; or

''(bb) section 505(b)(2) of such Act and that has been determined to be not therapeutically equivalent to any listed drug.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of enactment of this Act.

By Ms. LANDRIEU:

S. 29. A bill to clarify the tax treatment of certain payments made to homeowners by the Louisiana Recovery Authority and the Mississippi Development Authority; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, at the end of the 109th Congress, I learned that the Internal Revenue Service had a tax surprise for citizens in my state of Louisiana and in Mississippi who are trying to rebuild after Katrina. This tax surprise will set back our recovery and discourage our citizens from coming home.

Let me explain to my colleagues what I am talking about. Both Louisiana and Mississippi have established programs to help families rebuild their homes and their lives after Katrina and Rita. Congress appropriated the money for these initiatives—more than $10 billion in all, and we are very grateful for the assistance. The Louisiana program is called the ''Road Home'' and it is administered by the Louisiana Recovery Authority (LRA). The program is now starting to get going. Homeowners are eligible to receive grants from the Road Home of up to $150,000 to help them rebuild or repair their homes. Rental properties are also eligible. Grants can also be used to buy out homes. The Louisianians who were displaced by the storms want to go home and the Road Home program will get them there.

But the IRS has dug a big pothole in the middle of the Road Home by making some of these payments taxable. The way this tax surprise works is by requiring that any hurricane victim who claimed a casualty loss deduction for damage to their home on their tax return for 2005 will have to reduce that loss by the amount of any payment from the LRA. So if they had their taxes reduced in one year and received a Road Home grant the next year, they have to essentially eliminate any benefit of the earlier casualty loss deduction. Their taxes will go up.

Now I realize that under normal circumstances, when a person's home burns down, the roof caves in, or they are a victim of theft, they can take a casualty loss deduction, provided it meets certain requirements. The loss must exceed ten percent of the taxpayer's adjusted gross income, with a per loss floor of $100. In some circumstances, taxpayers are permitted to include a current-year casualty loss on an amended prior year return.

Immediately after Katrina, we enacted the Katrina Emergency Tax Relief Act (KETRA) that suspended the ten percent floor for casualty losses incurred in the Hurricane Katrina disaster area, including those claimed on amended returns. The purpose of the change in KETRA was simple: we wanted to put money in the hands of Katrina victims as quickly as possible. We essentially encouraged taxpayers to take this casualty loss, even by amending a past return. The IRS would then provide them with a refund.

This was a very helpful proposal in the days immediately following Katrina, Mr. President. Hurricane victims needed that money. If you had lost your home, that money could help you pay for a place to live. Many hurricane victims lost their jobs and needed this money to see them through until they started working again. They used the money to begin the rebuilding of their lives.

Congress encouraged people to take the new deduction by changing the law. Now the IRS wants to take it back.

I fully understand the policy behind what the IRS is doing. Casualty loss deductions are normally reduced by the amount of any insurance or other recovery they make on the loss. In fact, at the time the taxpayer makes the deduction he or she is supposed to reduce the amount of the loss by any insurance recovery they reasonably expect to receive. If you receive a larger payment than you expected at a future time, you must claim it on your income tax return when you receive it.

The problem is that this policy will encourage people to leave Louisiana. If you took the casualty loss on your return, and you receive a $150,000 Road Home payment to rebuild your house, you will have a tax consequence. But if you took the casualty loss and sold your house to the LRA for the $150,000 payment, it is treated like a home sale and there is no tax. This policy creates a disincentive to recovery. The Road Home will become the Road Out.

Congress has done a tremendous job passing legislation to encourage investment and the rebuilding of the Gulf Coast. At the end of the last session we passed a tax extenders bill that contained a two-year extension of the bonus depreciation for investment in the most seriously damaged areas in the GO Zone. That investment is supposed to attract businesses and people to Louisiana and the Gulf. The IRS's actions will only keep people away. We should not put road blocks in the way of the Road Home.

Today, I am introducing legislation to eliminate this road block to our recovery and to clarify that Road Home payments are not to be taxed. The hurricanes in 2005 were remarkable events causing unprecedented damage. As Congress has done in the past, we must continue to respond in unprecedented and innovative ways. I encourage my colleagues to support this bill.

By Mr. BAUCUS:

S. 41. A bill to amend the Internal Revenue Code of 1986 to provide incentives to improve America's research competitiveness, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, back in 1962, Marshall McLuhan wrote, ''The new electronic interdependence recreates the world in the image of a global village.'' Certainly, 40 years later, that concept is truer than ever. As we prepare for the future in this global village, we need to affirm America's leadership role in the world.

The United States accounts for one-third of the world's spending on scientific research and development, ranking first among all countries. While this is impressive, relative to GDP, though, the United States falls to sixth place. And the trends show that maintaining American leadership in the future depends on increased commitment to research and science.

Asia has recognized this. Asia is plowing more funding into science and education. China, in particular, understands that technological advancement means security, independence, and economic growth. Spending on research and development has increased by 140 percent in China, Korea and Taiwan. In America, it has increased by only 34 percent.

Asia's commitment is already paying off. More than a hundred Fortune 500 companies have opened research centers in India and China. I have visited some of them. I was impressed with the level of skill of the workers I met there.

China's commitment to research, at $60 billion in expenditures, is dramatic by any measure. Over the last few years, China has doubled the share of its economy that it invests in research. China intends to double the amount

committed to basic research in the next decade. Currently, only America beats out China in numbers of researchers in the workforce.

Today, I am pleased to introduce the Research Competitiveness Act of 2007. This bill would improve our research competitiveness in four major areas. All four address incentives in our tax code. Government also supports research through federal spending. But I am not addressing those areas today.

First, my bill improves and simplifies the credit for applied research in section 41 of the tax code. This credit has grown to be overly complex, both for taxpayers and the IRS. Beginning in 2008, my bill would create a simpler 20 percent credit for qualifying research expenses that exceed 50 percent of the average expenses for the prior 3 years.

And just as important: The bill makes the credit permanent. Because the credit has been temporary, it has simply not been as effective as it could be. Since its creation in 1981, it has been extended 11 times. Congress even allowed it to lapse during one period.

The credit last expired in December of 2005. After much consternation and delay, Congress passed a two-year extension just last month, extending the credit for 2006 and 2007. These temporary extensions have taken their toll on taxpayers. In 2005, the experts at the Joint Committee on Taxation wrote: ''Perhaps the greatest criticism of the R&E credit among taxpayers regards its temporary nature.'' Joint Tax went on to say, ''A credit of longer duration may more successfully induce additional research than would a temporary credit, even if the temporary credit is periodically renewed.''

Currently, there are three different ways to claim a tax credit for qualifying research expenses. First, the ''traditional'' credit relies on incremental increases in expenses compared to a mid-1980s base period. Second, the ''alternative incremental'' credit measures the increase in research over the average of the prior 4 years.

Both of these credits have base periods involving gross receipts. Under the new tax bill enacted last month, a third formula was created, which does not rely on gross receipts and is available only for 2007. My bill simplifies these credits by using this new credit only, known as the ''Alternative Simplified Credit,'' based on research spending without reference to gross receipts. The current formulas hurt companies that have fluctuating sales. And it hurts companies that take on a new line of business not dependent on research.

This new, simpler formula in my bill would not start until 2008. That start date would give companies plenty of time to adjust their accounting.

The main complaint about the existing credits is that they are very complex, particularly the reference to the 20-year-old base period. This base period creates problems for the taxpayer in trying to calculate the credit. And it creates problems for the IRS in trying to administer and audit those claims.

The new credit focuses only on expenses, not gross receipts. And it is still an incremental credit, so that companies must continue to increase research spending over time. Further, this bill adds a mandate for a Treasury study to look at substantiation issues and ensure that current recordkeeping requirements assist the IRS without unduly burdening the taxpayer.

A tax credit is a cost-effective way to promote R&E. A report by the Congressional Research Service finds that without government support, investment in R&E would fall short of the socially optimal amount. Thus CRS endorses Government policies to boost private sector R&E.

Also, American workers who are engaged in R&E activities benefit from some of the most intellectually stimulating, high-paying, high-skilled jobs in the economy.

My own State of Montana has excellent examples of this economic activity. During the 1990s, about 400 establishments in Montana provided high-technology services, at an average wage of about $35,000 per year. These jobs paid nearly 80 percent more than the average private sector wage, which was less than $20,000 a year during the same period. Many of these jobs would never have been created without the assistance of the R&E credit.

My research bill would also establish a uniform reimbursement rate for all contract and consortia R&E. It would provide that 80 percent of expenses for research performed for the taxpayer by other parties count as qualifying research expenses under the regular credit.

Currently, when a taxpayer pays someone else to perform research for the taxpayer, the taxpayer can claim one of three rates in order to determine how much the taxpayer can include for the research credit. The lower amount is meant to assure overhead expenses that normally do not qualify for the R&E credit are not counted. Different rates, however, create unnecessary complexity. Therefore, my bill creates a uniform rate of 80 percent.

The second major research area that this bill addresses is the need to enhance and simplify the credit for basic research. This credit benefits universities and other entities committed to basic research. And it benefits the companies or individuals who donate to them. My bill provides that payments under the university basic research credit would count as contractor expenses at the rate of 100 percent.

The current formula for calculating the university basic research credit—defined as research ''for the advancement of science with no specific commercial objective''—is even more complex than the regular traditional R&E credit. Because of this complexity, this credit costs less than one-half of 1 percent of the cost of the regular R&E credit. It is completely underutilized. It needs to be simplified to encourage businesses to give more for basic research.

American universities have been powerful engines of scientific discovery. To maintain our premier global position in basic research, America relies on sustained high levels of basic research funding and the ability to recruit the most talented students in the world. The gestation of scientific discovery is long. At least at first, we cannot know the commercial applications of a discovery. But America leads the world in biotechnology today because of support for basic research in chemistry and physics in the 1960s. Maintaining a commitment to scientific inquiry, therefore, must be part of our vision for sustained competitiveness.

Translating university discoveries into commercial products also takes innovation, capital, and risk. The Center for Strategic and International Studies asked what kind of government intervention can maintain technological leadership. One source of technological innovation that provides America with comparative advantage is the combination of university research programs, entrepreneurs, and risk capital from venture capitalists, corporations, or governments. Research clusters around Silicon Valley and North Carolina's Research Triangle exemplify this sort of combination.

The National Academies reached a similar conclusion in a 2002 review of the National Nanotechnology Initiatives. In a report, they wrote: ''To enhance the transition from basic to applied research, the committee recommends that industrial partnerships be stimulated and nurtured to help accelerate the commercialization of national nanotechnology developments.''

To further that goal, the third major area this bill addresses is fostering the creation of research parks. This part of the bill would benefit state and local governments and universities that want to create research centers for businesses incubating scientific discoveries with promise for commercial development.

Stanford created the nation's first high-tech research park in 1951, in response to the demand for industrial land near the university and an emerging electronics industry tied closely to the School of Engineering. The Stanford Research Park traces its origins to a business started with $538 in a Palo Alto garage by two men named Bill Hewlett and Dave Packard. The Park is now home to 140 companies in electronics, software, biotechnology, and other high tech fields.

Similarly, the North Carolina Research Triangle was founded in 1959 by university, government, and business leaders with money from private contributions. It now has 112 research and development organizations, 37,600 employees, and capital investment of more than $2.7 billion. More recently,

Virginia has fostered a research park now housing 53 private-sector companies, nonprofits, VCU research institutes, and state laboratories. The Virginia park employs more than 1,300 people.

The creation of these parks would seem to be an obvious choice. But it takes a significant commitment from a range of sources to bring them into being. To foster the creation and expansion of these successful parks, my bill will encourage their creation through the use of tax-exempt bond financing. Allowing tax-exempt bond authority would bring down the cost to establish such parks.

Foreign countries are emulating this successful formula. They are establishing high-tech clusters through government and university partnerships with private industry.

Back in 2000, a partnership was formed to foster TechRanch to assist Montana State University and other Montana-based research institutions in their efforts to commercialize research. But TechRanch is desperately in need of some new high-tech facilities. It could surely benefit from a provision such as this. I encourage my Colleagues to visit research parks in their states to see how my bill could be helpful in fostering more successful ventures.

A related item is a small fix to help universities that use tax-exempt bonds to build research facilities primarily for federal research in the basic or fundamental research area. Some of these facilities housing federal research—mostly NIH and NSF funded projects—are in danger of losing their tax-exempt bond status. Counsel have notified some state officials that they may be running afoul of a prohibition on ''private use'' in the tax code, because one private party has a superior claim to others in the use of inventions that result from research.

The complication comes from a 1980 law. In 1980, Congress enacted the Patent and Trademark Law Amendments Act, also known as the Bayh-Dole Act. The Bayh-Dole Act requires the Federal Government to retain a non-exclusive, royalty-free right on any discovery. In order to foster more basic research through Federal-state-university partnerships, we need to clarify that this provision of the Bayh-Dole act does not cause these bonds to lose their taxexempt status. And my bill directs the Treasury Department to do so. I understand that the Treasury Department is aware of this significant concern. Whether or not Congress enacts my legislation, I hope that the Treasury Department will clarify the situation soon.

The fourth major area that my bill addresses is innovation at the small business level. Last year, representatives of a number of small nanotechnology companies came to visit me. They told me that their greatest problem was surviving what they called the ''valley of death.'' That's what they called the first few years of business, when an entrepreneur has a promising technology but little money to test or develop it. Many businesses simply do not survive the ''valley of death.'' I believe that Congress should find a way to assist these businesses with promising technology.

Nanotechnology, for instance, shows much promise. According to a recent report, over the next decade, nanotechnology will affect most manufactured goods. As stated in Senate testimony by one National Science Foundation official last year, ''Nanotechnology is truly our next great frontier in science and engineering.'' It took me a while to understand just what nanotechnology is. But it is basically the control of things at very, very small dimensions. By understanding and controlling at that dimension, people can find new and unique applications. These applications range from common consumer products—such as making our sunblocks better—to improving disease-fighting medicines—to designing more fuel-efficient cars.

So, to help these small businesses convert their promising science into successful businesses, my bill would establish tax credits for investments in qualifying small technology innovation companies. These struggling start-up ventures often cannot utilize existing incentives in the tax code—like the R&E tax credit—because they have no tax liability and may have little income for the first few years. They need access to cheap capital to get through those first few research-intensive years.

The credit in my bill would be similar to the existing and successful New Markets Tax Credit. The New Markets Credit has provided billions of dollars of investment to low-income communities across the country. In my bill, entities with some expertise and knowledge of research would receive an allocation from Treasury to analyze and select qualifying research investments. These investment entities would then target small business with promising technologies that focus the majority of their expenditures on activity qualifying as research expenses under the R&E credit.

In sum, my bill would boost both applied and basic research. It would boost research by businesses big and small. And it would foster research by for-profit and non-profits alike.

McLuhan's quote about the global village was taken by many at the time as a wake-up call to a changing world. Since then, many more leaders in this village have emerged. Let us work to see that the next big technological advance is discovered here in America. Only through continued commitment to research can We ensure that it is.

By Mr. McCONNELL (for Ms. MURKOWSKI):

S. 42. A bill to make improvements to the Arctic Research and Policy Act of 1984; to the Committee on Homeland Security and Governmental Affairs.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the test 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. 42

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 ''Arctic Research and Policy Amendments Act of 2007''.

SEC. 2. CHAIRPERSON OF THE ARCTIC RESEARCH COMMISSION.

(a) COMPENSATION.—Section 103(d)(1) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)(1)) is amended in the second sentence by striking ''90 days'' and inserting '', in the case of the chairperson, 120 days, and, in the case of any other member, 90 days,''.

(b) REDESIGNATION.—Section 103(d)(2) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)(2)) is amended by striking ''Chairman'' and inserting ''chairperson''.

By Mr. REID (for Mr. INOUYE):

S. 53. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs. Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. Even in areas where providers do exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources, and the result is that many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly, and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected, and often develop into full-blown disorders.

An Institute of Medicine (IOM) report entitled, ''Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research,'' highlights the benefits of preventive care for all health problems. The training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural

health care providers lack preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be encouraged. Through such training, rural health care providers can build a strong educational foundation from the behavioral, biological, and psychological sciences. Interdisciplinary team prevention training will also facilitate operations at sites with both health and mental health clinics by facilitating routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors. The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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. 53

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Preventive Health Care Training Act of 2007''.

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after section 754 the following:

''SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this subsection, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

''(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

''(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

''(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

''(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

''(3) to provide training in appropriate research and program evaluation skills in rural communities;

''(4) to create and implement innovative programs and curricula with a specific prevention component; and

''(5) for other purposes as the Secretary determines to be appropriate.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2008 through 2011.''.

By Mr. REID (for Mr. INOUYE):

S. 54. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State medicaid programs; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the Nursing School Clinics Act. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Primary care clinics administered by nursing schools are university or nonprofit primary care centers developed mainly in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

This bill reinforces the principle of combining health care delivery in underserved areas with the education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the financial incentives for clinic operators to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider a wide range of proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act recognizes the central role nurses can perform as care givers to the medically underserved.

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. 54

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 ''Nursing School Clinics Act of 2007''.

SEC. 2. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (27), by striking ''and'' at the end;

(2) by redesignating paragraph (28) as paragraph (29); and

(3) by inserting after paragraph (27), the following new paragraph:

''(28) nursing school clinic services (as defined in subsection (y)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and''.

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(y) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.''.

(c) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (28)'' after ''(24)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. SCHUMER, Mr. KYL, and Mr. CRAPO):

S. 55. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax; to the Committee on Finance.

Mr. BAUCUS. Mr. President, there is a monster in the tax code. Like Frankenstein, the Alternative Minimum Tax brings back to life higher taxes. Higher taxes that families had been told not to worry about are brought back because of the Alternative Minimum Tax, or AMT. It is a monster that really cannot be improved. It cannot be made to

work right. It is time to draw the curtain on this monster.

That is why I am pleased to join with my friend CHUCK GRASSLEY, and our fellow Committee colleagues, Senators SCHUMER, KYL, and CRAPO to introduce legislation today that will repeal the individual AMT. Our bill simply says that beginning January 1, 2007, individuals will owe zero dollars under the AMT. Further, our bill provides that individuals with AMT credits can continue to use those credits up to 90 percent of their regular tax liability.

If we don't act, in 2007, the family-unfriendly AMT will hit middle-income families earning $61,000 with three children. What was once meant to ensure that a handful of millionaires did not eliminate all taxes through excessive deductions is now meaning millions of working families, including thousands in my home State of Montana, are subject to a higher stealth tax. It is truly bizarre that we've designed a tax that deems more children ''excessive deductions'' and punishes duly paying your State taxes. Already, 5,000 Montana families pay a higher tax because of the AMT. But this number could multiply many times over if we don't act soon.

Not only is the AMT unfair and poorly targeted, it is an awful mess to figure out. The National Taxpayer Advocate has singled out this item as causing the most complexity for individual taxpayers.

Of course, repeal does not come without cost and that cost is significant even if we assume the 2001 and 2003 tax cuts aren't extended. We are committed to working together to identify reasonable offsets. Certainly, I don't think we want a tax system unfairly placing a higher tax burden on millions of middle-income families with children. But it doesn't serve those families either if our budget deficit is significantly worse.

Like Frankenstein's monster, the AMT brings a most unpleasant reaction from those whom it encounters. It is time we end this drama and repeal the AMT.

By Mr. REID (for Mr. INOUYE):

S. 56. A bill to provide relief to the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, almost twelve years ago, I stood before you to introduce a bill ''to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims.''

That bill was introduced as Senate Resolution 223, which referred the Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Seven years ago, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be ''fair, just and equitable'' to settle the claims of the Pottawatomi Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is ''not a gratuity'' and that the ''settlement was predicated on a credible legal claim.'' Pottawatomi Nation in Canada, et al. v. United States, Cong. Ref. 94–1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

The bill I introduce today is to authorize the appropriation of those funds that the United States has concluded would be ''fair, just and equitable'' to satisfy this legal claim. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups—successors-in-interest—of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, llinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession—many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal the policy of removal—an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands—some five million acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent 2 weeks using extraordinarily coercive tactics—including threats of war—in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1933, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the ''Wisconsin Band'' were not present and did not assent to the cession.

In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis 5 million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to five million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied ''justice would be done.''

Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was ''not fit for snakes to live on.''

While some Pottawatomis removed westward, many of the Pottawatomis—particularly the Wisconsin Band, whose leaders never agreed to the Treaty—refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east—with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomi were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Band vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomi groups that had not removed west. In the 1860s, members of the Wisconsin Band—those still in their traditional territory and those forced to flee to Canada—petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864 (13 Stat. 172) the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomi Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949.) Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band—most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario—petitioned the Senate once again to pay them their fair portion of annuities as required by the law and treaties. (Sen. Doc. No. 185, 57th Cong., 2d Sess.) By the Act of June 21, 1906 (34 Stat. 380), the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and establish a roll of the Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine ''the[] [Wisconsin Bands] proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, [and] the amount of such monies retained in the Treasury of the United States to the credit of the clamant Indians as directed the provision of the Act of June 25, 1864.''

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomi in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was $477,339 and that the proportionate share of annuities due the Pottawatomi Nation in Canada was $1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomi Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britain entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomi Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act (ICCA) granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border—brought suit together in the Indian Claims Commission for recovery of damages. Hannahville Indian Community v. U.S., No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomi Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside territorial limits of the United States. Hannahville Indian Community v. U.S., 115 Ct. Cl. 823 (1950). The claim of the Wisconsin Band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims Court in 1983. Hannahville Indian Community v. United States, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin Band Pottawatomis for any monies not paid. Still the Pottawatomi Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a ''fair, just and equitable'' resolution to this claim.

The Pottawatomi Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice—so long delayed is not now denied.

Finally, I would just note that the claim of the Pottawatomi Nation in Canada is supported through specific resolutions by the National Congress of American Indians, the oldest, largest and most-representative tribal organization here in the United States, the Assembly of First Nations (which includes all recognized tribal entities in Canada), and each and every of the Pottawatomi tribal groups that remain in the United States today.

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. 56

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

SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.

(a) AUTHORIZATION FOR PAYMENT.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary of the Treasury shall pay to the Pottawatomi Nation in Canada $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment under subsection (a) shall—

(1) be made in accordance with the terms and conditions of the Stipulation for Recommendation of Settlement dated May 22, 2000, entered into between the Pottawatomi Nation in Canada and the United States (referred to in this Act as the ''Stipulation for Recommendation of Settlement''); and

(2) be included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94–1037X, submitted to the Senate on January 4, 2001, in accordance with sections 1492 and 2509 of title 28, United States Code.

(c) FULL SATISFACTION OF CLAIMS.—The payment under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States that are referred to or described in the Stipulation for Recommendation of Settlement.

(d) NONAPPLICABILITY.—Notwithstanding any other provision of law, the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) does not apply to the payment under subsection (a).

By Mr. REID (for Mr. INOUYE):

S. 57. A bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, many of you know of my continued support and advocacy on the importance of addressing the plight of Filipino World War II veterans. As an American, I believe the treatment of Filipino World War II veterans is bleak and shameful. The Philippines became a United States possession in 1898, when it was ceded by Spain, following the Spanish-American War. In 1934, the Congress enacted the Philippine Independence Act, Public Law 73–127, which provided a 10-year

time frame for the independence of the Philippines. Between 1934 and final independence in 1946, the United States retained certain powers over the Philippines including the right to call military forces organized by the newly-formed Commonwealth government into the service of the United States Armed Forces.

The Commonwealth Army of the Philippines was called to serve with the United States Armed Forces in the Far East during World War II under President Roosevelt's July 26, 1941 military order. The Filipinos who served were entitled to full veterans' benefits by reason of their active service with our armed forces. Hundreds were wounded in battle and many hundreds more died in battle. Shortly after Japan's surrender, the Congress enacted the Armed Forces Voluntary Recruitment Act of 1945 for the purpose of sending Filipino troops to occupy enemy lands, and to oversee military installations at various overseas locations. These troops were authorized to receive pay and allowances for services performed throughout the Western Pacific. Although hostilities had ceased, wartime service of these troops continued as a matter of law until the end of 1946.

Despite all of their sacrifices, on February 18, 1946, the Congress passed the Rescission Act of 1946, now codified as Section 107 of Title 38 of the United States Code. The 1946 Act deemed that the service performed by these Filipino veterans would not be recognized as ''active service'' for the purpose of any U.S. law conferring ''rights, privileges, or benefits.'' Accordingly, Section 107 denied Filipino veterans access to health care, particularly for non-service-connected disabilities, and pension benefits. Section 107 also limited service-connected disability and death compensation for Filipino veterans to 50 percent of what their American counterparts receive.

On May 27, 1946, the Congress enacted the Second Supplemental Surplus Appropriations Rescission Act, which duplicated the language that had eliminated Filipino veterans' benefits under the First Rescission Act. Thus, Filipino veterans who fought in the service of the United States during World War II have been precluded from receiving most of the veterans' benefits that had been available to them before 1946, and that are available to all other veterans of our armed forces regardless of race, national origin, or citizenship status.

The Filipino Veterans Equity Act, which I introduce today, would restore the benefits due to these veterans by granting full recognition of service for the sacrifices they made during World War II. These benefits include veterans health care, service-connected disability compensation, non-service connected disability compensation, dependent indemnity compensation, death pension, and full burial benefits.

Throughout the years, I have sponsored several measures to rectify the lack of appreciation America has shown to these gallant men and women who stood in harm's way with our American soldiers and fought the common enemy during World War II. It is time that we as a Nation recognize our long-standing history and friendship with the Philippines. Of the 120,000 that served in the Commonwealth Army during World War II, there are approximately 60,000 Filipino veterans currently residing in the United States and the Philippines. According to the Department of Veterans Affairs, the Filipino veteran population is expected to decrease to approximately 20,000 or roughly one-third of the current population by 2010.

Heroes should never be forgotten or ignored; let us not turn our backs on those who sacrificed so much. Let us instead work to replay all of these brave men for their sacrifices by providing them the veterans, benefits they deserve.

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

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

S. 57

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 ''Filipino Veterans Equity Act of 2007''.

SEC. 2. CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS DEEMED TO BE ACTIVE SERVICE.

(a) IN GENERAL.—Section 107 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''not'' after ''Army of the United States, shall''; and

(B) by striking '', except benefits under—'' and all that follows in that subsection and inserting a period;

(2) in subsection (b)—

(A) by striking ''not'' after ''Armed Forces Voluntary Recruitment Act of 1945 shall''; and

(B) by striking ''except—'' and all that follows in that subsection and inserting a period; and

(3) by striking subsections (c) and (d).

(b) CONFORMING AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

''§ 107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts''.

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 1 of such title is amended to read as follows:

''107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on January 1, 2007.

(b) APPLICABILITY.—No benefits shall accrue to any person for any period before the effective date of this Act by reason of the amendments made by this Act.

By Mr. REID (for Mr. INOUYE):

S. 58. A bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise to introduce legislation to repeal the current 50 percent tax deduction for business meals and entertainment expenses, and to restore the tax deduction to 80 percent gradually over a five-year period. Restoration of this deduction is essential to the livelihood of small and independent businesses as well as food service, travel, tourism, and entertainment industries throughout the United States. These industries are being economically harmed as a result of the 50 percent tax deduction.

Small businesses rely heavily on the business meal to conduct business, even more so than larger corporations. In releasing its study in May 2004, entitled he Impact of Tax Expenditure Policies on Incorporated Small Business, the Small Business Administration, SBA, Office of Advocacy, found that small incorporated businesses benefit more than their larger counterparts from the meal and entertainment tax deduction. According to the study, small firms that take advantage of the business-meal deduction reduce their effective tax rate by 0.75 percent on average, while larger firms only receive a 0.11 percent reduction in the effective tax rate. More importantly, the study strongly suggests that full reinstatement of the business meal and entertainment deduction should be a major policy priority for small businesses.

Small companies often use restaurants as onference space to conduct meetings or close deals. Meals are their best and sometimes only marketing tool. Certainly, an increase in the meal and entertainment deduction would have a significant impact on a small business bottom line. In addition, the effects on the overall economy would be significant.

Accompanying my statement is the National Restaurant Association (NRA), State-by-State chart reflecting the estimated economic impact of increasing the business meal deductibility from 50 to 80 percent. The NRA estimates that an increase to 80 percent would increase business meal sales by $8 billion and create a $26 billion increase to the overall economy.

I urge my colleagues to join me in cosponsoring this important legislation. I ask unanimous consent that the NRA State by State chart and the text of my bill be printed in the RECORD.

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

ESTIMATED IMPACT OF INCREASING BUSINESS MEAL DEDUCTIBILITY FROM 50% TO 80%

State	Increase in Business Meal Spending 50% to 80% Deductibility ($ in millions)	Total Economic Impact in the State ($ in millions)
Alabama	99	203
Alaska	21	35
Arizona	150	297
Arkansas	57	114
California	1,022	2,265
Colorado	152	327
Connecticut	95	177
Delaware	25	44
District of Columbia	41	54
Florida	485	991
Georgia	252	565
Hawaii	56	108
Idaho	29	57
Illinois	335	785
Indiana	156	320
Iowa	59	126
Kansas	63	129
Kentucky	100	200
Louisiana	95	185
Maine	33	63
Maryland	153	319
Massachusetts	221	440
Michigan	242	471
Minnesota	139	314
Mississippi	54	103
Missouri	153	348
Montana	22	40
Nebraska	40	83
Nevada	76	134
New Hampshire	39	72
New Jersey	225	467
New Mexico	49	92
New York	508	993
North Carolina	224	469
North Dakota	13	24
Ohio	303	663
Oklahoma	83	177
Oregon	100	206
Pennsylvania	287	638
Rhode Island	34	62
South Carolina	110	220
South Dakota	18	36
Tennessee	153	337
Texas	604	1,411
Utah	54	118
Vermont	15	28
Virginia	203	428
Washington	166	337
West Virginia	36	62
Wisconsin	123	266
Wyoming	13	21

Source: National Restaurant Association estimates, 2006.

S. 58

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

SECTION 1. REPEAL OF REDUCTION IN BUSINESS MEALS AND ENTERTAINMENT TAX DEDUCTION.

(a) IN GENERAL.—Section 274(n)(1) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking ''50 percent'' and inserting ''the applicable percentage''.

(b) APPLICABLE PERCENTAGE.—Section 274(n) of the Internal Revenue Code of 1986 is amended by striking paragraph (3) and inserting the following:

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage determined under the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2007	75
2008 or thereafter	80.''.

(c) CONFORMING AMENDMENT.—The heading for section 274(n) of the Internal Revenue Code of 1986 is amended by striking ''ONLY 50 PERCENT'' and inserting ''PORTION''.

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

STATEMENT BY SENATOR DANIEL K. INOUYE

RE: THE TAX TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS

MR. PRESIDENT: The legislation I have introduced will extend to qualified teaching hospital support organizations the existing debt-financed safe harbor rule. Congress enacted that rule to support the public service activities of tax-exempt schools, universities, pension funds, and consortia of such institutions. Our teaching hospitals require similar support.

A New York Times article on June 21, 2002, described the financial problems which nonprofit hospitals are facing to modernize their facilities and meet the growing demand for charitable medical care. The problems have grown more urgent since that article appeared.

On November 22, 2006, the Wall Street Journal noted the rising numbers of uninsured patients who fill hospital emergency rooms without paying their bills. In 2005, 46.6 million Americans had no health insurance. Compounding the growing demand for charitable care, new safety and infection-prevention standards require hospitals to undertake massive improvements.

As a result, the article stated, for-profit hospitals are moving from older areas to affiuent locations where residents can afford to pay for treatment. These private hospitals, the reporter pointed out, typically have no mandate for community service. In contrast, nonprofit hospitals must fulfill a community service requirement. They must stretch their resources to provide increased charitable care, update their facilities, and maintain skilled staffing. Both the Wall Street Journal and the New York Times noted the resulting closures of non-profit hospitals due to this financial strain.

The problem is particularly severe for teaching hospitals. As the Times article said, nonprofit hospitals provide nearly all the postgraduate medical education in the United States. Post-graduate medical instruction is by nature not profitable. Instruction in the treatment of mental disorders and trauma is especially costly.

Despite their financial problem the Nation's nonprofit hospitals strive to deliver a very high level of service. A study in the December 2006 issue of Archives of Internal Medicine had surveyed hospitals' quality of care in four areas of treatment.

It found that nonprofit hospitals consistently outperformed for-profit hospitals. It also found that teaching hospitals had a higher level of performance in treatment and diagnosis. It said that investment in technology and staffing leads to better care. And it recommended that alternative payments and sources of payments be considered to finance these improvements.

The success and financial constraints of non-profit teaching hospitals is evident in the work of the Queen's Health Systems in my State. This 146-year-old organization maintains the largest, private, nonprofit hospital in Hawaii. It serves as the primary clinical teaching facility for the University of Hawaii's medical residency programs in medicine, general surgery, orthopedic surgery, obstetrics-gynecology, pathology, and psychiatry. It conducts educational and training programs for nurses and allied health personnel. It operates the only trauma unit as well as the chief behavioral

health program in the State. It maintains clinics throughout Hawaii, health programs for Native Hawaiians, and a small hospital on a rural, economically depressed island. Its medical reference library is the largest in the State. Not the least, it annually provides millions of dollars in uncompensated health services. To help pay for these community benefits, the Queen's Health Systems, as other non-profit teaching hospitals, relies significantly on income from its endowment.

In the past, the Congress has allowed tax-exempt schools, colleges, universities, and pension funds to invest their endowment in real estate so as to better meet their financial needs. Under the tax code these organizations can incur debt for real estate investments without triggering the tax on unrelated business activities.

If the Queen's Health Systems were part of a university, it could borrow without incurring an unrelated business income tax. Not being part of a university, however, a teaching hospital and its support organization run into the tax code's debt financing prohibition. Nonprofit teaching hospitals have the same if not more pressing needs as universities, school, and pension trusts. The same safe harbor rule should be extended to teaching hospitals.

My bill would allow the support organizations for qualified teaching hospitals to engage in limited borrowing to enhance their endowment income. The proposal for teaching hospitals is actually more restricted than current law for schools, universities, and pension trusts. Under safeguards developed by the Joint Committee on Taxation staff, a support organization for a teaching hospital can not buy and develop land on a commercial basis. The proposal is tied directly to the organization endowment. The staff's revenue estimate show that the provision with its general application will help a number of teaching hospitals.

The U.S. Senate several times has acted favorably on this proposal. The Senate adopted a similar provision in H.R. 1836 the Economic Growth and Tax Relief Act of 2001. The House conferees on that bill, however, objected that the provision was unrelated to the bill's focus on individual tax relief and the conference deleted the provision from the final legislation. Subsequently, the Finance Committee included the provision in H.R. 7 the CARE Act of 2002 and in S. 476 the CARE Act of 2003 which the Senate passed. In the last Congress S. 6 the Marriage, Opportunity, Relief, and Empowerment Act of 2005, which the Senate leadership introduced, also included the proposal.

As the Senate Finance Committee's recent hearings show, substantial health needs would go unmet if not for our charitable hospitals. It is time for the Congress to assist the Nation's teaching hospitals in their charitable, educational service.

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

By Mr. REID (for Mr. INOUYE):

S. 59. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physician assistants under the Medicaid Program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the ''Medicaid Advanced Practice Nurse and Physician Assistants Access Act of 2007.'' This legislation would change Federal law to expand fee-for-service Medicaid to include direct payment for services provided by all nurse practitioners, clinical nurse specialists, and physician assistants. It would ensure all nurse practitioners, certified nurse midwives, and physician assistants are recognized as primary care case managers, and require Medicaid panels to include advanced practice nurses on their managed care panels.

Advanced practice nurses are registered nurses who have attained additional expertise in the clinical management of health conditions. Typically, an advanced practice nurse holds a master's degree with didactic and clinical preparation beyond that of the registered nurse. They are employed in clinics, hospitals, and private practices. While there are many titles given to these advanced practice nurses, such as pediatric nurse practitioners, family nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists, our current Medicaid law has not kept up with the multiple specialties and titles of these advanced practitioners, nor has it recognized the critical role physician assistants play in the delivery of primary care.

I have been a long-time advocate of advanced practice nurses and their ability to extend health care services to our most rural and underserved communities. They have improved access to health care in Hawaii and throughout the United States by their willingness to practice in what some providers might see as undesirable locations—the extremely rural, frontier, or urban areas. This legislation ensures they are recognized and reimbursed for providing the necessary health care services patients need, and it gives those patients the choice of selecting advanced practice nurses and physician assistants as their primary care providers.

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. 59

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 ''Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2007''.

SEC. 2. IMPROVED ACCESS TO SERVICES OF ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS UNDER STATE MEDICAID PROGRAMS.

(a) PRIMARY CARE CASE MANAGEMENT.—Section 1905(t)(2) of the Social Security Act (42 U.S.C. 1396d(t)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) A nurse practitioner (as defined in section 1861(aa)(5)(A)).

''(C) A certified nurse-midwife (as defined in section 1861(gg)).

''(D) A physician assistant (as defined in section 1861(aa)(5)(A)).''.

(b) FEE-FOR-SERVICE PROGRAM.—Section 1905(a)(21) of such Act (42 U.S.C. 1396d(a)(21)) is amended—

(1) by inserting ''(A)'' after ''(21)'';

(2) by striking ''services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner'' and inserting ''services furnished by a nurse practitioner (as defined in section 1861(aa)(5)(A)) or by a clinical nurse specialist (as defined in section 1861(aa)(5)(B)) which the nurse practitioner or clinical nurse specialist'';

(3) by striking ''the certified pediatric nurse practitioner or certified family nurse practitioner'' and inserting ''the nurse practitioner or clinical nurse specialist''; and

(4) by inserting before the semicolon at the end the following: ''and (B) services furnished by a physician assistant (as defined in section 1861(aa)(5)) with the supervision of a physician which the physician assistant is legally authorized to perform under State law''.

(c) INCLUDING IN MIX OF SERVICE PROVIDERS UNDER MEDICAID MANAGED CARE ORGANIZATIONS.—Section 1932(b)(5)(B) of such Act (42 U.S.C. 1396u–2(b)(5)(B)) is amended by inserting '', with such mix including nurse practitioners, clinical nurse specialists, physician assistants, certified nurse midwives, and certified registered nurse anesthetists (as defined in section 1861(bb)(2))'' after ''services''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished in calendar quarters beginning on or after 90 days after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

By Mr. REID (for Mr. INOUYE):

S. 60. A bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, today, along with my colleagues; Senators AKAKA, KENNEDY, CONRAD AND DORGAN, I introduce ''The Wakefield Act,'' also known as the ''Emergency Medical Services for Children Act of 2007.'' Since Senator HATCH and I worked toward authorization of EMSC in 1984, this program has become the impetus for improving children's emergency services Nationwide. From specialized training for emergency care providers to ensuring ambulances and emergency departments have state-of-the-art pediatric sized equipment, EMSC has served as the vehicle for improving survival of our smallest and most vulnerable citizens when accidents or medical emergencies threatened their lives.

It remains no secret that children present unique anatomic, physiologic, emotional and developmental challenges to our primarily adult-oriented emergency medical system. As has been said many times before, children are not little adults. Evaluation and treatment must take into account their special needs, or we risk letting them fall through the gap between adult and pediatric care. The EMSC has bridged that gap while fostering collaborative relationships among emergency medical technicians, paramedics, nurses, emergency physicians, surgeons, and pediatricians.

The Institute of Medicine's recently released study on Emergency Care for

Children, indicated that our Nation is not as well prepared as once we thought. Only 6 percent of all emergency departments have the essential pediatric supplies and equipment necessary to manage pediatric emergencies. Many of the providers of emergency care have received fragmented and little training in the skills necessary to resuscitate this specialized population. Even our disaster preparedness plans have not fully addressed the unique needs posed by children injured in such events.

EMSC remains the only federal program dedicated to examining the best ways to deliver various forms of care to children in emergency settings. Re-authorization of EMSC will ensure that children's needs will be given the due attention they deserve and that coordination and expansion of services for victims of life-threatening illnesses and injuries will be available throughout the United States.

I look forward to re-authorization of this important legislation and the continued advances in our emergency healthcare delivery system.

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. 60

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 ''Wakefield Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) There are 31,000,000 child and adolescent visits to the nation's emergency departments every year, with children under the age of 3 years accounting for most of these visits.

(2) Ninety percent of children requiring emergency care are seen in general hospitals, not in free-standing children's hospitals, with one-quarter to one-third of the patients being children in the typical general hospital emergency department.

(3) Severe asthma and respiratory distress are the most common emergencies for pediatric patients, representing nearly one-third of all hospitalizations among children under the age of 15 years, while seizures, shock, and airway obstruction are other common pediatric emergencies, followed by cardiac arrest and severe trauma.

(4) Up to 20 percent of children needing emergency care have underlying medical conditions such as asthma, diabetes, sickle-cell disease, low birthweight, and bronchopulmonary dysplasia.

(5) Significant gaps remain in emergency medical care delivered to children, with 43 percent of hospitals lacking cervical collars (used to stabilize spinal injuries) for infants, less than half (47 percent) of hospitals with no pediatric intensive care unit having a written transfer agreement with a hospital that does have such a unit, one-third of States lacking a physician available on-call 24 hours a day to provide medical direction to emergency medical technicians or other non-physician emergency care providers, and even those States with such availability lacking full State coverage.

(6) Providers must be educated and trained to manage children's unique physical and psychological needs in emergency situations, and emergency systems must be equipped with the resources needed to care for this especially vulnerable population.

(7) The Emergency Medical Services for Children (EMSC) Program under section 1910 of the Public Health Service Act (42 U.S.C. 300w–9) is the only Federal program that focuses specifically on improving the pediatric components of emergency medical care.

(8) The EMSC Program promotes the nationwide exchange of pediatric emergency medical care knowledge and collaboration by those with an interest in such care and is depended upon by Federal agencies and national organizations to ensure that this exchange of knowledge and collaboration takes place.

(9) The EMSC Program also supports a multi-institutional network for research in pediatric emergency medicine, thus allowing providers to rely on evidence rather than anecdotal experience when treating ill or injured children.

(10) States are better equipped to handle occurrences of critical or traumatic injury due to advances fostered by the EMSC program, with—

(A) forty-eight States identifying and requiring all EMSC-recommended pediatric equipment on Advanced Life Support ambulances;

(B) forty-four States employing pediatric protocols for medical direction;

(C) forty-one States utilizing pediatric guidelines for acute care facility identification, ensuring that children get to the right hospital in a timely manner; and

(D) thirty-six of the forty-two States having statewide computerized data collection systems now producing reports on pediatric emergency medical services using statewide data.

(11) Systems of care must be continually maintained, updated, and improved to ensure that research is translated into practice, best practices are adopted, training is current, and standards and protocols are appropriate.

(12) Now celebrating its twentieth anniversary, the EMSC Program has proven effective over two decades in driving key improvements in emergency medical services to children, and should continue its mission to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical and emergency surgical care children receive.

(b) PURPOSE.—It is the purpose of this Act to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical care children receive.

SEC. 3. REAUTHORIZATION OF EMERGENCY MEDICAL SERVICES FOR CHILDREN PROGRAM.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w–9) is amended—

(1) in subsection (a), by striking ''3-year period (with an optional 4th year'' and inserting ''4-year period (with an optional 5th year'';

(2) in subsection (d)—

(A) by striking ''and such sums'' and inserting ''such sums''; and

(B) by inserting before the period the following: ''$23,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2011'';

(3) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(4) by inserting after subsection (a) the following:

''(b)(1) The purpose of the program established under this section is to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical care children receive, through the promotion of projects focused on the expansion and improvement of such services, including those in rural areas and those for children with special healthcare needs. In carrying out this purpose, the Secretary shall support emergency medical services for children by supporting projects that—

''(A) develop and present scientific evidence;

''(B) promote existing and innovative technologies appropriate for the care of children: or

''(C) provide information on health outcomes and effectiveness and cost-effectiveness.

''(2) The program established under this section shall—

''(A) strive to enhance the pediatric capability of emergency medical service systems originally designed primarily for adults; and

''(B) in order to avoid duplication and ensure that Federal resources are used efficiently and effectively, be coordinated with all research, evaluations, and awards related to emergency medical services for children undertaken and supported by the Federal Government.''.

By Mr. REID (for Mr. INOUYE):

S. 61. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Homeland Security and Governmental Affairs.

Mr. INOUYE. Mr. President, today I introduce the Clinical Social Workers' Recognition Act to correct a continuing problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the Nation. However, Title V of the United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought by federal employees. The bill I am introducing corrects this problem.

It is a sad irony that federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to this same professional for workers' compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits federal employees' selection of a provider to conduct the workers' compensation mental health evaluations. Lack of this recognition may well impose an undue burden on Federal employees where clinical social workers are the only available providers of mental health care.

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. 61

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 ''Clinical Social Workers' Recognition Act of 2007''.

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2), by striking ''and osteopathic practitioners'' and inserting ''osteopathic practitioners, and clinical social workers''; and

(2) in paragraph (3), by striking ''osteopathic practitioners'' and inserting ''osteopathic practitioners, clinical social workers,''.

By Mr. REID (for Mr. INOUYE):

S. 62. A bill to treat certain hospital support organizations as qualified organizaitons for purposes of determining acquisition indebtedness; to the Committee on Finance.

Mr. INOUYE. Mr. President, the legislation I have introduced will extend to qualified teaching hospital support organizations the existing debt-financed safe harbor rule. Congress enacted that rule to support the public service activities of tax-exempt schools, universities, pension funds, and consortia of such institutions. Our teaching hospitals require similar support.

A New York Times article on June 21, 2002, described the financial problems which nonprofit hospitals are facing to modernize their facilities and meet the growing demand for charitable medical care. The problems have grown more urgent since that article appeared.

On November 22, 2006, the Wall Street Journal noted the rising numbers of uninsured patients who fill hospital emergency rooms without paying their bills. In 2005, 46.6 million Americans had no health insurance. Compounding the growing demand for charitable care, new safety and infection-prevention standards require hospitals to undertake massive improvements.

As a result, the article stated, for-profit hospitals are moving from older areas to affluent locations where residents can afford to pay for treatment. These private hospitals, the reporter pointed out, typically have no mandate for community service. In contrast, nonprofit hospitals must fulfill a community service requirement. They must stretch their resources to provide increased charitable care, update their facilities, and maintain skilled staffing. Both the Wall Street Journal and the New York Times noted the resulting closures of nonprofit hospitals due to this financial strain.

The problem is particularly severe for teaching hospitals. As the Times article said, nonprofit hospitals provide nearly all the postgraduate medical education in the United States. Postgraduate medical instruction is by nature not profitable. Instruction in the treatment of mental disorders and trauma is especially costly.

Despite their financial problem the nation's nonprofit hospitals strive to deliver a very high level of service. A study in the December 2006 issue of Archives of Internal Medicine had surveyed hospitals' qualify of care in four areas of treatment. It found that nonprofit hospitals consistently outperformed for-profit hospitals. It also found that teaching hospitals had a higher level of performance in treatment and diagnosis. It said that investment in technology and staffing leads to better care. And it recommended that alternative payments and sources of payments be considered to finance these improvements.

The success and financial constraints of nonprofit teaching hospitals is evident in the work of the Queen's Health Systems in my State. This 146-year-old organization maintains the largest, private, nonprofit hospital in Hawaii. It serves as the primary clinical teaching facility for the University of Hawaii's medical residency programs in medicine, general surgery, orthopedic surgery, obstetrics-gynecology, pathology, and psychiatry. It conducts educational and training programs for nurses and allied health personnel. It operates the only trauma unit as well as the chief behavioral health program in the State. It maintains clinics throughout Hawaii, health programs for Native Hawaiians, and a small hospital on a rural, economically depressed island. Its medical reference library is the largest in the State. Not the least, it annually provides millions of dollars in uncompensated health services. To help pay for these community benefits, the Queen's Health Systems, as other nonprofit teaching hospitals, relies significantly on income from its endowment.

In the past, the Congress has allowed tax-exempt schools, colleges, universities, and pension funds to invest their endowment in real estate so as to better meet their financial needs. Under the tax code these organizations can incur debt for real estate investments without triggering the tax on unrelated business activities.

If the Queen's Health Systems were part of a university, it could borrow without incurring an unrelated business income tax. Not being part of a university, however, a teaching hospital and its support organization run into the tax code's debt financing prohibition. Nonprofit teaching hospitals have the same if not more pressing needs as universities, school, and pension trusts. The same safe harbor rule should be extended to teaching hospitals.

My bill would allow the support organizations for qualified teaching hospitals to engage in limited borrowing to enhance their endowment income. The proposal for teaching hospitals is actually more restricted than current law for schools, universities, and pension trusts. Under safeguards developed by the Joint Committee on Taxation staff, a support organization for a teaching hospital can not buy and develop land on a commercial basis. The proposal is tied directly to the organization endowment. The staff's revenue estimate show that the provision with its general application will help a number a teaching hospitals.

The U.S. Senate several times has acted favorably on this proposal. The Senate adopted a similar provision in H.R. 1836 the Economic Growth and Tax Relief Act of 2001. The House conferees on that bill, however, objected that the provision was unrelated to the bill's focus on individual tax relief and the conference deleted the provision from the final legislation. Subsequently, the Finance Committee included the provision in H.R. 7 the CARE Act of 2002 and in S. 476 the CARE Act of 2003 which the Senate passed. In the last Congress S. 6 the Marriage, Opportunity, Relief, and Empowerment Act of 2005, which the Senate leadership introduced, also included the proposal.

As the Senate Finance Committee's recent hearings show, substantial health needs would go unmet if not for our charitable hospitals. It is time for the Congress to assist the nation's teaching hospitals in their charitable, educational service.

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

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

S. 62

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

SECTION 1. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Subparagraph (C) of section 514(c)(9) of the Internal Revenue Code of 1986 (relating to real property acquired by a qualified organization) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ''; or'', and by adding at the end the following new clause:

''(iv) a qualified hospital support organization (as defined in subparagraph (I)).''.

(b) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—Paragraph (9) of section 514(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(I) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—For purposes of subparagraph (C)(iv), the term 'qualified hospital support organization' means, with respect to any eligible indebtedness (including any qualified refinancing of such eligible indebtedness), a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 119(d)(4)(B) and with respect to which—

''(i) more than half of its assets (by value) at any time since its organization—

''(I) were acquired, directly or indirectly, by testamentary gift or devise, and

''(II) consisted of real property, and

''(ii) the fair market value of the organization's real estate acquired, directly or indirectly, by gift or devise, exceeded 25 percent of the fair market value of all investment assets held by the organization immediately

prior to the time that the eligible indebtedness was incurred.

For purposes of this subparagraph, the term 'eligible indebtedness' means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such an eligible indebtedness (or the qualified refinancing of such an eligible indebtedness) is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be considered qualified if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred on or after the date of the enactment of this Act.

By Mr. REID (for Mr. INOUYE):

S. 63. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow them to function to the full extent of their state practice licenses. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services under the Federal Employee Health Benefits Program, the TRICARE Military Health Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans. This legislation will ensure that these qualified professionals achieve the same recognition under the Medicare comprehensive outpatient rehabilitation facility program.

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. 63

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 ''Autonomy for Psychologists and Social Workers Act of 2007''.

SEC. 2. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by striking ''physician'' and inserting ''physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law and except that a patient receiving clinical social worker services (as defined in subsection (hh)(2)) may be under the care of a clinical social worker with respect to such services to the extent permitted under State law''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2008.

By Mr. REID (for Mr. INOUYE):

S. 64. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, and to establish a social work training program to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, on behalf of our Nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation would: 1. establish a new social work training program, 2. ensure that social work students are eligible for support under the Health Careers Opportunity Program, 3. provide social work schools with eligibility for support under the Minority Centers of Excellence programs, 4. permit schools offering degrees in social work to obtain grants for training projects in geriatrics, and 5. ensure that social work is recognized as a profession under the Public Health Maintenance Organization Act.

Despite the impressive range of services social workers provide to people of this nation, few federal programs exist to provide opportunities for social work training in health and mental health care.

Social workers have long provided quality mental health services to our citizens and continue to be at the forefront of establishing innovative programs to serve our disadvantaged populations. I believe it is important to ensure that the special expertise social workers possess continues to be available to the citizens of this nation. This bill, by providing financial assistance to schools of social work and social work students, acknowledges the long history and critical importance of the services provided by social work professionals. I believe it is time to provide them with the recognition they deserve.

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. 64

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 ''Strengthen Social Work Training Act of 2007''.

SEC. 2. SOCIAL WORK STUDENTS.

(a) HEALTH PROFESSIONS SCHOOLS.—Section 736(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293(g)(1)(A)) is amended by striking ''graduate program in behavioral or mental health'' and inserting ''graduate program in behavioral or mental health, including a school offering graduate programs in clinical social work, or programs in social work''.

(b) SCHOLARSHIPS.—Section 737(d)(1)(A) of the Public Health Service Act (42 U.S.C. 293a(d)(1)(A)) is amended by striking ''mental health practice'' and inserting ''mental health practice (including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work)''.

(c) FACULTY POSITIONS.—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293b(a)(3)) is amended by striking ''offering graduate programs in behavioral and mental health'' and inserting ''offering graduate programs in behavioral and mental health, including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work''.

SEC. 3. GERIATRICS TRAINING PROJECTS.

Section 753(b)(1) of the Public Health Service Act (42 U.S.C. 294c(b)(1)) is amended by inserting ''schools offering degrees in social work,'' after ''teaching hospitals,''.

SEC. 4. SOCIAL WORK TRAINING 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) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

''SEC. 770. SOCIAL WORK TRAINING PROGRAM.

''(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, any school offering programs in social work, or to or with a public or private nonprofit entity that the Secretary has determined is capable of carrying out such grant or contract—

''(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

''(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who—

''(A) are in need of such assistance;

''(B) are participants in any such program; and

''(C) plan to specialize or work in the practice of social work;

''(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

''(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

''(b) ACADEMIC ADMINISTRATIVE UNITS.—

''(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative

units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

''(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

''(A) establishing an academic administrative unit for programs in social work; or

''(B) substantially expanding the programs of such a unit.

''(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and subject to the availability of appropriations for the fiscal year involved to make the payments.

''(d) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 2008 through 2010.

''(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b).''; and

(3) in section 770A (as redesignated by paragraph (1)) by inserting ''other than section 770,'' after ''carrying out this subpart,''.

SEC. 5. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e–1) is amended—

(1) in paragraphs (1) and (2), by inserting ''clinical social worker,'' after ''psychologist,'' each place the term appears;

(2) in paragraph (4)(A), by striking ''and psychologists'' and inserting ''psychologists, and clinical social workers''; and

(3) in paragraph (5), by inserting ''clinical social work,'' after ''psychology,''.

By Mr. INHOFE (for himself, Mr. STEVENS, Mr. LIEBERMAN, and Mr. FEINGOLD):

S. 65. A bill to modify the age-60 standard for certain pilots and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INHOFE. Mr. President, I rise today, as an experienced pilot over age 60, along with my colleagues, Senator STEVENS, Senator LIEBERMAN and Senator FEINGOLD, to once again introduce a bill that will help end age discrimination among commercial airline pilots. Our bill will abolish the Federal Aviation Administration's (FAA) arcane Age 60 Rule a regulation that has unjustly forced the retirement of airline pilots the day they turn 60 for more than 45 years.

Our bipartisan bill called the ''Freedom to Fly Act'' would replace the dated FAA rule with a new international standard adopted this past November by the International Civil Aviation Organization (ICAO) which allows pilots to fly to 65 as long as the copilot is under 60.

Since the adoption of the ICAO standard in November of this year, foreign pilots have been flying and working in U.S. Airspace under this new standard up to 65 years of age a privilege the FAA has not been willing to grant to American pilots flying the same aircraft in the same airspace.

This bill may seem familiar; I have introduced similar legislation in the past two Congresses and I am dedicated to ensuring its passage this year. And it has never been more urgent.

We cannot continue to allow our FAA to force the retirement of America's most experienced commercial pilots at the ripe young age of 60 while they say to their counterparts flying for foreign flags ''Welcome to our airspace.''

Many of these great American pilots are veterans who have served our country and the flying public for decades. Many of them have suffered wage concessions and lost their pensions as the airline industry has faced hard times and bankruptcies. But these American pilots are not asking for a handout.

They are just saying to the FAA; ''Give me the same right you granted our foreign counterparts with the stroke of a pen this November. Let us continue to fly, continue to work, continue to contribute to the tax rolls for an additional 5 years.'' We join them and echo their sentiments to FAA Administrator Blakey. As far as we are concerned, that is the least we can do for America's pilots, who are considered the best and the safest pilots in the world.

Most nations have abolished mandatory age 60 retirement rules. Many countries, including Canada, Australia, and New Zealand have no upper age limit at all and consider an age-based retirement rule discriminatory. Sadly though, the United States was one of only four member countries of ICAO, along with Pakistan, Colombia, and France, to dissent to the ICAO decision to increase the retirement age to 65 last year.

The Age 60 Rule has no basis in science or safety and never has. The Aerospace Medical Association says that ''There is insufficient medical evidence to support restriction of pilot certification based upon age alone.'' Similarly, the American Association of Retired Persons, Equal Employment Opportunity Commission, the Seniors Coalition, and the National Institute of Aging of NIH all agree that the Age 60 Rule is simply age discrimination and should end. My colleagues and I agree.

When the rule was implemented in 1960 life expectancies were much lower at just over 69 and a half years. Today they are much higher at more than 77 years. The FAA's own data shows that pilots over age 60 are as safe as, and in some cases safer than, their younger counterparts. In the process of adopting the new international standard, ICAO studied more than 3,000 over-60 pilots from 64 nations, totaling at least 15,000 pilot-years of flying experience and found the risk of medical incapacitation ''a risk so low that it can be safely disregarded.''

Furthermore, a recent economic study shows that allowing pilots to fly to age 65 would save almost $1 billion per year in added Social Security, Medicare, and tax payments and delayed Pension Benefit Guarantee Corporation (PBGC) payments.

I am encouraged by the progress that has been made. In the 109th Congress, the Senate Commerce Committee reported the modified bill with the ICAO standard favorably and the Senate Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Committee included a version of S. 65 in its bill. The FAA recently convened an Aviation Rulemaking Committee to study the issue of forced retirement. We have yet to see that report but it is our understanding the report was persuasive enough that the Administrator is considering a change in the rule now.

We are encouraged by that, but we also know that legislation will be needed to direct the FAA to pursue these changes in a timely manner and in a way that will protect companies and their unions from new lawsuits that might arise as a result of the changes. Our bill accomplishes that. Whether the FAA decides to change the rule on its own or not, Congress needs to do the right thing and pass S. 65 to fully ensure that our own American pilots have the same rights and privileges to work at least until age 65 that were accorded to foreign pilots over the age of 60 this fall.

I urge the rest of my colleagues to support the Freedom to Fly Act and help us keep America's most experienced pilots in the air.

By Mr. REID (for Mr. INOUYE):

S. 66. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, I am reintroducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Our Filipino veterans fought side by side with Americans and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits that, I believe, they are entitled to. As this population becomes older, it is important for our Nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great Nation that we are today.

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

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

S. 66

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

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) that is available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary of the Army shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary of the Army may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period before the date of the enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary of the Army shall prescribe regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations prescribed by the Secretary of Veterans Affairs.

SEC. 8. DEFINITION.

In this Act, the term ''World War II'' means the period beginning on December 7, 1941, and ending on December 31, 1946.

By Mr. REID (for Mr. INOUYE):

S. 67. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Services are permitted to travel on a space-available basis on nonscheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for veterans with 100 percent service-connected disabilities.

We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our Nation, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying ''thank you'' by supporting this legislation.

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

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

S. 67

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

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1060b the following new section:

''§ 1060c. Travel on military aircraft: certain disabled former members of the armed forces

''The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Air Mobility Command. The Secretary of Defense shall permit such travel on a space-available basis.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1060b the following new item:

''1060c. Travel on military aircraft: certain disabled former members of the armed forces.''.

By Mr. KOHL (for himself and Ms. SNOWE):

S. 69. A bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise in support of the Kohl-Snowe legislation which would fund the Manufacturing Extension Partnership, MEP, for fiscal year 2008–fiscal year 2012. I am a longtime supporter of the MEP program and believe manufacturing is crucial to the U.S. economy. American manufacturers are a cornerstone of the American economy and embody the best in American values. A healthy manufacturing sector is key to better jobs, rising productivity and higher standards of living in the United States. Every individual and industry depends on manufactured goods. In addition, innovations and productivity gains in the manufacturing sector provide benefits far beyond the products themselves.

Small- and medium-sized manufacturers face unprecedented challenges in today's global economy which threaten the existence of manufacturing jobs in the United States. If it isn't China pirating our technologies and promising a low-wage workforce, it is soaring heath care and energy costs that cut into profits. Manufacturers today are seeking ways to level the playing field so they can compete globally.

One way to level the playing field—and increase the competitiveness of manufacturers—is through the MEP program. MEP streamlines operations, integrates new technologies, shortens production times and lowers costs, leading to improved efficiency by offering resources to manufacturers, including organized workshops and consulting projects. In Wisconsin, three of our largest corporations—John Deere, Harley-Davidson, and Oshkosh Truck—are working with Wisconsin MEP centers to develop domestic supply chains. I am proud to say that these companies found it more profitable to work with small- and medium-sized Wisconsin firms than to look overseas for cheap labor.

You would be hard pressed to find another program that has produced the results that MEP has. In Wisconsin alone in fiscal year 2006, WMEP reported 2,696 new or retained workers, sales of $163 million, cost savings of $33 million, and plant and equipment investments of $37 million.

Manufacturing is an integral part of a web of inter-industry relationships that create a stronger economy. Manufacturing sells goods to other sectors in the economy and, in turn, buys products and services from them. Manufacturing spurs demand for everything from raw materials to intermediate components to software to financial, legal, health, accounting, transportation, and other services in the course of doing business.

The future of manufacturing in the United States will be largely determined by how well small- and medium-sized companies cope with the changes in today's global economy. To be successful, businesses need state-of-the-art technologies to craft products more efficiently, a skilled workforce to meet the demands of modern manufacturers and a commitment from the government to provide the resources to allow companies to remain competitive.

At a time when economic recovery and global competitiveness are national priorities, I believe MEP continues to be a wise investment.

By Mr. REID (for Mr. INOUYE):

S. 70. A bill to restore the traditional day of observance of Memorial Day, and for other purposes; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our Nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our nation.

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

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

S. 70

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

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended by striking ''Memorial Day, the last Monday in May.'' and inserting the following: ''Memorial Day, May 30.''.

(b) OBSERVANCES AND CEREMONIES.—Section 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking ''The last Monday in May'' and inserting ''May 30''; and

(2) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4) calling on the people of the United States to observe Memorial Day as a day of ceremonies for showing respect for American veterans of wars and other military conflicts; and''.

(c) DISPLAY OF FLAG.—Section 6(d) of title 4, United States Code, is amended by striking ''the last Monday in May;'' and inserting ''May 30;''.

By Mr. REID (for Mr. INOUYE):

S. 71. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing legislation to enable those former prisoners of war who have been separated honorably from their respective services and who have been rated as having a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation's enemies, I do feel this gesture is both meaningful and important to those concerned because it serves as a reminder that our Nation has not forgotten their sacrifices.

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

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

S. 71

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

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

''§ 1064a. Use of commissary and exchange stores by certain disabled former prisoners of war

''(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

''(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

''(1) separated from active duty in the armed forces under honorable conditions; and

''(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

''(c) DEFINITIONS.—In this section:

''(1) The term 'former prisoner of war' has the meaning given that term in section 101(32) of title 38.

''(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

''1064a. Use of commissary and exchange stores by certain disabled former prisoners of war.''.

By Mr. REID (for Mr. INOUYE):

S. 72. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider network. They are legally regulated in every State of the Nation and are recognized as independent providers of mental health care throughout the health care system. It is time to correct the disparate reimbursement treatment of this profession under Medicare.

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. 72

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 ''Equity for Clinical Social Workers Act of 2007''.

SEC. 2. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 13951(a)(1)(F)(ii)) is amended to read as follows: ''(ii) the amount determined by a fee schedule established by the Secretary,''.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''services performed by a clinical social worker (as defined in paragraph (1))'' and inserting ''such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))''.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended—

(1) by striking ''and services'' and inserting ''clinical social worker services, and services''; and

(2) by adding ''and'' at the end.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2008.

By Mr. REID (for Mr. INOUYE):

S. 73. A bill to amend title XVIII of the Social Security Act to provide for patient protection by establishing minimum nurse staffing ratios at certain Medicare providers, and for other purposes; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the Registered Nurse Safe Staffing Act. For over four decades I have been a committed supporter of nurses and the delivery of safe patient care. While enforceable regulations will help to ensure patient safety, the complexity and variability of today's hospitals require that staffing patterns

be determined at the hospital and unit level, with the professional input of registered nurses. More than a decade of research demonstrates that nurse staff levels and the skill mix of nursing staff directly affect the clinical outcomes of hospitalized patients. Studies show that when there are more registered nurses, there are lower mortality rates, shorter lengths of stay, reduced costs, and fewer complications.

A study published in the Journal of The American Medical Association found that the risks of patient mortality rose by 7 percent for every additional patient added to the average nurse's workload. In the midst of a nursing shortage and increasing financial pressures, hospitals often find it difficult to maintain adequate staffing. While nursing research indicates that adequate registered nurse staffing is vital to the health and safety of patients, there is no standardized public reporting mechanism, nor enforcement of adequate staffing plans. The only regulations addressing nursing staff exists vaguely in Medicare Conditions of Participation which states: ''The nursing service must have an adequate number of licensed registered nurses, licensed practice (vocational) nurse, and other personnel to provide nursing care to all patients as needed''.

This bill will require Medicare Participating Hospitals to develop and maintain reliable and valid systems to determine sufficient registered nurse staffing. Given the demands that the healthcare industry faces today, it is our responsibility to ensure that patients have access to adequate nursing care. However, we must ensure that the decisions by which care is provided are made by the clinical experts, the registered nurses caring for these patients. Support of this bill supports our nation's nurses during a critical shortage, but more importantly, works to ensure the safety of their patients.

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. 73

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 ''Registered Nurse Safe Staffing Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) There are hospitals throughout the United States that have inadequate staffing of registered nurses to protect the well-being and health of the patients.

(2) Studies show that the health of patients in hospitals is directly proportionate to the number of registered nurses working in the hospital.

(3) There is a critical shortage of registered nurses in the United States.

(4) The effect of that shortage is revealed in unsafe staffing levels in hospitals.

(5) Patient safety is adversely affected by these unsafe staffing levels, creating a public health crisis.

(6) Registered nurses are being required to perform professional services under conditions that do not support quality health care or a healthful work environment for registered nurses.

(7) As a payer for inpatient and outpatient hospital services for individuals entitled to benefits under the Medicare program established under title XVIII of the Social Security Act, the Federal Government has a compelling interest in promoting the safety of such individuals by requiring any hospital participating in such program to establish minimum safe staffing levels for registered nurses.

SEC. 3. ESTABLISHMENT OF MINIMUM STAFFING RATIOS BY MEDICARE PARTICIPATING HOSPITALS.

(a) REQUIREMENT OF MEDICARE PROVIDER AGREEMENT.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V), by striking the period at the end and inserting '', and''; and

(3) by inserting after subparagraph (V) the following new subparagraph:

''(W) in the case of a hospital, to meet the requirements of section 1890.''.

(b) REQUIREMENTS.—Title XVIII of the Social Security Act is amended by inserting after section 1889 the following new section:

''STAFFING REQUIREMENTS FOR MEDICARE PARTICIPATING HOSPITALS

''SEC. 1890. (a) ESTABLISHMENT OF STAFFING SYSTEM.—

''(1) IN GENERAL.—Each participating hospital shall adopt and implement a staffing system that ensures a number of registered nurses on each shift and in each unit of the hospital to ensure appropriate staffing levels for patient care.

''(2) STAFFING SYSTEM REQUIREMENTS.—Subject to paragraph (3), a staffing system adopted and implemented under this section shall—

''(A) be based upon input from the direct care-giving registered nurse staff or their exclusive representatives, as well as the chief nurse executive;

''(B) be based upon the number of patients and the level and variability of intensity of care to be provided, with appropriate consideration given to admissions, discharges, and transfers during each shift;

''(C) account for contextual issues affecting staffing and the delivery of care, including architecture and geography of the environment and available technology;

''(D) reflect the level of preparation and experience of those providing care;

''(E) account for staffing level effectiveness or deficiencies in related health care classifications, including but not limited to, certified nurse assistants, licensed vocational nurses, licensed psychiatric technicians, nursing assistants, aides, and orderlies;

''(F) reflect staffing levels recommended by specialty nursing organizations;

''(G) establish upwardly adjustable registered nurse-to-patient ratios based upon registered nurses' assessment of patient acuity and existing conditions;

''(H) provide that a registered nurse shall not be assigned to work in a particular unit without first having established the ability to provide professional care in such unit; and

''(I) be based on methods that assure validity and reliability.

''(3) LIMITATION.—A staffing system adopted and implemented under paragraph (1) may not—

''(A) set registered-nurse levels below those required by any Federal or State law or regulation; or

''(B) utilize any minimum registered nurse-to-patient ratio established pursuant to paragraph (2)(G) as an upper limit on the staffing of the hospital to which such ratio applies.

''(b) REPORTING, AND RELEASE TO PUBLIC, OF CERTAIN STAFFING INFORMATION.—

''(1) REQUIREMENTS FOR HOSPITALS.—Each participating hospital shall—

''(A) post daily for each shift, in a clearly visible place, a document that specifies in a uniform manner (as prescribed by the Secretary) the current number of licensed and unlicensed nursing staff directly responsible for patient care in each unit of the hospital, identifying specifically the number of registered nurses;

''(B) upon request, make available to the public—

''(i) the nursing staff information described in subparagraph (A); and

''(ii) a detailed written description of the staffing system established by the hospital pursuant to subsection (a); and

''(C) submit to the Secretary in a uniform manner (as prescribed by the Secretary) the nursing staff information described in subparagraph (A) through electronic data submission not less frequently than quarterly.

''(2) SECRETARIAL RESPONSIBILITIES.—The Secretary shall—

''(A) make the information submitted pursuant to paragraph (1)(C) publicly available, including by publication of such information on the Internet site of the Department of Health and Human Services; and

''(B) provide for the auditing of such information for accuracy as a part of the process of determining whether an institution is a hospital for purposes of this title.

''(c) RECORDKEEPING; DATA COLLECTION; EVALUATION.—

''(1) RECORDKEEPING.—Each participating hospital shall maintain for a period of at least 3 years (or, if longer, until the conclusion of pending enforcement activities) such records as the Secretary deems necessary to determine whether the hospital has adopted and implemented a staffing system pursuant to subsection (a).

''(2) DATA COLLECTION ON CERTAIN OUTCOMES.—The Secretary shall require the collection, maintenance, and submission of data by each participating hospital sufficient to establish the link between the staffing system established pursuant to subsection (a) and—

''(A) patient acuity from maintenance of acuity data through entries on patients' charts;

''(B) patient outcomes that are nursing sensitive, such as patient falls, adverse drug events, injuries to patients, skin breakdown, pneumonia, infection rates, upper gastrointestinal bleeding, shock, cardiac arrest, length of stay, and patient readmissions;

''(C) operational outcomes, such as work-related injury or illness, vacancy and turnover rates, nursing care hours per patient day, on-call use, overtime rates, and needlestick injuries; and

''(D) patient complaints related to staffing levels.

''(3) EVALUATION.—Each participating hospital shall annually evaluate its staffing system and establish minimum registered nurse staffing ratios to assure ongoing reliability and validity of the system and ratios. The evaluation shall be conducted by a joint management-staff committee comprised of at least 50 percent of registered nurses who provide direct patient care.

''(d) ENFORCEMENT.—

''(1) RESPONSIBILITY.—The Secretary shall enforce the requirements and prohibitions of this section in accordance with the succeeding provisions of this subsection.

''(2) PROCEDURES FOR RECEIVING AND INVESTIGATING COMPLAINTS.—The Secretary shall establish procedures under which—

''(A) any person may file a complaint that a participating hospital has violated a requirement or a prohibition of this section; and

''(B) such complaints are investigated by the Secretary.

''(3) REMEDIES.—If the Secretary determines that a participating hospital has violated a requirement of this section, the Secretary—

''(A) shall require the facility to establish a corrective action plan to prevent the recurrence of such violation; and

''(B) may impose civil money penalties under paragraph (4).

''(4) CIVIL MONEY PENALTIES.—

''(A) IN GENERAL.—In addition to any other penalties prescribed by law, the Secretary may impose a civil money penalty of not more than $10,000 for each knowing violation of a requirement of this section, except that the Secretary shall impose a civil money penalty of more than $10,000 for each such violation in the case of a participating hospital that the Secretary determines has a pattern or practice of such violations (with the amount of such additional penalties being determined in accordance with a schedule or methodology specified in regulations).

''(B) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

''(C) PUBLIC NOTICE OF VIOLATIONS.—

''(i) INTERNET SITE.—The Secretary shall publish on the Internet site of the Department of Health and Human Services the names of participating hospitals on which civil money penalties have been imposed under this section, the violation for which the penalty was imposed, and such additional information as the Secretary determines appropriate.

''(ii) CHANGE OF OWNERSHIP.—With respect to a participating hospital that had a change in ownership, as determined by the Secretary, penalties imposed on the hospital while under previous ownership shall no longer be published by the Secretary of such Internet site after the 1-year period beginning on the date of change in ownership.

''(e) WHISTLEBLOWER PROTECTIONS.—

''(1) PROHIBITION OF DISCRIMINATION AND RETALIATION.—A participating hospital shall not discriminate or retaliate in any manner against any patient or employee of the hospital because that patient or employee, or any other person, has presented a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any kind, relating to the staffing system or other requirements and prohibitions of this section.

''(2) RELIEF FOR PREVAILING EMPLOYEES.—An employee of a participating hospital who has been discriminated or retaliated against in employment in violation of this subsection may initiate judicial action in a United States district court and shall be entitled to reinstatement, reimbursement for lost wages, and work benefits caused by the unlawful acts of the employing hospital. Prevailing employees are entitled to reasonable attorney's fees and costs associated with pursuing the case.

''(3) RELIEF FOR PREVAILING PATIENTS.—A patient who has been discriminated or retaliated against in violation of this subsection may initiate judicial action in a United States district court. A prevailing patient shall be entitled to liquidated damages of $5,000 for a violation of this statute in addition to any other damages under other applicable statutes, regulations, or common law. Prevailing patients are entitled to reasonable attorney's fees and costs associated with pursuing the case.

''(4) LIMITATION ON ACTIONS.—No action may be brought under paragraph (2) or (3) more than 2 years after the discrimination or retaliation with respect to which the action is brought.

''(5) TREATMENT OF ADVERSE EMPLOYMENT ACTIONS.—For purposes of this subsection—

''(A) an adverse employment action shall be treated as retaliation or discrimination; and

''(B) the term 'adverse employment action' includes—

''(i) the failure to promote an individual or provide any other employment-related benefit for which the individual would otherwise be eligible;

''(ii) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual; and

''(iii) a personnel action that is adverse to the individual concerned.

''(f) RELATIONSHIP TO STATE LAWS.—Nothing in this section shall be construed as exempting or relieving any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful practice under this title.

''(g) RELATIONSHIP TO CONDUCT PROHIBITED UNDER THE NATIONAL LABOR RELATIONS ACT OR OTHER COLLECTIVE BARGAINING LAWS.—Nothing in this section shall be construed as permitting conduct prohibited under the National Labor Relations Act or under any other Federal, State, or local collective bargaining law.

''(h) REGULATIONS.—The Secretary shall promulgate such regulations as are appropriate and necessary to implement this section.

''(i) DEFINITIONS.—In this section:

''(1) PARTICIPATING HOSPITAL.—The term 'participating hospital' means a hospital that has entered into a provider agreement under section 1866.

''(2) REGISTERED NURSE.—The term 'registered nurse' means an individual who has been granted a license to practice as a registered nurse in at least 1 State.

''(3) UNIT.—The term 'unit' of a hospital is an organizational department or separate geographic area of a hospital, such as a burn unit, a labor and delivery room, a post-anesthesia service area, an emergency department, an operating room, a pediatric unit, a stepdown or intermediate care unit, a specialty care unit, a telemetry unit, a general medical care unit, a subacute care unit, and a transitional inpatient care unit.

''(4) SHIFT.—The term 'shift' means a scheduled set of hours or duty period to be worked at a participating hospital.

''(5) PERSON.—The term 'person' means 1 or more individuals, associations, corporations, unincorporated organizations, or labor unions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008.

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

S. 82. A bill to reaffirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

Mr. AKAKA. Mr. President, I rise to introduce ''The Intelligence Community Audit Act of 2007,'' with Senator LAUTENBERG. This legislation reaffirms the authority of the Comptroller General of the United States and head of the Government Accountability Office (GAO) to audit the financial transactions and evaluate the programs and activities of the intelligence community (IC).

Our bill is identical to S. 3968, introduced in the last Congress by Senator LAUTENBERG and myself, and to H.R. 6252, introduced in the House by Representative BENNIE THOMPSON.

The need for more effective oversight and accountability of our intelligence community has never been greater. In the war against terrorism, intelligence agencies are both the spear and the shield: the first line of our attack and of our defense. Failure can bear terrible consequences.

Congress has two responsibilities: the first is to ensure that our intelligence community is performing its mission effectively, and the second is to ensure that in performing its mission, the intelligence community is not violating the constitutional rights of individual Americans.

Yet the ability of Congress to ensure that the intelligence community has sufficient resources and capability of performing its mission has never been more in question. The establishment of the Department of Homeland Security and the passage of the Intelligence Reform and Terrorism Prevention Act of 2004 created a new institutional landscape littered by new intelligence agencies with ever increasing demands and responsibilities. These new agencies became members of an already populated club of organizations performing intelligence related functions.

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

Congress too has increased its oversight responsibilities. Committees other than the intelligence committees of the House and Senate have jurisdiction over such departments as Homeland Security, State, Defense, Justice, Energy, Treasury, and Commerce.

But all of these ''non-intelligence'' committees are restricted in their ability to conduct effective oversight of intelligence function of the agencies under their jurisdiction because, unfortunately, the intelligence community stonewalls the Government Accountability Office (GAO) when committees

of jurisdiction request that GAO investigate problems. This is happening despite the clear responsibility of Congress to ensure that these agencies are operating effectively to protect America.

It is inconceivable that the GAO—the audit arm of the U.S. Congress—has been unable to conduct evaluations of the CIA for over 40 years. If the GAO had been able to conduct basic auditing functions of the CIA, perhaps some of the problems that were so clearly exposed following the terrorist attacks in September 2001 would have been resolved. And yet, it is extraordinary that five years after 9–11, the same problems persist.

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

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

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

A Congressional Research Service memorandum entitled, ''Overview of 'Classified' and 'Sensitive but Unclassified' Information,'' concludes, ''it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security.''

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

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

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

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

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

As I mentioned earlier in my statement, Congress also has the responsibility of ensuring that unfettered intelligence collection does not trample civil liberties. New technologies and new personal information data bases threaten our individual right to a secure private life, free from unlawful government invasion. We must ensure that private information collected by the intelligence community is not misused and is secure. Intelligence agencies have a legitimate mission to protect the country against potential threats. However, Congress' role is to ensure that their mission remains legitimate.

Attached is a detailed description of the legislation that I ask unanimous consent be printed in the RECORD.

I urge my colleagues to join me in supporting this legislation.

I ask unanimous consent that the text of the legislation I am introducing be printed in the RECORD.

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

REPORT LANGUAGE

Section 1 of the Act provides that the Act may be cited as the ''Intelligence Community Audit Act of 2007''.

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

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

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

intelligence sources and methods, or covert actions.

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

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

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

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

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

CONGRESSIONAL RESEARCH SERVICE,
July 18, 2006.

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

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

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

SECURITY CLASSIFIED INFORMATION

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

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

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

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

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

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

President William Clinton returned security classification policy and procedure to the reform trend of the Eisenhower, Nixon, and Carter Administrations with E.O. 12958 in April 1995. Adding impetus to the development and issuance of the new order were

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

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

The security classification program has evolved during the past 66 years. One may not agree with all of its rules and requirements. but attention to detail in its policy and procedure result in a significant management regime. The operative executive order, as amended, defines its principal terms. Those who are authorized to exercise original classification authority are identified. Exclusive categories of classifiable information are specified, as are the terms of the duration of classification, as well as classification prohibitions and limitations. Classified information is required to be marked appropriately along with the identity of the original classifier, the agency or office of origin, and a date or event for declassification. Authorized holders of classified information who believe that its protected status is improper are ''encouraged and expected'' to challenge that status through prescribed arrangements. Mandatory declassification reviews are also authorized to determine if protected records merit continued classification at their present level, a lower level, or at all. Unsuccessful classification challenges and mandatory declassification reviews are subject to review by the Intragency Security Classification Appeals Panel. General restrictions on access to classified information are prescribed, as are distribution controls for classified information. The Information Security Oversight Office (ISOO) within the National Archives and Records Administration (NARA) is mandated to provide central management and oversight of the security classification program. If the director of this entity finds that a violation of the order or its implementing directives has occurred, it must be reported to the head of the agency or to the appropriate senior agency official so that corrective steps, if appropriate, may be taken

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

SENSITIVE BUT UNCLASSIFIED INFORMATION

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

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

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

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

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

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

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

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

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

numbers are important in terms of the variety of such markings. GAO explained this dimension of the management problem.

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

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

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

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

Congressional overseers have probed executive use and management of information control markings other than those prescribed for the classification of national security information, and the extent to which they result in ''pseudo-classification'' or a form of overclassification. Relevant remedial legislation proposed during the 109th Congress includes two bills (H.R. 2331 and H.R. 5112) containing sections which would require the Archivist of the United States to prepare a detailed report regarding the number, use, and management of these information control markings and submit it to specified congressional committees, and to promulgate regulations banning the use of these markings and otherwise establish standards for information control designations established by statute or an executive order relating to the classification of national security information. A section in the Department of Homeland Security appropriations legislation (H.R. 5441), as approved by the House, would require the Secretary of Homeland Security to revise DHS MD (Management Directive) 11056 to include (1) provision that information that is three years old and not incorporated in a current, active transportation security directive or security plan shall be determined automatically to be releasable unless, for each specific document, the Secretary makes a written determination that identifies a compelling reason why the information must remain Sensitive Security Information (SS1); (2) common and extensive examples of the individual categories of SSI cited in order to minimize and standardize judgment in the application of SSI marking; and (3) provision that, in all judicial proceedings where the judge overseeing the proceedings has adjudicated that a party needs to have access to SSI, the party shall be deemed a covered person for purposes of access to the SSI at issue in the case unless TSA or DHS demonstrates a compelling reason why the specific individual presents a risk of harm to the nation. A May 25, 2006, statement of administration policy on the bill strongly opposed the section, saying it ''would jeopardize an important program that protects Sensitive Security Information (SSI) from public release by deeming it automatically releaseable in three years, potentially conflict with requirements of the Privacy and Freedom of Information Acts, and negate statutory provisions providing original jurisdiction for lawsuits challenging. the designation of SSI materials in the U.S. Courts of Appeals.'' The statement further indicated that the section would create a burdensome review process'' for the Secretary of Homeland Security and would result in different statutory requirements being applied to SSI programs administered by the Departments of Homeland Security and Transportation.''

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

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

Subject: Congressional Oversight of Intelligence.

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

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

BACKGROUND

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

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

INTELLIGENCE COMMITTEES; STATUTORY OBLIGATIONS

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

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

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

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

INTELLIGENCE COMMITTEE OBLIGATIONS UNDER RESOLUTION

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

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

Both resolutions also stipulate that:

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

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

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

CROSS-OVER MEMBERSHIP

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

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

SUMMARY CONCLUSIONS

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

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

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

S. 82

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Intelligence Community Audit Act of 2007''.

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

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

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

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

''(b) Congress finds that—

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

''(2) such audits and evaluations may be requested by any committee of jurisdiction (including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), and may include matters relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing (including information sharing by and with the Department of Homeland Security), and change management.

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

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

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

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

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

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

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

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

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

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

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

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

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

By Mr. MCCAIN (for himself, Ms. SNOWE, Mr. BIDEN, and Mr. LIEBERMAN):

S. 83. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senators SNOWE, BIDEN, AND LIEBERMAN in introducing the Rail Security Act of 2007. This legislation is nearly identical to the rail security measures approved by the Senate during both the 108th and 109th Congresses. Unfortunately, the House of Representatives has yet to act

on rail security legislation. I remain hopeful that rail security will be made a top priority for the 110th Congress.

We have taken important steps and expended considerable resources to secure the homeland since 9/11. I think all would agree that air travel is safer than it was five years ago. And, we have worked to address port security in a comprehensive manner. However, we need to do more to better secure other transportation modes, a fact well documented by the 9/11 Commission. Unfortunately, only relatively modest resources have been dedicated to rail security in recent years. As a result, our Nation's transit system, Amtrak, and the freight railroads remain vulnerable to terrorist attacks.

The Rail Security Act would authorize a total of almost $1.2 billion dollars for rail security. More than half of this funding would be authorized to complete tunnel safety and security improvements at New York's Penn Station, which is used by over 500,000 transit, commuter, and intercity passengers each workday. The legislation would also establish a grant program to encourage security enhancements by the freight railroads, Amtrak, shippers of hazardous materials, and local governments with responsibility for passenger stations. It would help to address identified security weaknesses in a manner that also seeks to protect the taxpayers' interests.

As we continue fight the War on Terror, we need to do all we can to address our vulnerabilities. We have witnessed the tragic attacks on rail systems in other countries, including the cities of London, Mumbai and Madrid, and the devastating consequences of those attacks. It is essential that we move expeditiously to protect all the modes of transportation from potential attack, and this legislation will help to do just that.

As I mentioned earlier, the Senate has consistently supported legislation to promote rail security. Most recently, rail security provisions were adopted last Fall as part of the port security legislation. But again, the House failed to allow these important security provisions to move ahead, and the provisions were stripped from the conference agreement. As a result, our rail network continues to remain vulnerable to terrorist attack. That is unacceptable in my judgement.

I urge the Senate to move quickly to again pass this important legislation.

Mr. McCAIN (for himself, Mr. STEVENS, and Mr. DORGAN):

S. 84. A bill to establish a United States Boxing Commission to administer the Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, today I am pleased to be joined by Senators STEVENS and DORGAN in introducing the Professional Boxing Amendments Act of 2007. This legislation is virtually identical to a measure approved unanimously by the Senate in 2005. I remain committed to moving the Professional Boxing Amendments Act through the Senate and I trust that my colleagues will once again vote favorably on this important legislation. Simply put, this legislation would better protect professional boxing from the fraud, corruption, and ineffective regulation that have plagued the sport for far too many years, and that have devastated physically and financially many of our Nation's professional boxers.

For almost a decade, Congress has made efforts to improve the sport of professional boxing and for very good reason. With rare exception, professional boxers come from the lowest rung on our economic ladder. Often they are the least educated and most exploited athletes in our nation. The Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act of 2000 established uniform health and safety standards for professional boxers, as well as basic protections for boxers against the sometimes coercive, exploitative, and unethical business practices of promoters, managers, and sanctioning organizations. But further action is needed.

The Professional Boxing Amendments Act would strengthen existing Federal boxing law by improving the basic health and safety standards for professional boxers, establishing a centralized medical registry to be used by local commissions to protect boxers, reducing the arbitrary practices of sanctioning organizations, and enhancing the uniformity and basic standards for professional boxing contracts. Most importantly, this legislation would establish a Federal regulatory entity to oversee professional boxing and set basic uniform standards for certain aspects of the sport.

Current law has improved to some extent the state of professional boxing. However, I remain concerned, as do many others, that the sport remains at risk. In 2003, the Government Accountability Office (GAO) spent more than six months studying ten of the country's busiest State and tribal boxing commissions. Government auditors found that many State and tribal boxing commissions still do not comply with Federal boxing law, and that there is a troubling lack of enforcement by both Federal and State officials.

Ineffective and inconsistent oversight of professional boxing has contributed to the continuing scandals, controversies, unethical practices, and unnecessary deaths in the sport. These problems have led many in professional boxing to conclude that the only solution is an effective and accountable Federal boxing commission. The Professional Boxing Amendments Act would create such an entity.

Professional boxing remains the only major sport in the United States that does not have a strong, centralized association, league, or other regulatory body to establish and enforce uniform rules and practices. Because a powerful few benefit greatly from the current system of patchwork compliance and enforcement of Federal boxing law, a national self-regulating organization though preferable to Federal government oversight is not a realistic option.

This bill would establish the United States Boxing Commission, USBC or Commission. The Commission would be responsible for protecting the health, safety, and general interests of professional boxers. The USBC would also be responsible for ensuring uniformity, fairness, and integrity in professional boxing. More specifically, the Commission would administer Federal boxing law and coordinate with other Federal regulatory agencies to ensure that this law is enforced; oversee all professional boxing matches in the United States; and work with the boxing industry and local commissions to improve the safety, integrity, and professionalism of professional boxing in the United States.

The USBC would also license boxers, promoters, managers, and sanctioning organizations. The Commission would have the authority to revoke such a license for violations of Federal boxing law, to stop unethical or illegal conduct, to protect the health and safety of a boxer, or if the revocation is otherwise in the public interest.

Mr. President, it is important to state clearly and plainly for the record that the purpose of the USBC is not to interfere with the daily operations of State and tribal boxing commissions. Instead, the Commission would work in consultation with local commissions, and it would only exercise its authority when reasonable grounds exist for such intervention. In point of fact, the Professional Boxing Amendments Act states explicitly that it would not prohibit any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing to the extent not inconsistent with the provisions of Federal boxing law.

Let there be no doubt, however, of the very basic and pressing need in professional boxing for a Federal boxing commission. The establishment of the USBC would address that need. The problems that plague the sport of professional boxing undermine the credibility of the sport in the eyes of the public and—more importantly—compromise the safety of boxers. The Professional Boxing Amendments Act provides an effective approach to curbing these problems. I urge my colleagues to support this legislation.

By Mr. McCAIN (for himself, Mr. DORGAN, Mr. BAUCUS. Mr. GRASSLEY, Mr. REID, Mrs. FEINSTEIN, and Mr. FEINGOLD):

S. 85. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify that territories and Indian tribes are eligible to receive

grants for confronting the use of methamphetamine; to the Committee on the Judiciary.

Mr. MCCAIN. Mr. President, today I am introducing the Indian Tribes Methamphetamine Reduction Grants Act of 2007. This bill is identical to S. 4113, a bipartisan measure that was passed by unanimous consent in the Senate on December 8, 2006, the last day of the 109th Congress. The legislation would allow Indian tribes to be eligible for funding through the Department of Justice to eradicate the scourge of methamphetamine use, sale and manufacture in Native American communities. I am pleased to be joined by Senators DORGAN, BAUCUS, GRASSLEY, REID, FEINSTEIN, and FEINGOLD in introducing this important legislation.

The impacts of methamphetamine use on communities across the Nation are well known and cannot be overstated. Methamphetamine is the leading drug-related law enforcement problem in the country. Unfortunately, the meth crisis is affecting Indian Country most severely. Very serious concerns have been raised by the U.S. Department of Justice, States, and other nontribal law enforcement agencies over the rapidly growing levels of methamphetamine production and trafficking on reservations with large geographic areas or tribes adjacent to the U.S.-Mexico border. But because of the sovereign status of the tribes, criminals are generally not subject to state jurisdiction in many cases. As a result, local law enforcement often has no jurisdiction in Indian country, and tribal law enforcement agencies bear the brunt of most law enforcement functions.

The problem of meth in Indian country, which the National Congress of American Indians identified last year as its top priority, is ubiquitous, and has strained already overburdened law enforcement, health, social welfare, housing, and child protective and placement services on Indian reservations. Last year a former tribal judge on the Wind River Reservation in Wyoming pled guilty to conspiracy to distribute methamphetamine and other drugs. The day before, the Navajo Nation police arrested an 81 year old grandmother, her daughter, and her granddaughter, for selling meth. One tribe in Arizona had over 60 babies born with meth in their systems. In 2005, the National Indian Housing Council expanded its training for dealing with meth in tribal housing: the average cost of decontaminating a single residence that has been used a meth lab is $10,000.

During the 109th Congress, as the Chairman of the Senate Indian Affairs Committee, I held hearings on this serious matter. Committee witnesses testified that the methamphetamine epidemic in Indian country has contributed to a rise in child abuse and neglect cases, among other social ills, and some tribes reported dramatic increases in suicide rates among young people linked to methamphetamine use. Following our hearings, I was pleased to work with Senators DORGAN, SESSIONS, BINGAMAN and others in improving upon our legislation to assist Indian Country in fighting this terrible drug crisis.

To avoid any potential misinterpretation of the intent of this legislation, this bill includes language developed and agreed to during the last Congress that is designed to clarify the intent of the bill. This clarifying language, provided in section 2(a)(4) of the bill, is intended to make it clear that by authorizing the Department of Justice's Bureau of Justice Assistance to award grant funds to a state, territory or Indian tribe to ''investigate, arrest and prosecute individuals'' involved in illegal methamphetamine activities, the legislation does not somehow authorize a grantee state, territory or Indian tribe to pursue law enforcement activities that it otherwise has no jurisdiction to pursue. And similarly, this provision also clarifies that an award or denial of a grant by the Bureau of Justice Assistance does not somehow allow a state, territory or Indian tribe to pursue law enforcement activities that it otherwise lacks jurisdiction to pursue. For example, a law enforcement agency in one state, territory or Indian reservation is not somehow enabled by this section, or by an award made pursuant to this section, to prosecute a methamphetamine crime arising in some other jurisdiction unless that agency already has such jurisdiction.

The legislation further clarifies that authority under the bill to award grants would have no effect beyond simply authorizing, awarding or denying a grant of funds to a state, territory or Indian tribe. So, for example, if a state, territory or Indian tribe is awarded or denied a grant of funds under this section, that award or denial has no relevance to or effect on the eligibility of the state, territory or Indian tribe to participate in any other program or activity unrelated to the award or denial of grants as permitted under this legislation. The award or denial of a grant under this subsection, in other words, is relevant only to the award or denial of the grant under this subsection, and nothing else.

The measure I am introducing today takes but a small step on the long journey toward our fight against methamphetamine. I encourage my colleagues to support it.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 86. A bill to designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am please to be joined by my colleague, Senator KYL, in reintroducing a bill to designate Fossil Creek as a Wild and Scenic River. A companion measure is being introduced today by Congressman RENZI and other members of the Arizona congressional delegation.

Fossil Creek is a thing of beauty. With its picturesque scenery, lush riparian ecosystem, unique geological features, and deep iridescent blue pools and waterfalls, this tributary to the Wild and Scenic Verde River and Lower Colorado River Watershed stretches 14 miles through east central Arizona. It is home to a wide variety of wildlife, some of which are threatened or endangered species. Over 100 bird species inhabit the Fossil Creek area and use it to migrate between the range lowlands and the Mogollon-Colorado Plateau highlands. Fossil Creek also supports a variety of aquatic species and is one of the few perennial streams in Arizona with multiple native fish.

Fossil Creek was named in the 1800's when early explorers described the fossil-like appearance of creek-side rocks and vegetation coated with calcium carbonate deposits from the creek's water. In the early 1900's, pioneers recognized the potential for hydroelectric power generation in the creek's constant and abundant spring fed baseflow. They claimed the channel's water rights and built a dam system and generating facilities known as the Childs-Irving hydro-project. Over time, the project was acquired by Arizona Public Service (APS), one of the state's largest eclectic utility providers serving more than a million Arizonans. Because Childs-Irving produced less then half of 1 percent of the total power generated by APS, the decision was made ultimately to decommission the aging dam and restore Fossil Creek to its pre-settlement conditions.

APS has partnered with various environmental groups, federal land managers, and state, tribal and local governments to safely remove the Childs-Irving power generating facilities and restore the riparian ecosystem. In 2005, APS removed the dam system and returned full flows to Fossil Creek. Researchers predict Fossil Creek will soon become a fully regenerated Southwest native fishery providing a most-valuable opportunity to reintroduce at least six Threatened and Endangered native fish species as well as rebuild the native populations presently living in the creek.

There is a growing need to provide additional protection and adequate staffing and management at Fossil Creek. Recreational visitation to the riverbed is expected to increase dramatically, and by the Forest Service's own admission, they aren't able to manage current levels of visitation or the pressures of increased use. While responsible recreation and other activities at Fossil Creek are to be encouraged, we must also ensure the long-term success of the ongoing restoration efforts. Designation under the Wild and Scenic Rivers Act would help to ensure the appropriate level of protection and resources are devoted to Fossil Creek. Already, Fossil Creek has been found

eligible for Wild and Scenic designation by the Forest Service and the proposal has widespread support from surrounding communities. All of the lands potentially affected by a designation are owned and managed by the Forest Service and will not affect private property owners.

Fossil Creek is a unique Arizona treasure, and would benefit greatly from the protection and recognition offered through Wild and Scenic designation. I urge my colleagues to support this bill.

By Mr. KERRY (for himself, Mr. KENNEDY, Ms. CANTWELL, Ms. LANDRIEU, Mr. LAUTENBERG, and Mrs. MURRAY):

S. 95. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today the first bill I am introducing in the 110th Congress is the Kids Come First Act, legislation that would ensure every child in America has health care coverage. The Kids Come First Act was also the first bill I introduced in the 109th Congress and I feel just as strongly today as I did at the beginning of the last Congress that insuring all children must be a top agenda item. In the two years since I last introduced this bill, the problem of uninsured children in this nation has actually worsened.

The 110th Congress faces many challenges, from the war in Iraq to lobbying reform. But perhaps no issue bears more directly on the lives of more Americans than health care reform. Today 47 million Americans are uninsured, including 11 million under age 21. Health care has become a slow-motion Katrina that is ruining lives and bankrupting families all over the country. We cannot stand by as the ranks of the uninsured rise and American families find themselves in peril.

A recent Census Bureau report revealed that for the first time in almost a decade the number of uninsured children increased. In 2005 there were 361,000 children under the age of 18 added to the uninsured rolls. And the number of Americans without health care continues to rise.

The Kids Come First Act calls for a Federal-State partnership to mandate health coverage to every child in America. The proposal makes the states an offer they can't refuse. The federal government will pay for the most expensive part: enrolling all low-income children in Medicaid, automatically. The states will pay to expand coverage to higher income children. In the end, states across the country will save more than $6 billion a year, and every child will have health care.

It is totally unacceptable that, in the greatest country in the world, millions of children are not getting the health care they need. The Kids Come First Act expands coverage for children up to age of 21. Through expanding the programs that work, such as Medicaid and SCHIP, we can cover all eleven million children uninsured children.

Insuring children improves their health and helps families cover the spiraling costs of insuring them. Covering all kids will reduce avoidable hospitalizations by 22 percent and replace expensive critical care with inexpensive preventative care. Also, when children get the medical attention they need, they pay much better attention in the classroom and studies show their performance improves.

To pay for the expansion of health insurance for children, the Kids Come First Act includes a provision that provides the Secretary of Treasury with the authority to raise the highest income tax rate of 35 percent to a rate not higher than 39.6 percent in order to offset the costs. Prior to the enactment of the Economic Growth and Tax Relief Act Reconciliation Act of 2001, the top marginal rate was 39.6 percent. Less than one percent of taxpayers pay the top rate and for 2007, this rate only affects individual with income above $349,700.

The health care of our children is a priority that we must address and it can be done in a fiscally responsible manner. I will continue to work to find ways to offset the cost of my proposal. The wealthiest of all Americans do not need a tax cut when 11 million children do not even have health insurance. President Bush has called for this rate cut to be made permanent, but I believe it would be a better use of our resources to invest in our future by improving health care for children.

Since I first introduced the Kids Come First Act in the 109th Congress, more than 500,000 people have shown their support for the bill by becoming Citizen Cosponsors and another 20,000 Americans called into our ''Give Voices to Our Values'' hotline to share their personal stories. In addition, a coalition of 24 non-profit organizations representing 20 million people from across the country have endorsed Kids Come First, including the National Association of Children's Hospitals, the American Academy of Pediatrics, the American Academy of Family Physicians, March of Dimes, the Small Business Service Bureau, AFL–CIO, SEIU, and AFSCME.

It is clear that providing health care coverage for our uninsured children is a priority for our nation's workers, businesses, and health care community. They know, as I do, that further delay only results in graver health problems for America's children. Their future, and ours, depends on us doing better. I urge my colleagues to support and help enacting the Kids Come First Act of 2007 during this Congress.

I ask unanimous consent that the text of the Kids Come First Act of 2007 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. 95

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 ''Kids Come First Act of 2007''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID AND SCHIP

Sec. 101. State option to receive 100 percent FMAP for medical assistance for children in poverty in exchange for expanded coverage of children in working poor families under Medicaid or SCHIP.
Sec. 102. Elimination of cap on SCHIP funding for States that expand eligibility for children.

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE EXPANSIONS

Sec. 201. State option to provide wrap-around SCHIP coverage to children who have other health coverage.
Sec. 202. State option to enroll low-income children of State employees in SCHIP.
Sec. 203. Optional coverage of legal immigrant children under Medicaid and SCHIP.
Sec. 204. State option for passive renewal of eligibility for children under Medicaid and SCHIP.

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE COVERAGE OF CHILDREN

Sec. 301. Refundable credit for health insurance coverage of children.
Sec. 302. Forfeiture of personal exemption for any child not covered by health insurance.

TITLE IV—MISCELLANEOUS

Sec. 401. Requirement for group market health insurers to offer dependent coverage option for workers with children.
Sec. 402. Effective date.

TITLE V—REVENUE PROVISION

Sec. 501. Partial repeal of rate reduction in the highest income tax bracket.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) NEED FOR UNIVERSAL COVERAGE.—

(A) Currently, there are 9,000,000 children under the age of 19 that are uninsured. One out of every 8 children are uninsured while 1 in 5 Hispanic children and 1 in 7 African American children are uninsured. Three-quarters, approximately 6,800,000, of these children are eligible but not enrolled in the Medicaid program or the State Children's Health Insurance Program (SCHIP). Long-range studies found that 1 in 3 children went without health insurance for all or part of 2002 and 2003.

(B) Low-income children are 3 times as likely as children in higher income families to be uninsured. It is estimated that 65 percent of uninsured children have at least 1 parent working full time over the course of the year.

(C) It is estimated that 50 percent of all legal immigrant children in families with income that is less than 200 percent of the Federal poverty line are uninsured. In States without programs to cover immigrant children, 57 percent of noncitizen children are uninsured.

(D) Children in the Southern and Western parts of the United States were nearly 1.7 times more likely to be uninsured than children in the Northeast. In the Northeast, 9.4 percent of children are uninsured while in the Midwest, 8.3 percent are uninsured. The South's rate of uninsured children is 14.3 percent while the West has an uninsured rate of 13 percent.

(E) Children's health care needs are neglected in the United States. One out of every 5 children has problems accessing needed care and one-quarter of young children in the United States are not fully up to date on their basic immunizations. One-third of children with chronic asthma do not get a prescription for the necessary medications to manage the disease and 1 out of every 4 children do not receive annual dental exams.

(F) Children without health insurance are twice as likely as insured children to not receive any medical care in a given year. According to the Centers for Disease Control and Prevention, nearly ½ of all uninsured children have not had a well-child visit in the past year. One in 6 uninsured children had a delayed or unmet medical need in the past year. Minority children are less likely to receive proven treatments such as prescription medications to treat chronic disease.

(G) There are 7,600,000 young adults between the ages of 19 and 20. In the United States, approximately 28 percent, or 2,100,000 individuals, of this group are uninsured.

(H) Chronic illness and disability among children are on the rise. Children most at risk for chronic illness and disability are children who are most likely to be poor and uninsured.

(2) ROLE OF THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.—

(A) The Medicaid program and SCHIP serve as a crucial health safety net for 30,000,000 children. During the recent economic downturn and the highest number of uninsured individuals ever recorded in the United States, the Medicaid program and SCHIP offset losses in employer-sponsored coverage. While the number of children living in low-income families increased between 2000 and 2005, the number of uninsured children fell due to the Medicaid program and SCHIP.

(B) 28,000,000 children are enrolled today in the Medicaid program, accounting for ½ of all enrollees and only 18 percent of total program costs.

(C) The Medicaid program and SCHIP do more than just fill in the gaps. Gains in public coverage have reduced the percentage of low-income uninsured children by ⅓ from 1997 to 2005. In addition, a study found that publicly-insured children are more likely to obtain medical care, preventive care, and dental care than similar low-income privately-insured children.

(D) Publicly funded programs such as the Medicaid program and SCHIP actually improve children's health. Children who are currently insured by public programs are in better health than they were a year ago. Expansion of coverage for children and pregnant women under the Medicaid program and SCHIP reduces rates of avoidable hospitalizations by 22 percent and has been proven to reduce childhood deaths, infant mortality rates, and the incidence of low birth weight.

(E) Studies have found that children enrolled in public insurance programs experienced a 68-percent improvement in measures of school performance.

(F) Despite the success of expansions in general under the Medicaid program and SCHIP, due to current budget constraints, many States have stopped doing aggressive outreach and have raised premiums and cost-sharing requirements on families under these programs. In addition, 8 States stopped enrollment in SCHIP for a period of time between April 2003 and July 2004. As a result, SCHIP enrollment fell by 200,000 children for the first time in the program's history.

(G) It is estimated that nearly 50 percent of children covered through SCHIP do not remain in the program due to reenrollment barriers. A recent study found that between 10 and 40 percent of these children are ''lost'' in the system. Difficult renewal policies and reenrollment barriers make seamless coverage in SCHIP unattainable. Studies indicate that as many as 67 percent of children who were eligible but not enrolled for SCHIP had applied for coverage but were denied due to procedural issues.

(H) While the Medicaid program and SCHIP expansions to date have done much to offset what otherwise would have been a significant loss of coverage among children because of declining access to employer coverage, the shortcomings of previous expansions, such as the failure to enroll all eligible children and caps on enrollment in SCHIP because of under-funding, also are clear.

TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID AND SCHIP

SEC. 101. STATE OPTION TO RECEIVE 100 PERCENT FMAP FOR MEDICAL ASSISTANCE FOR CHILDREN IN POVERTY IN EXCHANGE FOR EXPANDED COVERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER MEDICAID OR SCHIP.

(a) STATE OPTION.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1939 as section 1940, and by inserting after section 1938 the following:

''STATE OPTION FOR INCREASED FMAP FOR MEDICAL ASSISTANCE FOR CHILDREN IN POVERTY IN EXCHANGE FOR EXPANDED COVERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER THIS TITLE OR TITLE XXI

''SEC. 1939. (a) 100 PERCENT FMAP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, in the case of a State that, through an amendment to each of its State plans under this title and title XXI (or to a waiver of either such plan), agrees to satisfy the conditions described in subsections (b), (c), and (d), the Federal medical assistance percentage shall be 100 percent with respect to the total amount expended by the State for providing medical assistance under this title for each fiscal year quarter beginning on or after the date described in subsection (e) for children whose family income does not exceed 100 percent of the poverty line.

''(2) LIMITATION ON SCOPE OF APPLICATION OF INCREASE.—The increase in the Federal medical assistance percentage for a State under this section shall apply only with respect to the total amount expended for providing medical assistance under this title for a fiscal year quarter for children described in paragraph (1) and shall not apply with respect to—

''(A) any other payments made under this title, including disproportionate share hospital payments described in section 1923;

''(B) payments under title IV or XXI; or

''(C) any payments made under this title or title XXI that are based on the enhanced FMAP described in section 2105(b).

''(b) ELIGIBILITY EXPANSIONS.—The condition described in this subsection is that the State agrees to do the following:

''(1) COVERAGE UNDER MEDICAID OR SCHIP FOR CHILDREN IN FAMILIES WHOSE INCOME DOES NOT EXCEED 300 PERCENT OF THE POVERTY LINE.—

''(A) IN GENERAL.—The State agrees to provide medical assistance under this title or child health assistance under title XXI to children whose family income exceeds the medicaid applicable income level (as defined in section 2110(b)(4) but by substituting 'January 1, 2007' for 'March 31, 1997'), but does not exceed 300 percent of the poverty line.

''(B) STATE OPTION TO EXPAND COVERAGE THROUGH SUBSIDIZED PURCHASE OF FAMILY COVERAGE.—A State may elect to carry out subparagraph (A) through the provision of assistance for the purchase of dependent coverage under a group health plan or health insurance coverage if—

''(i) the dependent coverage is consistent with the benefit standards under this title or title XXI, as approved by the Secretary; and

''(ii) the State provides 'wrap-around' coverage under this title or title XXI.

''(C) DEEMED SATISFACTION FOR CERTAIN STATES.—A State that, as of January 1, 2007, provides medical assistance under this title or child health assistance under title XXI to children whose family income is 300 percent of the poverty line shall be deemed to satisfy this paragraph.

''(2) COVERAGE FOR CHILDREN UNDER AGE 21.—The State agrees to define a child for purposes of this title and title XXI as an individual who has not attained 21 years of age.

''(3) OPPORTUNITY FOR HIGHER INCOME CHILDREN TO PURCHASE SCHIP COVERAGE.—The State agrees to permit any child whose family income exceeds 300 percent of the poverty line to purchase full or 'wrap-around' coverage under title XXI at the full cost of providing such coverage, as determined by the State.

''(4) COVERAGE FOR LEGAL IMMIGRANT CHILDREN.—The State agrees to—

''(A) provide medical assistance under this title and child health assistance under title XXI for alien children who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance in accordance with section 1903(v)(4) and 2107(e)(1)(F); and

''(B) not establish or enforce barriers that deter applications by such aliens, including through the application of the removal of the barriers described in subsection (c).

''(c) REMOVAL OF ENROLLMENT AND ACCESS BARRIERS.—The condition described in this subsection is that the State agrees to do the following:

''(1) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State agrees to—

''(A) provide presumptive eligibility for children under this title and title XXI in accordance with section 1920A; and

''(B) treat any items or services that are provided to an uncovered child (as defined in section 2110(c)(8)) who is determined ineligible for medical assistance under this title as child health assistance for purposes of paying a provider of such items or services, so long as such items or services would be considered child health assistance for a targeted low-income child under title XXI.

''(2) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State agrees to provide that eligibility for assistance under this title and title XXI shall not be regularly redetermined more often than once every year for children.

''(3) ACCEPTANCE OF SELF-DECLARATION OF INCOME.—The State agrees to permit the family of a child applying for medical assistance under this title or child health assistance under title XXI to declare and certify by signature under penalty of perjury family income for purposes of collecting financial eligibility information.

''(4) ADOPTION OF ACCEPTANCE OF ELIGIBILITY DETERMINATIONS FOR OTHER ASSISTANCE PROGRAMS.—The State agrees to accept

determinations (made within a reasonable period, as found by the State, before its use for this purpose) of an individual's family or household income made by a Federal or State agency (or a public or private entity making such determination on behalf of such agency), including the agencies administering the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, and the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

''(A) such agency has fiscal liabilities or responsibilities affected or potentially affected by such determinations; and

''(B) any information furnished by such agency pursuant to this subparagraph is used solely for purposes of determining eligibility for medical assistance under this title or for child health assistance under title XXI.

''(5) NO ASSETS TEST.—The State agrees to not (or demonstrates that it does not) apply any assets or resources test for eligibility under this title or title XXI with respect to children.

''(6) ELIGIBILITY DETERMINATIONS AND REDETERMINATIONS.—

''(A) IN GENERAL.—The State agrees for purposes of initial eligibility determinations and redeterminations of children under this title and title XXI not to require a face-to-face interview and to permit applications and renewals by mail, telephone, and the Internet.

''(B) NONDUPLICATION OF INFORMATION.—

''(i) IN GENERAL.—For purposes of redeterminations of eligibility for currently or previously enrolled children under this title and title XXI, the State agrees to use all information in its possession (including information available to the State under other Federal or State programs) to determine eligibility or redetermine continued eligibility before seeking similar information from parents.

''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed as limiting any obligation of a State to provide notice and a fair hearing before denying, terminating, or reducing a child's coverage based on such information in the possession of the State.

''(7) NO WAITING LIST FOR CHILDREN UNDER SCHIP.—The State agrees to not impose any numerical limitation, waiting list, waiting period, or similar limitation on the eligibility of children for child health assistance under title XXI or to establish or enforce other barriers to the enrollment of eligible children based on the date of their application for coverage.

''(8) ADEQUATE PROVIDER PAYMENT RATES.—The State agrees to—

''(A) establish payment rates for children's health care providers under this title that are no less than the average of payment rates for similar services for such providers provided under the benchmark benefit packages described in section 2103(b);

''(B) establish such rates in amounts that are sufficient to ensure that children enrolled under this title or title XXI have adequate access to comprehensive care, in accordance with the requirements of section 1902(a)(30)(A); and

''(C) include provisions in its contracts with providers under this title guaranteeing compliance with these requirements.

''(d) MAINTENANCE OF MEDICAID ELIGIBILITY LEVELS FOR CHILDREN.—

''(1) IN GENERAL.—The condition described in this subsection is that the State agrees to maintain eligibility income, resources, and methodologies applied under this title (including under a waiver of such title or under section 1115) with respect to children that are no more restrictive than the eligibility income, resources, and methodologies applied with respect to children under this title (including under such a waiver) as of January 1, 2007.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as implying that a State does not have to comply with the minimum income levels required for children under section 1902(l)(2).

''(e) DATE DESCRIBED.—The date described in this subsection is the date on which, with respect to a State, a plan amendment that satisfies the requirements of subsections (b), (c), and (d) is approved by the Secretary.

''(f) DEFINITION OF POVERTY LINE.—In this section, the term 'poverty line' has the meaning given that term in section 2110(c)(5).''.

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting before the period the following: '', and with respect to amounts expended for medical assistance for children on or after the date described in subsection (e) of section 1939, in the case of a State that has, in accordance with such section, an approved plan amendment under this title and title XXI''.

(2) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended—

(A) in subparagraph (C), by adding ''or'' after ''section 1611(b)(1),''; and

(B) by inserting after subparagraph (C), the following:

''(D) who would not receive such medical assistance but for State electing the option under section 1939 and satisfying the conditions described in subsections (b), (c), and (d) of such section,''.

SEC. 102. ELIMINATION OF CAP ON SCHIP FUNDING FOR STATES THAT EXPAND ELIGIBILITY FOR CHILDREN.

(a) IN GENERAL.—Section 2105 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following:

''(h) GUARANTEED FUNDING FOR CHILD HEALTH ASSISTANCE FOR COVERAGE EXPANSION STATES.—

''(1) IN GENERAL.—Only in the case of a State that has, in accordance with section 1939, an approved plan amendment under this title and title XIX, any payment cap that would otherwise apply to the State under this title as a result of having expended all allotments available for expenditure by the State with respect to a fiscal year shall not apply with respect to amounts expended by the State on or after the date described in section 1939(e).

''(2) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of paying a State described in paragraph (1) for each quarter beginning on or after the date described in section 1939(e), an amount equal to the enhanced FMAP of expenditures described in paragraph (1) and incurred during such quarter.''.

(b) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a), by inserting ''and section 2105(h)'' after ''subsection (d)'';

(2) in subsection (b)(1), by striking ''and subsection (d)'' and inserting '', subsection (d), and section 2105(h)''; and

(3) in subsection (c)(1), by inserting ''and section 2105(h)'' after ''subsection (d)''.

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE EXPANSIONS

SEC. 201. STATE OPTION TO PROVIDE WRAP-AROUND SCHIP COVERAGE TO CHILDREN WHO HAVE OTHER HEALTH COVERAGE.

(a) IN GENERAL.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(1) in paragraph (1)(C), by inserting '', subject to paragraph (5),'' after ''under title XIX or''; and

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

''(5) STATE OPTION TO PROVIDE WRAP-AROUND COVERAGE.—

''(A) IN GENERAL.—A State may waive the requirement of paragraph (1)(C) that a targeted low-income child may not be covered under a group health plan or under health insurance coverage in order to provide—

''(i) items or services that are not covered, or are only partially covered, under such plan or coverage; or

''(ii) cost-sharing protection.

''(B) ELIGIBILITY.—In waiving such requirement, a State may limit the application of the waiver to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONTINUED APPLICATION OF DUTY TO PREVENT SUBSTITUTION OF EXISTING COVERAGE.—Nothing in this paragraph shall be construed as modifying the application of section 2102(b)(3)(C) to a State.''.

(b) APPLICATION OF ENHANCED MATCH UNDER MEDICAID.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), in the fourth sentence, by striking ''subsection (u)(3)'' and inserting '', (u)(3), or (u)(4)''; and

(2) in subsection (u), by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

''(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and services for children described in section 2110(b)(5).''.

(c) APPLICATION OF SECONDARY PAYOR PROVISIONS.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

''(B) Section 1902(a)(25) (relating to coordination of benefits and secondary payor provisions) with respect to children covered under a waiver described in section 2110(b)(5).''.

SEC. 202. STATE OPTION TO ENROLL LOW-INCOME CHILDREN OF STATE EMPLOYEES IN SCHIP.

Section 2110(b)(2) of the Social Security Act (42 U.S.C. 1397jj(b)(2)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively and realigning the left margins of such clauses appropriately;

(2) by striking ''Such term'' and inserting the following:

''(A) IN GENERAL.—Such term''; and

(3) by adding at the end the following:

''(B) STATE OPTION TO ENROLL LOW-INCOME CHILDREN OF STATE EMPLOYEES.—At the option of a State, subparagraph (A)(ii) shall not apply to any low-income child who would otherwise be eligible for child health assistance under this title but for such subparagraph.''.

SEC. 203. OPTIONAL COVERAGE OF LEGAL IMMIGRANT CHILDREN UNDER MEDICAID AND SCHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following:

''(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title for aliens—

''(i) who are lawfully residing in the United States (including battered aliens described

in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996); and

''(ii) who are otherwise eligible for such assistance, within the eligibility category of children (as defined under such plan), including optional targeted low-income children described in section 1905(u)(2)(B).

''(B)(i) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

''(ii) The provisions of sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not apply to a State that makes an election under subparagraph (A).''.

(b) TITLE XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)), as amended by section 201(c), is amended redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following:

''(E) Section 1903(v)(4) (relating to optional coverage of permanent resident alien children), but only if the State has elected to apply such section to that category of children under title XIX.''.

SEC. 204. STATE OPTION FOR PASSIVE RENEWAL OF ELIGIBILITY FOR CHILDREN UNDER MEDICAID AND SCHIP.

(a) IN GENERAL.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended by adding at the end the following:

''(5) Notwithstanding any other provision of this title, a State may provide that an individual who has not attained 21 years of age who has been determined eligible for medical assistance under this title shall remain eligible for medical assistance until such time as the State has information demonstrating that the individual is no longer so eligible.''.

(b) APPLICATION UNDER TITLE XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)), as amended by section 201(c) and 203(b), is amended—

(1) by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively; and

(2) by inserting after subparagraph (B), the following:

''(C) Section 1902(l)(5) (relating to passive renewal of eligibility for children).''.

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE COVERAGE OF CHILDREN

SEC. 301. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE OF CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. HEALTH INSURANCE COVERAGE OF CHILDREN.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to so much of the amount paid during the taxable year, not compensated for by insurance or otherwise, for qualified health insurance for each dependent child of the taxpayer, as exceeds 5 percent of the adjusted gross income of such taxpayer for such taxable year.

''(b) DEPENDENT CHILD.—For purposes of this section, the term 'dependent child' means any child (as defined in section 152(f)(1)) who has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins and with respect to whom a deduction under section 151 is allowable to the taxpayer.

''(c) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health insurance' means insurance, either employer-provided or made available under title XIX or XXI of the Social Security Act, which constitutes medical care as defined in section 213(d) without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

''(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c)).

''(d) MEDICAL SAVINGS ACCOUNT AND HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.—

''(1) IN GENERAL.—If a deduction would (but for paragraph (2)) be allowed under section 220 or 223 to the taxpayer for a payment for the taxable year to the medical savings account or health savings account of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

''(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 220 or 223 for that portion of the payments otherwise allowable as a deduction under section 220 or 223 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

''(e) SPECIAL RULES.—

''(1) DETERMINATION OF INSURANCE COSTS.—The Secretary shall provide rules for the allocation of the cost of any qualified health insurance for family coverage to the coverage of any dependent child under such insurance.

''(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

''(3) COORDINATION WITH MEDICAL EXPENSE AND HIGH DEDUCTIBLE HEALTH PLAN DEDUCTIONS.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 or 223 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

''(4) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) if the credit under section 35 is allowed and no credit shall be allowed under 35 if a credit is allowed under this section.

''(6) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050V the following new section:

''SEC. 6050W. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—Any governmental unit or any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of a dependent child (as defined in section 36(b)) of such individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

''(B) the name, address, and TIN of each dependent child (as so defined) who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

''(C) such other information as the Secretary may reasonably prescribe.

''(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(c)).

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

''(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

''(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by striking ''and'' at the end of clause (xx) and by inserting at the end the following new clause:

''(xxi) section 6050W (relating to returns relating to payments for qualified health insurance), and''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(DD) section 6050W(d) (relating to returns relating to payments for qualified health insurance).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Returns relating to payments for qualified health insurance''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36. Health insurance coverage of children

''Sec. 37. Overpayments of tax''.

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

SEC. 302. FORFEITURE OF PERSONAL EXEMPTION FOR ANY CHILD NOT COVERED BY HEALTH INSURANCE.

(a) IN GENERAL.—Section 151(d) of the Internal Revenue Code of 1986 (relating to exemption amount) is amended by adding at the end the following new paragraph:

''(5) REDUCTION OF EXEMPTION AMOUNT FOR ANY CHILD NOT COVERED BY HEALTH INSURANCE.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the exemption amount otherwise determined under this subsection for any dependent child (as defined in section 36(b)) for any taxable year shall be reduced by the same percentage as the percentage of such taxable year during which such dependent child was not covered by qualified health insurance (as defined in section 36(c)).

''(B) FULL REDUCTION IF NO PROOF OF COVERAGE IS PROVIDED.—For purposes of subparagraph (A), in the case of any taxpayer who fails to attach to the return of tax for any taxable year a copy of the statement furnished to such taxpayer under section 6050W, the percentage reduction under such subparagraph shall be deemed to be 100 percent.

''(C) NONAPPLICATION OF PARAGRAPH TO TAXPAYERS IN LOWEST TAX BRACKET.—This paragraph shall not apply to any taxpayer whose taxable income for the taxable year does not exceed the initial bracket amount determined under section 1(i)(1)(B).''.

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

TITLE IV—MISCELLANEOUS

SEC. 401. REQUIREMENT FOR GROUP MARKET HEALTH INSURERS TO OFFER DEPENDENT COVERAGE OPTION FOR WORKERS WITH CHILDREN.

(a) ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. REQUIREMENT TO OFFER OPTION TO PURCHASE DEPENDENT COVERAGE FOR CHILDREN.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

''(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

''(c) DEFINITION OF CHILD.—In this section, the term 'child' means an individual who has not attained 21 years of age.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Requirement to offer option to purchase dependent coverage for children''.

(b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. REQUIREMENT TO OFFER OPTION TO PURCHASE DEPENDENT COVERAGE FOR CHILDREN.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

''(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

''(c) DEFINITION OF CHILD.—In this section, the term 'child' means an individual who has not attained 21 years of age.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2007.

SEC. 402. EFFECTIVE DATE.

Unless otherwise provided, the amendments made by this title shall take effect on October 1, 2007, and shall apply to child health assistance and medical assistance provided on or after that date without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

TITLE V—REVENUE PROVISION

SEC. 501. PARTIAL REPEAL OF RATE REDUCTION IN THE HIGHEST INCOME TAX BRACKET.

Section 1(i)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

''In the case of taxable years beginning during calendar year 2007 and thereafter, the final item in the fourth column in the preceding table shall be applied by substituting for ''35.0%'' a rate equal to the lesser of 39.6% or the rate the Secretary determines is necessary to provide sufficient revenues to offset the Federal outlays required to implement the provisions of, and amendments made by, the Kids Come First Act of 2007.''.

By Mr. KERRY:

S. 96. A bill to amend the Internal Revenue Code of 1986 to ensure a fairer and simpler method of taxing controlled foreign corporations of United States shareholders, to treat certain foreign corporations managed and controlled in the United States as domestic corporations, to codify the economic substance doctrine, and to eliminate the top corporate income tax rate, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the ''Export Products Not Jobs Act.'' Our tax code is extremely complicated. In 1994, the IRS estimated that a family that itemized their deductions and had some interest and capital gains would spend 11½ hours preparing their Federal income tax return. A decade later in 2004, this estimate increased to 19 hours and 45 minutes. It is time for Congress to pass bipartisan tax legislation in the style of the Tax Reform Act of 1986, which greatly simplified the tax code. And our tax reform should be based upon the following three principles: fairness, simplicity, and opportunity for economic growth.

Citizens and businesses struggle to comply with rules governing taxation of business income, capital gains, income phase-outs, extenders, the myriad savings vehicles, recordkeeping for itemized deductions, the alternative minimum tax (AMT), the earned income tax credit (EITC), and taxation of foreign business income. I believe that our international tax system needs to be simplified and reformed to encourage businesses to remain in the United States. And today, I am introducing legislation that I hope will be fully considered as we continue our discussions on tax reform.

Presently, the complexities of our international tax system actually encourage U.S. corporations to invest overseas. Current tax laws allow companies to defer paying U.S. taxes on income earned by their foreign subsidiaries, which provides a substantial tax break for companies that move investment and jobs overseas. Today, under U.S. tax law, a company that is trying to decide where to locate production or services—either in the United States or in a foreign low-tax haven—is actually given a substantial tax incentive not only to move jobs overseas, but to reinvest profits permanently, as opposed to bringing the profits back to re-invest in the United States.

Recent press articles have revealed examples of companies taking advantage of this perverse incentive in our tax code. For instance, some companies have taken advantage of this initiative by opening subsidiaries to serve markets throughout Europe. Much of the profit earned by these subsidiaries will stay in the European countries and the companies therefore avoid paying U.S. taxes. Other companies have announced the expansion of jobs in India. This reflects a continued pattern among some U.S. multinational companies of shifting software development and call centers to India, and this trend is starting to expand include the shifting critical functions like design and research and development to India as well. Some companies are even outsourcing the preparation of U.S. tax returns.

The Export Products Not Jobs Act would put an to end to these practices by eliminating tax breaks that encourage companies to move jobs overseas and by using the savings to create jobs in the United States by repealing the top corporate rate. This legislation ends tax breaks that encourage companies to move jobs by: 1. eliminating the ability of companies to defer, paying U.S. taxes on foreign income; 2. closing abusive corporate tax loopholes; and 3. repealing the top corporate rate. It removes the incentive to shift jobs overseas by eliminating deferral so that companies pay taxes on their international income as they earn it, rather than being allowed to defer taxes.

Last Congress, the Ways and Means Subcommittee on Revenue held a hearing on international tax laws. Stephen Shay, a former Reagan Treasury official, testified that our tax rules ''provide incentives to locate business activity outside the United States.'' Furthermore, he suggested that taxation of U.S. shareholders under an expansion of Subpart F would be a ''substantial improvement'' over our current system. The Export Products Not Jobs Act does just that.

Our current tax system punishes U.S. companies that choose to create and maintain jobs in the United States. These companies pay higher taxes and suffer a competitive disadvantage with a company that chooses to move jobs to a foreign tax haven. There is no reason why our tax code should provide an incentive that encourages investment and job creation overseas. Under my legislation, companies would be taxed the same whether they invest abroad or at home; they will be taxed on their foreign subsidiary profits just like they are taxed on their domestic profits.

This legislation reflects the most sweeping simplification of international taxes in over 40 years. Our economy has changed in the last 40 years and our tax laws need to be updated to keep pace. Our current global economy was not even envisioned when existing law was written.

My Export Products Not Jobs Act will in no way hinder our global competitiveness. Companies will be able to continue to defer income they earn when they locate production in a foreign country that serves that foreign country's markets. For example, if a U.S. company wants to open a hotel in Bermuda or a car factory in India to sell cars, foreign income can still be deferred. But if a company wants to open a call center in India to answer calls from outside India or relocate abroad to sell cars back to the United States or Canada, the company must pay taxes just like call centers and auto manufacturers located in the United States.

Currently, American companies allocate their revenue not in search of the highest return, but in search of lower taxes. Eliminating deferral will improve the efficiency of the economy by making taxes neutral so that they do not encourage companies to overinvest abroad solely for tax reasons.

The Congressional Research Service stated in a 2003 report that, ''[a]ccording to traditional economic theory, deferral thus reduces economic welfare by encouraging firms to undertake overseas investments that are less productive—before taxes are considered—than alternative investments in the United States.'' Additionally, a 2000 Department of Treasury study on deferral stated, ''[a]mong all of the options considered, ending deferral would also be likely to have the most positive long-term effect on economic efficiency and welfare because it would do the most to eliminate tax considerations from decisions regarding the location of investment.''

The ''Export Products Not Jobs Act'' would modify the rules for determining residency for publicly-traded companies by basing a corporation's residence on the location of its primary place of management and control. This will prevent companies from locating in tax havens, but basically maintaining their operations in the United States. This provision should not hinder foreign investment in the United States. Existing companies that are incorporated in foreign countries with a comprehensive tax treaty with the United States will not be affected by this provision.

Massachusetts is an example of a state that benefits from foreign investment. Two foreign companies have recently expanded investment in Massachusetts. Our tax system should not discourage foreign investment, but it should not encourage companies to locate in tax havens.

The revenue raised from the repeal of deferral and closing corporate loopholes would be used to repeal the top corporate tax rate of 35 percent. The tax differential between U.S. corporate rates and foreign corporate rates has grown over the last two decades and the repeal of the top corporate rate is a start in narrowing this gap.

The Export Products Not Jobs Act would promote equity among U.S. taxpayers by ensuring that corporations could not eliminate or substantially reduce taxation of foreign income by separately incorporating their foreign operations. This legislation will eliminate the tax incentives to encourage U.S. companies to invest abroad and reward those companies that have chosen to invest in the United States. I urge my colleagues to join me in this effort, and I ask unanimous consent that summary of the Export Products Not Jobs Act, as well as the text of the legislation, be printed in the RECORD.

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

EXPORT PRODUCTS NOT JOBS ACT

OVERVIEW

The Export Products Not Jobs Act makes sweeping changes to the current international tax laws by: (1) ending tax breaks that encourage companies to move jobs overseas by eliminating the ability of companies to defer paying U.S. taxes on foreign income; (2) simplifying current-law Subpart F rules; (3) closing abusive corporate tax loopholes; and (4) repealing the top corporate tax rate.

Current tax laws allow companies to defer paying U.S. taxes on income earned by their foreign subsidiaries, providing a substantial tax break for companies to move investment and jobs overseas. Except as provided under the Subpart F rules, American companies generally do not have to pay taxes on their active foreign income until they repatriate it to the United States.

The Export Products Not Jobs Act eliminates deferral so companies will be taxed on their foreign subsidiary profits in the same way they are taxed on their domestic profits. This new system will apply to profits in future years. In order to ensure that American companies can compete in international markets, income companies earn when they locate production in a foreign country that serves that foreign country's home markets can still be deferred.

The Subpart F rules which govern the taxation of foreign subsidiaries controlled by American companies have become increasingly complicated over time, adding to the overall complexity of the tax code and making it easier for companies to exploit loopholes to escape paying taxes. Under this bill, the complexity created by the current Subpart F rules will be eliminated and a simpler, more transparent system will be put into place.

In a tax system without deferral, U.S.-based multinational corporations might be tempted to locate their top-tiered entity overseas to avoid taxation on the income of a foreign subsidiary. This legislation would strengthen the corporate residency test by preventing companies from incorporating in a foreign jurisdiction to avoid U.S. taxation on a worldwide basis. The current law test that is based solely on where the company is incorporated is artificial, and allows foreign corporations that are economically similar to American companies to avoid being taxed like American companies. Determining residency based on the location of a company's primary place of management and control will provide a more meaningful standard.

In order to prevent abusive tax transactions, the legislation includes a provision that would codify the judicially-developed economic substance test, which disallows transactions where the profit potential is insubstantial compared to the tax benefits. This proposal is identical to the economic substance provisions that have been passed repeatedly by the Senate.

The revenue saved from ending deferral, strengthening the corporate residency test, and shutting down abusive tax shelters will be used to lower the maximum corporate tax rate from 35 percent to 34 percent. The tax differential between U.S. corporations and foreign corporate rates has grown over the last two decades. This proposal, in combination with the deduction for domestic manufacturing activity when fully phased-in in 2009, will result in a corporate tax rate of 31 percent for domestic manufacturing activity. The ''Export Products Not Jobs Act'' moves in the right direction towards narrowing this gap.

SUMMARY OF PROVISIONS

I. Reform and Simplification of Subpart F Income

Subpart F Income Defined

Present law

Generally within the U.S., 10–percent shareholders of a controlled foreign corporation (CFC) are taxed on the pro rata shares of certain income referred to as Subpart F income. A CFC generally is defined as any foreign corporation in which U.S. persons (directly, indirectly, or constructively) own more than 50 percent of the corporation's stock (measured by vote or value), taking into account only those U.S. persons that own at least 10 percent of the stock (measured by vote only). Typically, Subpart F income is passive income or income that is readily movable from one taxing jurisdiction to another. Subpart F income is defined in code section 952 as foreign base company income, insurance income, and certain income relating to international boycotts and other violations of public policy.

Export Products Not Jobs Act

This legislation strikes code section 952 and replaces it with a new definition of Subpart F income. Generally, Subpart F income is defined as all gross income of the controlled foreign corporation with exceptions

for certain types of income. Subpart F income of a CFC for any taxable year is limited to the earnings and profits of the CFC for that taxable year. Subpart F will continue to include income related to international boycotts.

Exceptions to Subpart F Income

Present law

Subpart F income is defined in the code rather narrowly and the definition lists the income that it includes. Subpart F income is currently taxed, and other income of a U.S. person's CFC that conducts foreign operations generally is subject to U.S. tax only when it is repatriated to the United States.

Temporary Active Financing Exception

Under current law, there are temporary exceptions from the Subpart F provisions for certain active financing income, which is income derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business. This temporary exception expires at the end of 2008. To be eligible for this exception, substantially all transactions must be conducted directly by the CFC or a qualified business unit of a CFC in its home country.

Export Products Not Jobs Act

Under the legislation, Subpart F income is generally all income of a CFC except for active home country income of the CFC. Active home country income constitutes qualified property income or qualified service income and is derived from the active and regular conduct of one or more trades or businesses within the home country. The home country is defined as the country in which the CFC is created or organized.

Qualified property income is defined as income derived in connection with: (1) the manufacture, production, growth, or extraction of any personal property within the home country of the CFC; or (2) the resale in the home country of the CFC of personal property manufactured, produced, grown, or extracted within the home country of such corporation for the resale of such property by the CFC in the home country. The property has to be sold for use or consumption within the home country in either case.

Qualified services income is defined as income derived in connection with the providing of services in transactions with customers who, at the time the services are provided, are located in the home country. Services are required: (1) to be used in the home country; or (2) to be used in the active conduct of trade or business by the recipient where substantially all of the activities in connection with the trade or business are conducted by the recipient in the home country.

Under the ''Export Products Not Jobs Act,'' the current-law temporary active financing exception is repealed. The legislation includes a de minimis exception providing that if the Subpart F income of a CFC is less than the lesser of five percent of gross income, or $1 million, the Subpart F income of the CFC is zero for that taxable year.

For purposes of calculating the Subpart F income of a CFC, properly allocated deductions are allowed.

A CFC can elect to be treated as a domestic corporation. The election will apply to the taxable year for which it is made and all subsequent taxable years unless revoked with the consent of the Secretary. If a CFC chooses to make an election to be treated as a domestic corporation, pre-2008 earnings and profits are not included in gross income.

Captive Insurance Income

Present Law

Under current law, special rules apply to captive insurance companies that have related person insurance income which is defined as any insurance income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is a U.S. shareholder in the foreign corporation or a related person to such a shareholder. These companies are formed to insure the risks of the owners. Under current law, a lower ownership threshold applies to determine whether a captive insurance company is treated as a CFC subject to the current-law income inclusion rules of Subpart F. Under this lower ownership threshold, a captive insurance company is treated as a CFC if 25 percent or more of the stock is owned by U.S. persons.

The special rules for captive insurance companies were added in 1986 because Congress was concerned that the ownership of these companies was often dispersed widely and that these companies were not covered by the otherwise applicable ownership threshold for a CFC.

Export Products Not Jobs Act

The bill retains, in simplified form, the present-law concept of related person insurance income, and also retains the lower ownership threshold for captive insurance companies that are treated as CFCs. Captive insurance income that meets the requirements of the active home exception, like other active home country services income, however, can be deferred.

Effective Date

The above described provisions apply to taxable years beginning after December 31, 2007.

II. Corporate Residency Definition

Present Law

The place of incorporation or organization determines whether a corporation is treated as foreign or domestic for purposes of U.S. tax law. A corporation is treated as domestic if it is incorporated or organized under the laws of the United States or of any State.

Export Products Not Jobs Act

The bill amends the rules for determining corporate residency for publicly-traded companies incorporated or organized in a foreign country, by basing such corporation's residence on the location of its primary place of management and control. A company incorporated or organized in the United States is still considered a domestic corporation in any event. Primary place of management and control is defined as the place where the executive officers and senior management of the corporation exercise day-to-day responsibility for the strategic, financial, and operational decision-making for the company (including direct and indirect subsidiaries).

Effective Date

The proposal would be effective for taxable years beginning on or after two years after the date of enactment. A corporation that is in existence on the date of enactment and is incorporated in a country in which the United States has a comprehensive tax treaty is not affected by this provision.

III. Shutdown of Abusive Tax Shelters

Clarification of Economic Substance Doctrine

Present Law

Under current law, there are specific rules regarding the computation of taxable income. In addition to these statutory provisions, courts have developed several doctrines that can be applied to deny the tax benefits of motivated transactions, even though the transaction meets the requirements of a specific tax provision. Generally, courts have denied tax benefits if the transaction lacks economic substance independent of tax considerations.

Export Products Not Jobs Act

Clarifies that a transaction has economic substance only if the taxpayer establishes that: (1) the transaction changes in a meaningful way (aside from Federal income tax consequences) the taxpayer's economic position; and (2) the taxpayer has a substantial non-tax purpose for entering into such a transaction and the transaction is a reasonable means of accomplishing such purpose. This proposal applies to transactions entered into after the date of enactment.

Penalty for Understatements Attributable to Transactions Lacking Economic Substance

Present Law

Under current law, there are various penalties for understatements. There is a 20 percent accuracy-related penalty imposed on any understatement attributable to any adequately disclosed listed transaction or certain reportable transactions (''reportable transaction understatement''). The penalty is increased to 30 percent if such a transaction is not adequately disclosed in accordance with regulations.

Export Products Not Jobs Act

The bill imposes a 40 percent penalty on any understatement attributable to any transaction that lacks economic substance (''noneconomic substance underpayment''). The rate is reduced to 20 percent if the taxpayer discloses the transaction in accordance with regulations. This proposal applies to transactions entered into after the date of enactment.

Denial of Deduction for Interest on Underpayments Attributable to Noneconomic Substance Transactions

Present Law

Under current law, no deduction for interest is allowed for interest paid or accrued on any underpayment of tax which is attributable to the portion of any reportable transaction understatement for which the facts were not adequately disclosed.

Export Products Not Jobs Act of 2006

The bill extends the disallowance of interest deductions to interest paid or accrued on any underpayment of tax attributable to any noneconomic substance underpayment. The proposal applies to transactions after the date of enactment in taxable years ending after such date.

IV. Repeal of Top Corporate Marginal Income Tax Rate

Present Law

The maximum corporate rate is 35 percent and this rate applies to taxable income in excess of $10 million. The maximum rate on corporate taxable gains is 35 percent. A corporation with taxable income in excess of $15 million is required to increase its tax liability by the lesser of three percent of the excess, or $100,000.

Export Products Not Jobs Act

The bill repeals the top corporate rate of 35 percent. The highest marginal tax rate will be 34 percent and the maximum rate of tax on corporate net capital gains will also be 34 percent. The 34 percent rate applies to income in excess of $75,000. The proposal applies to taxable years beginning after December 31, 2007.

S. 96

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.

(a) SHORT TITLE.—This Act may be cited as the ''Export Products Not Jobs Act''.

(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.

TITLE I—FOREIGN TAX REFORM AND SIMPLIFICATION

SEC. 101. REFORM AND SIMPLIFICATION OF SUBPART F.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 (relating to controlled foreign corporations) is amended by striking sections 952, 953, and 954 and inserting the following:

"SEC. 952. SUBPART F INCOME DEFINED.

''(a) IN GENERAL.—For purposes of this subpart, except as provided in this section, the term 'subpart F income' means the gross income of the controlled foreign corporation.

''(b) EXCEPTIONS FOR CERTAIN TYPES OF INCOME.—Subpart F income shall not include—

''(1) the active home country income (as defined in section 953) of the controlled foreign corporation for the taxable year, or

''(2) any item of income for the taxable year from sources within the United States which is effectively connected with the conduct by the controlled foreign corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States. For purposes of paragraph (2), income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States and any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.

''(c) LIMITATION BASED ON EARNINGS AND PROFITS.—

''(1) IN GENERAL.—For purposes of subsection (a), the subpart F income of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such taxable year.

''(2) RECHARACTERIZATION IN SUBSEQUENT TAXABLE YEARS.—If the subpart F income of any controlled foreign corporation for any taxable year was reduced by reason of paragraph (1), any excess of the earnings and profits of such corporation for any subsequent taxable year over the subpart F income of such foreign corporation for such taxable year shall be recharacterized as subpart F income under rules similar to the rules applicable under section 904(f)(5).

''(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

''(d) DE MINIMIS EXCEPTION.—If the subpart F income of a controlled foreign corporation for any taxable year (determined without regard to this subsection and section 954(a)) is less than the lesser of—

''(1) 5 percent of gross income, or

''(2) $1,000,000,

the subpart F income of such corporation for such taxable year shall be treated as being equal to zero.

''(e) SPECIAL RULES RELATING TO BOYCOTTS, BRIBES, AND CERTAIN FOREIGN COUNTRIES.—

''(1) IN GENERAL.—Subpart F income of a controlled foreign corporation for any taxable year (determined without regard to this subsection) shall be increased by the sum of—

''(A) the product of—

''(i) the gross income of the corporation reduced by its subpart F income (as so determined), and

''(ii) the international boycott factor (as determined under section 999),

''(B) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government, and

''(C) the gross income of such corporation which is derived from any foreign country during any period during which section 901(j) applies to such foreign country and which is not otherwise treated as subpart F income (as so determined).

''(2) SPECIAL RULE FOR ILLEGAL PAYMENTS.—The payments referred to in paragraph (1)(B) are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person.

''(3) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of paragraph (1)(C), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 901(j) applies if such income was, without regard to such entities, derived from such country.

"SEC. 953. ACTIVE HOME COUNTRY INCOME.

''(a) IN GENERAL.—For purposes of section 952(b), the term 'active home country income' means, with respect to any controlled foreign corporation, income derived from the active and regular conduct of 1 or more trades or businesses within the home country of such corporation which constitutes—

''(1) qualified property income, or

''(2) qualified services income.

''(b) QUALIFIED PROPERTY INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified property income' means income derived in connection with—

''(A) the manufacture, production, growth, or extraction (in whole or in substantial part)of any personal property within the home country of the controlled foreign corporation, or

''(B) the resale by the controlled foreign corporation within its home country of personal property manufactured, produced, grown, or extracted (in whole or in substantial part) within that home country.

''(2) PROPERTY MUST BE USED OR CONSUMED IN HOME COUNTRY.—Paragraph (1) shall only apply to income if the personal property is sold for use or consumption within the home country.

''(c) QUALIFIED SERVICES INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified services income' means income (other than qualified property income) derived in connection with the providing of services in transactions with customers which, at the time the services are provided, are located in the home country of such corporation.

''(2) SERVICES MUST BE USED IN HOME COUNTRY.—Paragraph (1) shall only apply to income if the services—

''(A) are used or consumed in the home country of the controlled foreign corporation, or

''(B) are used in the active conduct of a trade or business by the recipient and substantially all of the activities in connection with the trade or business are conducted by the recipient in such home country.

''(3) SPECIAL RULE FOR INSURANCE INCOME.—If income of a controlled foreign corporation—

''(A) is attributable to the issuing (or reinsuring) of an insurance or annuity contract, and

''(B) would (subject to the modifications under section 954(c)(2)(B)) be taxed under subchapter L of this chapter if such income were the income of a domestic corporation,

such income shall be treated as qualified services income only if the contract covers only risks in connection with property in, liability arising out of activity in, or lives or health of residents of, the home country of such corporation.

''(4) ANTI-ABUSE RULE.—For purposes of this subsection, there shall be disregarded any item of income of a controlled foreign corporation derived in connection with any trade or business if, in the conduct of the trade or business, the corporation is not engaged in regular and continuous transactions with customers which are not related persons.

''(d) HOME COUNTRY.—For purposes of this section, the term 'home country' means, with respect to a controlled foreign corporation, the country in which such corporation is created or organized.

"SEC. 954. OTHER RULES AND DEFINITIONS RELATING TO SUBPART F INCOME.

''(a) DEDUCTIONS TO BE TAKEN INTO ACCOUNT.—For purposes of determining the subpart F income of a controlled foreign corporation for any taxable year, gross income, and any category of income described in subsection (b) or (c) of section 953, shall be reduced by deductions (including taxes) properly allocable to such income or category. The Secretary shall prescribe regulations for the application of this subsection.

''(b) ELECTION BY CONTROLLED FOREIGN CORPORATION TO BE TREATED AS DOMESTIC CORPORATION.—

''(1) IN GENERAL.—If—

''(A) a foreign corporation is a controlled foreign corporation which makes an election to have this subsection apply and waives all benefits to such corporation granted by the United States under any treaty, and

''(B) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid,

such corporation shall be treated as a domestic corporation for purposes of this title.

''(2) PERIOD DURING WHICH ELECTION IS IN EFFECT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(B) TERMINATION.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraph (B) of paragraph (1) for any subsequent taxable year, such election shall not apply to such subsequent taxable year and all succeeding taxable years.

''(3) TREATMENT OF LOSSES.—If any corporation treated as a domestic corporation under this subsection is treated as a member of an affiliated group for purposes of chapter 6 (relating to consolidated returns), any loss of such corporation shall be treated as a dual consolidated loss for purposes of section 1503(d) without regard to paragraph (2)(B) thereof.

''(4) EFFECT OF ELECTION.—

''(A) IN GENERAL.—For purposes of section 367, any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

''(B) EXCEPTION FOR PRE-2008 EARNINGS AND PROFIT.—

''(i) IN GENERAL.—Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 2008, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A).

''(ii) TREATMENT OF DISTRIBUTIONS.—For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 2008, shall be treated as a distribution made by a foreign corporation.

''(iii) CERTAIN RULES TO CONTINUE TO APPLY TO PRE-2008 EARNINGS.—The provisions specified in clause (iv) shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 2008, shall be taken into account.

''(iv) SPECIFIED PROVISIONS.—The provisions specified in this clause are:

''(I) Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

''(II) Subpart F of part III of subchapter N to the extent such subpart relates to earnings invested in United States property or amounts referred to in clause (ii) or (iii) of section 951(a)(1)(A).

''(5) EFFECT OF TERMINATION.—For purposes of section 367, if—

''(A) an election is made by a corporation under paragraph (1) for any taxable year, and

''(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

''(c) SPECIAL RULE FOR CERTAIN CAPTIVE INSURANCE COMPANIES.—

''(1) IN GENERAL.—Solely for purposes of applying this subpart to related person insurance income—

''(A) the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)) any stock of the foreign corporation,

''(B) the term 'controlled foreign corporation' has the meaning given to such term by section 957(a) determined by substituting '25 percent or more' for 'more than 50 percent', and

''(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection.

''(2) RELATED PERSON INSURANCE INCOME.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'related person insurance income' means any income which—

''(i) is attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is a United States shareholder in the foreign corporation or a related person to such a shareholder, and

''(ii) would (subject to the modifications provided by subparagraph (B)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance company.

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) The following provisions of subchapter L shall not apply:

''(I) The small life insurance company deduction.

''(II) Section 805(a)(5) (relating to operations loss deduction).

''(III) Section 832(c)(5) (relating to certain capital losses).

''(ii) The items referred to in—

''(I) section 803(a)(1) (relating to gross amount of premiums and other considerations),

''(II) section 803(a)(2) (relating to net decrease in reserves),

''(III) section 805(a)(2) (relating to net increase in reserves), and

''(IV) section 832(b)(4) (relating to premiums earned on insurance contracts),

shall be taken into account only to the extent they are in respect of any reinsurance or the issuing of any insurance or annuity contract described in subparagraph (A).

''(iii) Reserves for any insurance or annuity contract shall be determined in the same manner as if the controlled foreign corporation were subject to tax under subchapter L, except that in applying such subchapter—

''(I) the interest rate determined for the functional currency of the corporation and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate,

''(II) the highest assumed interest rate permitted to be used in determining foreign statement reserves shall be substituted for the prevailing State assumed interest rate, and

''(III) tables for mortality and morbidity which reasonably reflect the current mortality and morbidity risks in the corporation's home country shall be substituted for the mortality and morbidity tables otherwise used for such subchapter.

''(iv) All items of income, expenses, losses, and deductions shall be properly allocated or apportioned under regulations prescribed by the Secretary.

''(3) EXCEPTION FOR CORPORATIONS NOT HELD BY INSUREDS.—Paragraph (1) shall not apply to any foreign corporation if at all times during the taxable year of such foreign corporation—

''(A) less than 20 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

''(B) less than 20 percent of the total value of such corporation,

is owned (directly or indirectly under the principles of section 883(c)(4)) by persons who are (directly or indirectly) insured under any policy of insurance or reinsurance issued by such corporation or who are related persons to any such person.

''(4) TREATMENT OF MUTUAL INSURANCE COMPANIES.—In the case of a mutual insurance company—

''(A) this subsection shall apply,

''(B) policyholders of such company shall be treated as shareholders, and

''(C) appropriate adjustments in the application of this subpart shall be made under regulations prescribed by the Secretary.

''(5) DETERMINATION OF PRO RATA SHARE.—

''(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

''(i) the amount which would be determined under paragraph (2) of section 951(a) if—

''(I) only related person insurance income were taken into account,

''(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

''(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

''(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

''(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A).

''(6) RELATED PERSON.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by subsection (d)(3).

''(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

''(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

''(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation.

''(d) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) TREATMENT OF BRANCHES.—If—

''(A) a controlled foreign corporation carries on activities through a branch or similar establishment with a home country other than the home country of such corporation, and

''(B) the carrying on of such activities in such manner has substantially the same effect as if such branch or similar establishment were a wholly owned subsidiary of such corporation,

this subpart shall, under regulations prescribed by the Secretary, be applied as if such branch or other establishment were a wholly owned subsidiary of such corporation.

''(2) HOME COUNTRY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'home country' has the meaning given such term by section 953(d).

''(B) BRANCH.—In the case of a branch or similar establishment, the term 'home country' means the foreign country in which—

''(i) the principal place of business of the branch or similar establishment is located, and

''(ii) separate books and accounts are maintained.

''(3) RELATED PERSON DEFINED.—For purposes of this section, a person is a related person with respect to a controlled foreign corporation, if—

''(A) such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the controlled foreign corporation, or

''(B) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation.

For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the

total voting power of all classes of stock entitled to vote or of the total value of stock of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of more than 50 percent (by value) of the beneficial interests in such partnership, trust, or estate. For purposes of this paragraph, rules similar to the rules of section 958 shall apply.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the items relating to sections 953 and 954 and inserting:

''Sec. 953. Active home country income.
''Sec. 954. Other rules and definitions relating to subpart F income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2007, and taxable years of United States shareholders with or within which such taxable years of such corporations end.

SEC. 102. TREATMENT OF FOREIGN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Section 7701(a)(4) of the Internal Revenue Code of 1986 (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—The term 'domestic' means, when applied to a corporation or partnership, a corporation or partnership which is created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) INCOME TAX EXCEPTION FOR PUBLICLY-TRADED CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES.—Notwithstanding subparagraph (A), in the case of a corporation the stock of which is regularly traded on an established securities market, if—

''(i) the corporation would not otherwise be treated as a domestic corporation for purposes of this title, but

''(ii) the management and control of the corporation occurs primarily within the United States,

then, solely for purposes of chapter 1 (and any other provision of this title relating to chapter 1), the corporation shall be treated as a domestic corporation.

''(C) MANAGEMENT AND CONTROL.—For purposes of this paragraph, the management and control of a corporation shall be treated as primarily occurring within the United States if substantially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are primarily located within the United States. The Secretary may by regulations include other individuals not described in the preceding sentence in the determination of whether the management and control of the corporation occurs primarily within the United States if such other individuals exercise the day-to day responsibilities described in the preceding sentence.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after the date which is 2 years after the date of the enactment of this Act.

(2) TRANSITION RULE FOR CORPORATIONS ORGANIZED IN TREATY COUNTRIES.—If—

(A) a corporation is in existence on the date of the enactment of this Act, and

(B) the corporation was created or organized under the laws of a foreign country with which the United States has, on such date, a comprehensive income tax treaty which the Secretary of the Treasury determines is satisfactory for purposes of this paragraph and which includes an exchange of information program,

section 7701(a)(4)(B) of the Internal Revenue Code of 1986 (as added by the amendments made by this section) shall not apply to the corporation with respect to taxable years ending in any continuous period beginning on such date during which the corporation is eligible for the benefits of such treaty (or any successor treaty with such foreign country meeting the requirements of this paragraph).

TITLE II—ECONOMIC SUBSTANCE DOCTRINE

SEC. 201. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 202. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant

facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 203. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).'', and

(2) by inserting ''**AND NONECONOMIC SUBSTANCE TRANSACTIONS**'' in the heading thereof after ''**TRANSACTIONS**''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

TITLE III—ELIMINATION OF HIGHEST CORPORATE MARGINAL INCOME TAX RATE

SEC. 301. ELIMINATION OF HIGHEST CORPORATE MARGINAL INCOME TAX RATE.

(a) IN GENERAL.—Section 11(b)(1) (relating to amount of tax imposed on corporations) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) 34 percent of so much of the taxable income as exceeds $75,000.''.

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Section 11(b)(2) is amended by striking ''35 percent'' and inserting ''34 percent''.

(c) CONFORMING AMENDMENTS.—

(1) Section 11(b)(1) is amended by striking the last sentence.

(2) Section 1201(a) is amended—

(A) by striking ''35 percent'' each place it appears and inserting ''34 percent'', and

(B) by striking ''last 2 sentences'' and inserting ''last sentence''.

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking ''35 percent'' and inserting ''34 percent''.

(4) Section 1561(a) is amended by striking ''last 2 sentences'' and inserting ''last sentence''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

By Mr. KERRY:

S. 97. A bill to amend the Internal Revenue Code of 1986 to replace the Hope and Lifetime Learning credits with a partially refundable college opportunity credit; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the College Opportunity Tax Credit Act of 2007. This legislation creates a new tax credit that will put the cost of higher education in reach for American families.

An October 2006 College Board report found that this year tuition and other costs at public and private universities rose faster than inflation. And, according to the report, tuition and fees at public universities rose more in the past five years than at any other time in the past 30 years, increasing by 35 percent to $5,836 this academic year. Over the same time period, tuition and fees at private universities increased 22 percent to $22,218.

Unfortunately, neither student aid funds nor family incomes are keeping pace with increasing tuition and fees. In my travels around the country, I frequently hear from parents concerned they will not be able to pay for their children's college. These parents know that earning a college education will result in greater earnings for their children and they desperately want to ensure their kids have the greatest opportunities possible.

In 1997, we implemented two new tax credits to make college affordable—the HOPE Credit and the Lifetime Learning Credit. These tax credits were important and have put college in reach for families, but I believe we can do more. In December, the Senate Finance Committee held a hearing on tax incentives for higher education in which we learned that the existing tax credits are not reaching enough students, particularly lower-income students who are most severely impacted by rising tuitions.

The HOPE and Lifetime Learning credits are not refundable, and therefore a family of four must have an income over $30,000 in order to receive the maximum credit. Almost half of families with college students fail to receive the full credit because their income is too low. In order to receive the full benefit of the Lifetime Learning credit, a student has to spend $10,000 a year on tuition and fees. This is nearly double the average annual public four-year college tuition and four times the average annual tuition of a community college. Over 80 percent of college students attend schools with tuition and fees under $10,000.

In 2004, I proposed a refundable tax credit to help pay for the cost of four years of college. Currently the HOPE Credit applies only to the first two years of college. The College Opportunity Tax Credit Act of 2007 (COTC) helps students and parents afford all four years of college. It also builds on the proposal I made in 2004 by incorporating some of the suggestions made by experts, including those at this

week's Finance Committee hearing. My legislation creates a new credit that replaces the existing HOPE credit and Lifetime Learning credit and ultimately makes these benefits more generous.

The COTC has two components. The first provides a refundable tax credit for a student enrolled in a degree program at least on a half-time basis. It would provide a 100 percent tax credit for the first $1,000 of eligible expenses and a 50 percent tax credit to the next $3,000 of expenses. The maximum credit would be $2,500 each year per student. The second provides a nonrefundable tax credit for part-time students, graduate students, and other students that do not qualify for the refundable tax credit. It provides a 40 percent credit for the first $1,000 of eligible expenses and a 20 percent credit for the next $3,000 of expenses.

Both of these credits can be used for expenses associated with tuition and fees. The same income limits that apply to the HOPE credit and the Lifetime Learning credit apply to the COTC; the COTC will be phased out ratably for taxpayers with income between $45,000 and $55,000 ($90,000 and $110,000 for married taxpayers). These amounts are indexed for inflation, as are the eligible amounts of expenses.

The College Opportunity Tax Credit Act of 2007 simplifies the existing credits that make higher education more affordable and will enable more students to be eligible for tax relief. I understand that many of my colleagues are interested in making college more affordable. I look forward to working with my colleagues to make a refundable tax credit for college education a reality this Congress. 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. 97

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 ''College Opportunity Tax Credit Act of 2007''.

SEC. 2. COLLEGE OPPORTUNITY TAXT CREDIT.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—Section 25A(a) of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended—

(A) in paragraph (1), by striking ''the Hope Scholarship Credit'' and inserting ''the eligible student credit amount determined under subsection (b)'', and

(B) in paragraph (2), by striking ''the Lifetime Learning Credit'' and inserting ''the part-time, graduate, and other student credit amount determined under subsection (c)''.

(2) NAME OF CREDIT.—The heading for section 25A of such Code is amended to read as follows:

''SEC. 25A. COLLEGE OPPORTUNITY CREDIT.''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart A of parti IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 25A and inserting the following:

''Sec. 25A. College opportunity credit.''.

(b) ELIGIBLE STUDENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25A(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''the Hope Scholarship Credit'' and inserting ''the eligible student credit amount determined under this subsection'', and

(B) by striking ''PER STUDENT CREDIT'' in the heading and inserting ''IN GENERAL''.

(2) AMOUNT OF CREDIT.—Paragraph (4) of section 25A(b) of such Code (relating to applicable limit) is amended by striking ''2'' and inserting ''3''.

(3) CREDIT REFUNDABLE.—

(A) IN GENERAL.—Section 25A of such Code is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) PORTION OF CREDIT REFUNDABLE.—

''(1) IN GENERAL.—The aggregate credits allowed under subpart C shall be increased by the amount of the credit which would be allowed under this section—

''(A) by reason of subsection (b), and

''(B) without regard to this subsection and the limitation under section 26(a) or subsection (j), as the case may be.

''(2) TREATMENT OF CREDIT.—The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a) or subsection (j), as the case may be.''.

(B) TECHNICAL AMENDMENT.—Section 1324(b) of title 31, United States Code, is amended by inserting '', or enacted by the College Opportunity Tax Credit Act of 2007'' before the period at the end.

(4) LIMITATIONS.—

(A) CREDIT ALLOWED FOR 4 YEARS.—Subparagraph (A) of section 25A(b)(2) of such Code is amended—

(i) by striking ''2'' in the text and in the heading and inserting ''4'', and

(ii) by striking ''the Hope Scholarship Credit'' and inserting ''the credit allowable''.

(B) ELIMINATION OF LIMITATION ON FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—Section 25A(b)(2) of such Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(5) CONFORMING AMENDMENTS.—

(A) The heading of subsection (b) of section 25A of such Code is amended to read as follows:

''(b) ELIGIBLE STUDENTS.—''.

(B) Section 25A(b)(2) of such Code is amended—

(i) in subparagraph (B), by striking ''the Hope Scholarship Credit'' and inserting ''the credit allowable'', and

(ii) in subparagraph (C), as redesignated by paragraph (4)(B), by striking ''the Hope Scholarship Credit'' and inserting ''the credit allowable''.

(c) PART-TIME, GRADUATE, AND OTHER STUDENTS.—

(1) IN GENERAL.—Subsection (c) of section 25A of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) PART-TIME, GRADUATE, AND OTHER STUDENTS.—

''(1) IN GENERAL.—In the case of any student for whom an election is in effect under this section for any taxable year, the part-time, graduate, and other student credit amount determined under this subsection for any taxable year is an amount equal to the sum of—

''(A) 40 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the student during any academic period beginning in such taxable year) as does not exceed $1,000, plus

''(B) 20 percent of such expenses so paid as exceeds $1,000 but does not exceed the applicable limit.

''(2) APPLICABLE LIMIT.—For purposes of paragraph (1)(B), the applicable limit for any taxable year is an amount equal to 3 times the dollar amount in effect under paragraph (1)(A) for such taxable year.

''(3) SPECIAL RULES FOR DETERMINING EXPENSES.—

''(A) COORDINATION WITH CREDIT FOR ELIGIBLE STUDENTS.—The qualified tuition and related expenses with respect to a student who is an eligible student for whom a credit is allowed under subsection (a)(1) for the taxable year shall not be taken into account under this subsection.

''(B) EXPENSES FOR JOB SKILLS COURSES ALLOWED.—For purposes of paragraph (1), qualified tuition and related expenses shall include expenses described in subsection (f)(1) with respect to any course of instruction at an eligible educational institution to acquire or improve job skills of the student.''.

(2) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Subsection (h) of section 25A of such Code (relating to inflation adjustments) is amended by adding at the end the following new paragraph:

''(3) DOLLAR LIMITATION ON AMOUNT OF CREDIT UNDER SUBSECTION (a)(2).—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2007, each of the $1,000 amounts under subsection (c)(1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 25A(h) of such code is amended by inserting ''UNDER SUBSECTION (a)(1)'' after ''CREDIT''.

(d) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25A of the Internal Revenue Code of 1986, as amended by subsection (b)(3), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (h) the following new subsection:

''(j) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowed under this subpart (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENT.—Section 25(a)(1) of such Code is amended by inserting ''25A,'' after ''24,''.

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

By Mr. KERRY (for himself and Ms. LANDRIEU):

S. 98. A bill to foster the development of minority-owned small businesses; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I ask unanimous consent that this statement be printed in the record. Mr. President, I rise today to introduce the Minority

Entrepreneurship Development Act of 2007. At the beginning of a new Congress it is important to set priorities for the nation because every new Congress brings with it the hope for a brighter future. One of the ways that this new Senate will lead is by creating opportunities for more Americans to pursue the American dream. As incoming Chair of the Small Business and Entrepreneurship Committee, I hope to help in that effort by fostering the development of entrepreneurship in minority communities. It's vital that current and future entrepreneurs from minority communities are given the opportunity to build their own piece of the American dream. I believe that this legislation the Minority Entrepreneurship Development Act of 2007 will help in that effort.

I want to take a moment and tell you why it's so important to expand the numbers of entrepreneurs in the minority community. As a member of the Senate Committee on Small Business and Entrepreneurship, I have received firsthand testimony and countless reports documenting the positive economic impact that occurs when we foster entrepreneurship in under-served communities. There are signs of significant economic returns when minority businesses are created and are able to grow in size and capacity. Between 1987 and 1997, revenue from minority owned firms rose by 22.5 percent, an increase equivalent to an annual growth rate of 10 percent. Employment opportunities within minority owned firms increased by 23 percent during that same period. There is a clear correlation between the growth of minority owned firms and the economic viability of the minority community.

Although these economic numbers tell a significant part of the story they don't tell the whole story of what these firms mean to the minority communities they serve and represent. Many of these business leaders are first generation immigrants; many are first generation business owners and many represent, for those in their communities, what hard work, determination and patience can do.

We must encourage those kinds of values in our minority communities and, quite frankly, in our nation as a whole. For generations, millions have come to our shores in search of a better life. Millions of others were brought here by force and for years were not given a voice in how their lives would turn out. But, how ever we got here, we all have become branches of this great tree we call America. This tree is still nourished by roots planted by our forefathers more than 200 years ago. Those men and women planted the roots of hard work, innovation, faith and risk taking.

When you think about it, those words are the perfect description of an entrepreneur. It is the spirit of entrepreneurship that has made our nation great. And that is why it is absolutely imperative that we continue to support and develop that spirit in our minority communities. To that end, this legislation provides several tools to help minority entrepreneurs as they develop and grow their businesses.

First, this legislation will create an Office of Minority Small Business Development at the Small Business Administration. One of its primary functions will be to increase the number of small business loans that minority businesses receive. Latinos, African-Americans, Asian-Americans and women have been receiving far fewer small business loans than they reasonably should.

To ensure that this trend is reversed and minorities begin to get a greater share of loan dollars, venture capital investments, counseling, and contracting opportunities, this bill will give the new office the authority to monitor the outcomes for SBA's Capital Access, Entrepreneurial Development, and Government Contracting programs. It also requires the head of the Office to work with SBA's partners, trade associations and business groups to identify more effective ways to market to minority business owners, and to work with the head of SBA's Field Operations to ensure that district offices have staff and resources to market to minorities.

Second, this legislation will create the Minority Entrepreneurship and Innovation Pilot Program. This program will offer a competitive grant to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions to create an entrepreneurship curriculum at these institutions and to open Small Business Development Centers on those campus' to serve local businesses.

The goal of this program is to target students in highly skilled fields such as engineering, manufacturing, science and technology, and guide them towards entrepreneurship as a career option. Traditionally, minority-owned businesses are disproportionately represented in the service sectors. Promoting entrepreneurial education to undergraduate students will help expand business ownership beyond the service sectors to higher yielding technical and financial sectors.

Third, this legislation will create the Minority Access to Information Distance Learning Pilot Program. This program will offer competitive grants to well established national minority non-profit and business organizations to create distance learning programs for small business owners who are interested in doing business with the federal government.

The goal of this program is to provide low cost training to the many small business owners who cannot afford to pay a consultant thousands of dollars for advice or training on how to prepare themselves to contract with the Federal Government. There are thousands of small businesses in this country that are excellent and efficient. They are primed to provide the goods and services that this nation needs to stay competitive. This program will help prepare them to do just that.

Finally, this legislation will extend the Socially and Economically Disadvantaged Business Program which expired in 2003. This program provides a price evaluation adjustment for socially and economically disadvantaged businesses as a way of increasing their competitiveness when bidding against larger firms. This is one more tool to increase opportunities for our minority small business owners.

I have outlined several ways that we can create a more positive environment for our minority small business community. These are reasonable steps that we ought to take without delay. Moreover, these are important steps that will help bolster a movement that is already underway. According to U.S. Census data, Hispanics are opening businesses 3 times faster than the national average. Also, business development and entrepreneurship have played a significant role in the expansion of the black middle class in this country for over a century. These business owners are embodying the entrepreneurial spirit that our forefathers carried with them as they established this nation.

With this legislation and in my role as incoming Chair of the Committee on Small Business and Entrepreneurship, I hope to play a part in helping to extend that spirit to the next generation of entrepreneurs. Not only is this vital for our minority communities, but it is vital for America. I urge my colleagues to join with me in support of the Minority Entrepreneurship Development Act of 2007.

I ask unanimous consent that the text of the legislation 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. 098

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 ''Minority Entrepreneurship Development Act of 2007''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in 2005, the African American unemployment rate was 9.5 percent and the Hispanic American unemployment rate was 6 percent, well above the national average of 4.7 percent;

(2) Hispanics Americans represent 12.5 percent of the United States population and approximately 6 percent of all United States businesses;

(3) African Americans account for 12.3 percent of the population and only 4 percent of all United States businesses;

(4) Native Americans account for approximately 1 percent of the population and .9 percent of all United States businesses;

(5) entrepreneurship has proven to be an effective tool for economic growth and viability of all communities;

(6) minority-owned businesses are a key ingredient for economic development in the community, an effective tool for creating

lasting and higher-paying jobs, and a source of wealth in the minority community; and

(7) between 1987 and 1997, revenue from minority-owned firms rose by 22.5 percent, an increase equivalent to an annual growth rate of 10 percent, and employment opportunities within minority-owned firms increased by 23 percent.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''eligible association or organization'' means an association or organization that—

(A) is—

(i) a national minority business association organized in accordance with section 501(c)(6) of the Internal Revenue Code of 1986; or

(ii) a foundation of national minority business associations organized in accordance with section 501(c)(3) of the Internal Revenue Code of 1986;

(B) has a well established national network of local chapters, or a proven national membership; and

(C) has been in existence for at least the 10-year period before the date of awarding a grant under section 6;

(3) the term ''eligible educational institution'' means an institution that is—

(A) a public or private institution of higher education (including any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, or community college or junior college) or any entity formed by 2 or more institutions of higher education; and

(B) a—

(i) historically Black college;

(ii) Hispanic-serving institution; or

(iii) tribal college;

(4) the term ''historically Black college'' means a part B institution, as that term is defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061);

(5) the term ''Hispanic-serving institution'' has the meaning given that term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a);

(6) the term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1101)

(7) the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 532);

(8) the term ''small business development center'' has the meaning given that term in section 21 of the Small Business Act (15 U.S.C. 648); and

(9) the term ''tribal college'' has the same meaning as the term ''tribally controlled college or university'' under section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 4. MINORITY SMALL BUSINESS DEVELOPMENT.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 37 as section 38; and

(2) by inserting after section 36 the following:

''SEC. 37. MINORITY SMALL BUSINESS DEVELOPMENT.

''(a) OFFICE OF MINORITY SMALL BUSINESS DEVELOPMENT.—There is established in the Administration an Office of Minority Small Business Development, which shall be administered by the Associate Administrator for Minority Small Business Development appointed under section 4(b)(1) (in this section referred to as the 'Associate Administrator').

''(b) ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS DEVELOPMENT.—The Associate Administrator shall—

''(1) be—

''(A) an appointee in the Senior Executive Service who is a career appointee; or

''(B) an employee in the competitive service;

''(2) be responsible for the formulation, execution, and promotion of policies and programs of the Administration that provide assistance to small business concerns owned and controlled by minorities;

''(3) act as an ombudsman for full consideration of minorities in all programs of the Administration (including those under section 7(j) and 8(a));

''(4) work with the Associate Deputy Administrator for Capital Access of the Administration to increase the proportion of loans and loan dollars, and investments and investment dollars, going to minorities through the finance programs under this Act and the Small Business Investment Act of 1958 (including subsections (a), (b), and (m) of section 7 of this Act and the programs under title V and parts A and B of title III of the Small Business Investment Act of 1958);

''(5) work with the Associate Deputy Administrator for Entrepreneurial Development of the Administration to increase the proportion of counseling and training that goes to minorities through the entrepreneurial development programs of the Administration;

''(6) work with the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development of the Administration to increase the proportion of contracts, including through the Small Business Innovation Research Program and the Small Business Technology Transfer Program, to minorities;

''(7) work with the partners of the Administration, trade associations, and business groups to identify and carry out policies and procedures to more effectively market the resources of the Administration to minorities;

''(8) work with the Office of Field Operations of the Administration to ensure that district offices and regional offices have adequate staff, funding, and other resources to market the programs of the Administration to meet the objectives described in paragraphs (4) through (7); and

''(9) report to and be responsible directly to the Administrator.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $5,000,000 for fiscal year 2007;

''(2) $5,000,000 for fiscal year 2008; and

''(3) $5,000,000 for fiscal year 2009.''.

(b) CONFORMING AMENDMENTS.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended in the sixth sentence, by striking ''Minority Small Business and Capital Ownership Development'' and all that follows through the end of the sentence and inserting ''Minority Small Business Development.''.

SEC. 5. MINORITY ENTREPRENEURSHIP AND INNOVATION PILOT PROGRAM OF 2007.

(a) IN GENERAL.—The Administrator may make grants to eligible educational institutions—

(1) to assist in establishing an entrepreneurship curriculum for undergraduate or graduate studies; and

(2) for placement of a small business development center on the physical campus of the institution.

(b) USE OF FUNDS.—

(1) CURRICULUM REQUIREMENT.—

(A) IN GENERAL.—An eligible educational institution receiving a grant under this section shall develop a curriculum that includes training in various skill sets needed by successful entrepreneurs, including—

(i) business management and marketing, financial management and accounting, market analysis and competitive analysis, and innovation and strategic planning; and

(ii) additional entrepreneurial skill sets specific to the needs of the student population and the surrounding community, as determined by the institution.

(B) FOCUS.—The focus of the curriculum developed under this paragraph shall be to help students in non-business majors develop the tools necessary to use their area of expertise as entrepreneurs.

(2) SMALL BUSINESS DEVELOPMENT CENTER REQUIREMENT.—Each eligible educational institution receiving a grant under this section shall open a small business development center that—

(A) performs studies, research, and counseling concerning the managing, financing, and operation of small business concerns;

(B) performs management training and provides technical assistance regarding small business concern participation in international markets, export promotion and technology transfer, and the delivery or distribution of such services and information;

(C) offers referral services for entrepreneurs and small business concerns to business development, financing, and legal experts; and

(D) promotes market-specific innovation, niche marketing, capacity building, international trade, and strategic planning as keys to long term growth for its small business concern and entrepreneur clients.

(c) GRANT AWARDS.—

(1) IN GENERAL.—The Administrator may not award a grant under this section to a single eligible educational institution—

(A) in excess of $1,000,000 in any fiscal year; or

(B) for a term of more than 2 years.

(2) LIMITATION ON USE OF FUNDS.—Funds made available under this section may not be used for—

(A) any purpose other than those associated with the direct costs incurred by the eligible educational institution to—

(i) develop and implement the curriculum described in subsection (b)(1); or

(ii) organize and operate a small business development center, as described in subsection (b)(2); or

(B) building expenses, administrative travel budgets, or other expenses not directly related to the costs described in subparagraph (A).

(d) MATCHING NOT REQUIRED.—Subparagraphs (A) and (B) of section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) shall not apply to a grant made under this section.

(e) REPORT.—

(1) IN GENERAL.—Not later than November 1 of each year in which funds are made available for grants under this section, the Associate Administrator of Entrepreneurial Development of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report evaluating the success of the program under this section during the preceding fiscal year.

(2) CONTENTS.—Each report under paragraph (1) shall include—

(A) a description of each entrepreneurship program developed with grant funds, the date of the award, and the number of participants in each such program;

(B) the number of small business assisted through the small business development center with grant funds; and

(C) data regarding the economic impact of the small business development center counseling provided with grant funds.

(f) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section $24,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(g) LIMITATION ON USE OF OTHER FUNDS.—The Administrator shall carry out this section only with amounts appropriated in advance specifically to carry out this section.

SEC. 6. MINORITY ACCESS TO INFORMATION DISTANCE LEARNING PILOT PROGRAM OF 2007.

(a) IN GENERAL.—The Administrator may make grants to eligible associations and organizations to—

(1) assist in establishing the technical capacity to provide online or distance learning for businesses seeking to contract with the Federal Government;

(2) develop curriculum for seminars that will provide businesses with the technical expertise to contract with the Federal government; and

(3) provide training and technical expertise through distance learning at low cost, or no cost, to participant business owners and other interested parties.

(b) USE OF FUNDS.—An eligible association or organization receiving a grant under this section shall develop a curriculum that includes training in various areas needed by the owners of small business concerns to successfully contract with the Federal Government, which may include training in accounting, marketing to the Federal Government, applying for Federal certifications, use of offices of small and disadvantaged businesses, procurement conferences, the scope of Federal procurement contracts, and General Services Administration schedules.

(c) GRANT AWARDS.—

(1) IN GENERAL.—The Administrator may not award a grant under this section to a single eligible association or organization—

(A) in excess of $250,000 in any fiscal year; or

(B) for a term of more than 2 years.

(2) LIMITATION ON USE OF FUNDS.—Funds made available under this section may not be used—

(A) for any purpose other than those associated with the direct costs incurred by the eligible association or organization to develop the curriculum described in subsection (b); or

(B) for building expenses, administrative travel budgets, or other expenses not directly related to the costs described in subparagraph (A).

(d) MATCHING NOT REQUIRED.—Subparagraphs (A) and (B) of section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) shall not apply to a grant made under this section.

(e) REPORT.—

(1) IN GENERAL.—Not later than November 1 of each year, the Associate Administrator of Entrepreneurial Development of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report evaluating the success of the program under this section during the preceding fiscal year.

(2) CONTENTS.—Each report under paragraph (1) shall include—

(A) a description of each distance learning program developed with grant funds under this section, the date of the award, and the number of participants in each program; and

(B) data regarding the economic impact of the distance learning technical assistance provided with such grant funds.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(g) LIMITATION ON USE OF OTHER FUNDS.—The Administrator shall carry out this section only with amounts appropriated in advance specifically to carry out this section.

SEC. 7. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

(a) IN GENERAL.—Section 7102(c) of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644 note) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the date of enactment of this Act.

By Mr. KERRY:

S. 99. A bill to amend the Internal Revenue code of 1986 to provide a refundable credit for small business employee health insurance expenses; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Small Business Health Care Tax Credit Act which would provide small businesses with a refundable tax credit to help with the cost of providing employees with health insurance. Recent studies show that certain groups of individuals are less likely to have employer-provided health insurance. The 2006 Kaiser Family Foundation Employer Health Benefits Survey shows that since 2000 the number of firms offering health benefits has declined from 69 percent to 61 percent in 2006. This decline in coverage is more prevalent in small businesses. Only 48 percent of the firms with less than 10 employees offer health insurance whereas, 90 percent of the firms with 50 or more employees offer health benefits. Approximately 32 million Americans work for firms with fewer than 50 employees.

The April 2006 Commonwealth Fund Biennial Health Insurance Survey concluded that 41 percent of working-age Americans with incomes between $20,000 and $40,000 were uninsured for at least part of the past year. This reflects a dramatic increase in this income range, up from 28 percent in 2001. The survey found that of the 48 million American adults who were uninsured in the past year, 67 percent were in families where at least one person worked full time.

My legislation provides a refundable tax credit to small businesses designed to help provide coverage to those who are currently uninsured. Small businesses with less than 50 employees would be eligible to receive a tax credit to help with the cost of health care premiums for employees making more than $5,000 and less than $50,000 a year. To be eligible for the credit, the employer has to pay at least 50 percent of the health care insurance premium. The credit for businesses with fewer than 10 employees will be capped at 50 percent of the cost of the premium, and the credit amount decreases for larger businesses.

Last year, Leonard Burman, Codirector of the Tax Policy Center, testified before the Senate Finance Committee and suggested a refundable tax credit as an incremental option to help defray higher administrative costs faced by small employers in purchasing health care. This credit will help small businesses afford health care premiums. It is a refundable credit, so that it will help new businesses that do not yet have taxable income be able to offer health care and provide struggling businesses with assistance so that they can offer health care.

This tax credit will cut the cost of health insurance by up to 50 percent for small business owners. It will enable small businesses to provide health insurance for their low- and moderate-income employees. Until we can agree on a comprehensive proposal that will help reduce the cost of health care premiums for small businesses, this legislation provides an appropriate option for increasing health insurance coverage for small businesses and their employees.

I ask for unanimous consent that the text of the legislation 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. 99

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Health Care Tax Credit Act''.

SEC. 2. CREDIT FOR EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45O. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) 50 percent in the case of an employer with less than 10 qualified employees,

''(2) 25 percent in the case of an employer with more than 9 but less than 25 qualified employees, and

''(3) 20 percent in the case of an employer with more than 24 but less than 50 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed—

''(1) $4,000 for self-only coverage, and

''(2) $10,000 for family coverage.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which—

''(i) provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4))) to all qualified employees of the employer, and

''(ii) pays at least 50 percent of the cost of such coverage for each qualified employee.

''(B) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any taxable year, any employer if—

''(I) the average gross receipts of such employer for the preceding 3 taxable years does not exceed $5,000,000, and

''(II) such employer employed an average of more than 1 but less than 50 qualified employees on business days during the preceding taxable year.

''(ii) AGGREGATE GROSS ASSETS.—For purposes of clause (i)(I), the term 'aggregate gross assets' shall have meaning given such term by section 1202(d)(2).

''(iii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—For purposes of clause (i)(II)—

''(I) a preceding taxable year may be taken into account only if the employer was in existence throughout such year, and

''(II) in the case of an employer which was not in existence throughout the preceding taxable year, the determination of whether such employer is a qualified small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current taxable year.

''(iv) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of this subparagraph.

''(v) PREDECESSORS.—The Secretary may prescribe regulations which provide for references in this subparagraph to an employer to be treated as including references to predecessors of such employer.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(3) QUALIFIED EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

''(i) a health plan of the employee's spouse,

''(ii) title XVIII, XIX, or XXI of the Social Security Act,

''(iii) chapter 17 of title 38, United States Code,

''(iv) chapter 55 of title 10, United States Code,

''(v) chapter 89 of title 5, United States Code, or

''(vi) any other provision of law.

''(B) EMPLOYEE.—The term 'employee'—

''(i) means any individual, with respect to any calendar year, who is reasonably expected to receive not more than $50,000 of compensation from the employer during such year,

''(ii) does not include an employee within the meaning of section 401(c)(1), and

''(iii) includes a leased employee within the meaning of section 414(n).

''(C) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(D) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of a taxable year beginning after 2007, the $50,000 amount in subparagraph (B)(i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.

''(4) NO QUALIFIED EMPLOYEES EXCLUDED.—Subsection (a) shall not apply to an employer for any period unless at all times during such period health insurance coverage is available to all qualified employees of such employer under similar terms.

''(e) PORTION OF CREDIT MADE REFUNDABLE.—

''(1) IN GENERAL.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under subsection (a) without regard to this subsection and the limitation under section 38(c), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

''(2) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

''(i) section 3111(b), and

''(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end the following:

''(32) the employee health insurance expenses credit determined under section 45O.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 45O. Employee health insurance expenses.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006.

By Mrs. BOXER:

S. 100. A bill to encourage the health of children in schools by promoting better nutrition and increased physical activity, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, today I rise to introduce the Healthy Students Act, a bill that addresses the rising epidemic of childhood obesity.

Over the past 30 years, obesity rates have doubled for teenagers and tripled for children ages 6 to 11. Today, more than 30 percent of children in America are overweight and more than 15 percent are obese. As a result, more children are suffering from traditionally adult diseases—including type 2 diabetes, hypertension and high cholesterol—and putting their health in great danger.

While the reasons for the growing number of obese children problems are complex, the underlying problem is simple. Children are becoming obese because they are eating too much unhealthy food and getting too little exercise.

Vending machines are in too many of our schools. Children today eat five times as much fast food as they did 30 years ago. And the number of students who eat green vegetables ''nearly every day or more'' has dropped to only 30 percent.

Children are getting too little exercise. Nearly 23 percent of children ages 9–13 do not engage in any free-time physical activity during the school day, and nearly 60 percent do not participate in any kind of organized sports or physical activity program outside of school.

Also, the lack of qualified health professionals (school nurses)—compounded with the access to them—is taking an adverse toll on children's health in our public schools. With just one licensed nurse for every 1,155 students, too many children don't have access to a caring health care professional who can diagnose illness, administer medicine, handle emergencies, or treat injuries.

We should ensure that during the school day, children have access to better nutrition and health care, more physical activity, and the skills necessary for a lifetime of good health. And that's what the Healthy Students Act will do.

First, the bill creates a commission of children's health experts to review existing school nutrition guidelines and develop new, healthier standards that provide more fresh fruits and vegetables and eliminate food of minimal nutritional value.

Second, the bill creates a grant program for school nutrition pilot programs that promote alternative healthful food promotion in its curriculum and lunch program.

I have seen firsthand what can be accomplished with such innovative programs. For example in Berkeley, California, the ''Edible Schoolyard'' program is changing the way kids eat and learn about nutrition. Schools in the Edible Schoolyard program maintain an organic garden and integrate the garden into both the curriculum and

lunch program. This hands-on approach educates students on healthy eating—from planting, to harvesting, to their plates. By teaching kids about the connection between what they eat and where it comes from, we can help them develop good nutrition habits that will last a lifetime.

Third, the bill creates a ''Healthy Hour'' pilot program that provides funding for an additional hour to the school day either before, after or during school—set aside specifically for physical activity. As more and more schools have cut recess and physical education classes, the bill provides funding for programs that extend physical activity time and highlight the importance of exercise for children in schools across the country.

Fourth, to make sure that children have the equipment they need, the bill provides tax incentives to individuals and businesses to donate exercise and gymnasium equipment to schools and organizations serving students.

And fifth, to address the shortage of qualified health care professionals in schools, the bill creates a tuition loan forgiveness program for those who earn a degree in nursing and make a minimum 3-year commitment to work in a public elementary or secondary school. We are saying to prospective nurses: If you make an investment in helping kids, then we will make an investment in you.

Childhood obesity is a growing epidemic that we must address now. I urge my colleagues to support the Healthy Students Act to ensure that all children have the health they need to achieve their dreams.

By Mr. KERRY:

S. 102. A bill to amend the Internal Revenue Code of 1986 to extend and expand relief from the alternative minimum tax and to repeal the extension of the lower rates for capital gains and dividends for 2009 and 2010; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing legislation which addresses the individual alternative minimum tax (AMT) for 2007. Last Congress, a choice was made to extend lower capital gains and dividends rates that do not expire until the end of 2008 rather than address the AMT for 2007. My preference was to address the AMT for 2007 and I believe we still must take action to prevent taxpayers never intended to pay the AMT from being penalized this year.

I opposed the Tax Increase Prevention and Reconciliation Act of 2005 because it contained the wrong priorities for America leaving behind working families and substantially adding to the deficit. This law extended the lower rates on capital gains and dividends for 2009 and 2010, but only addressed the individual AMT for 2006.

According to the Joint Committee on Taxation, those earning $200,000 or more will receive 84 percent of the benefit of the capital gains tax cut and 63 percent of the benefit of the dividends tax cuts. According to the Congressional Budget Office, 42.8 percent of taxpayers with income between $50,000 and $100,000 will be impacted by the AMT if the AMT is not fixed for 2007 a number that increases to 66 percent by 2010. The Tax Increase Prevention and Reconciliation of Act of 2005 extends a tax cut that does not expire to the end of 2008 with a price tag of $50 billion, but fails to protect the hard working families that will be impacted by the AMT. These families were never intended to be impacted by the AMT, a tax originally designed to prevent a small number of high-income taxpayers from avoiding taxation.

Today, I am introducing legislation that will address the AMT for 2007 and repeal the lower tax rates on capital dividends for 2009 and 2010. To calculate the AMT, individuals add back certain ''preference items'' to their regular tax liability. These include personal exemptions, the standard deduction, and the itemized deduction for state and local taxes. From this amount, taxpayers subtract the AMT exemption amount, commonly referred to as the ''patch'' which reverted to lower levels at the end of 2005. The Tax Increase Prevention and Reconciliation Act of 2005 increased and extended the patch for 2006. The patch was increased in order to hold the same number of taxpayers harmless from the AMT in 2006 as in 2005.

The problem with the AMT is that while the regular tax system is indexed for inflation, the AMT exemption amounts and tax brackets remain constant. This has the perverse consequence of punishing taxpayers for the mere fact their incomes rose due to inflation.

In 2001 Congress opted to provide more tax cuts to those with incomes of over $1 million rather than fix a looming tax problem for the middle class. The Economic Growth and Tax Relief Reconciliation Act of 2001 did include a small adjustment to the AMT, but it was not enough. And we knew then that the number of taxpayers subject to the AMT would continue to rise steadily because the combination of tax cuts and a minor adjustment to the AMT would cause the AMT to explode. We are rapidly approaching this explosion and without immediate action America's middle class will be harmed.

My legislation extends and expands the AMT exemption amount for 2007 to prevent additional taxpayers from being impacted by the AMT. Without increasing and extending the AMT exemption for 2007, an additional 19.5 million taxpayers will be impacted by the AMT in 2007. Large families, with incomes as low as $49,438, will be hurt by the AMT. My legislation will allow nonrefundable personal credits such as the higher education tax credits and the dependent care credit against the AMT for 2007. This legislation is offset by repealing the lower rates on capital gains and dividends.

My colleagues on the other side of the aisle have argued that the extension of the capital gains and dividends benefits is necessary to provide investor certainty. But I believe that the certainty of working families worried about paying the AMT should come first.

About a third of long-term capital gains are reported by taxpayers who are impacted by the AMT and due to the interaction of the AMT, they do not fully benefit from the lower rates. Simply put, taxpayers forced to carry the AMT burden will not benefit from the lower capital gains and dividends rate.

The AMT is a looming problem that is impacting hard-working families and for each year that we fail to address the AMT, it gets worse and more expensive. At a minimum we must address the AMT for 2007. My legislation is not a long-term cure to the AMT crisis, but it will provide certainty for 2007 to hard working families who will be impacted by the AMT just because of where they live and the number of children they have, and it will addresses the AMT in a revenue neutral manner for 2007 as well.

We all agree that the AMT should not be impacting families with incomes below $100,000. My bill fixes the AMT for 2007 in a timely and fiscally responsible manner and gives Congress time to work in a bipartisan manner to find a fiscally responsible permanent solution to the AMT.

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. 102

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

SECTION 1. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$62,550 in the case of taxable years beginning in 2006'' in subparagraph (A) and inserting ''$67,100 in the case of taxable years beginning in 2007'', and

(2) by striking ''$42,500 in the case of taxable years beginning in 2006'' in subparagraph (B) and inserting ''$44,800 in the case of taxable years beginning in 2007''.

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

SEC. 2. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''2006'' in the heading thereof and inserting ''2007'', and

(2) by striking ''or 2006'' and inserting ''2006, or 2007''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2007.—For purposes of any taxable year beginning during 2007, the credit allowed under subsection (a) (after

the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2007.—For purposes of any taxable year beginning during 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

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

SEC. 3. REPEAL OF EXTENSION OF LOWER RATES FOR CAPITAL GAINS AND DIVIDENDS.

The amendment made by section 102 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

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

S. 103. A bill to amend the Internal Revenue Code of 1986 to provide that major oil and gas companies will not be eligible for the effective rate reductions enacted in 2004 for domestic manufacturers; to Committee on Finance.

Mr. KERRY. Mr. President, today, I am introducing the Restore a Rational Tax Rate on Petroleum Act of 2007. This legislation repeals the manufacturing deduction for big oil and gas companies that was enacted by Congress in 2004. I introduced this legislation in the 109th Congress and Congressman MCDERMOTT introduced companion legislation in the House.

The domestic manufacturing deduction was designed to replace export-related tax benefits that were successfully challenged by the European Union. Producers of oil and gas did not benefit from this tax break. Initial legislation proposed to address the repeal of the export-related tax benefits and to replace them with a new domestic manufacturing deduction. That legislation only provided the deduction to industries that benefited from the export-related tax benefits. However, the final product extended the deduction to include the oil and gas industry as well.

My bill repeals the manufacturing deduction for oil and gas companies because these industries suffered no detriment from the repeal of export-related tax benefits. At a time when oil companies are reporting mind-boggling record profits, there is no reason to reward them with a tax deduction.

Like me, many Members of Congress support a windfall profits tax on big oil and gas companies. Providing this deduction to oil and gas companies actually functions as a reverse windfall profits tax. This deduction lowers the tax rates on the windfall profits that they are currently enjoying. And without Congressional action this benefit will increase: upon enactment, the domestic manufacturing deduction was three percent, but it increased to six percent in 2007 and it is scheduled to increase to nine percent in 2010.

I urge my colleagues to support this legislation. We owe it to the American people to eliminate tax benefits to the oil industry at a time of record profits, record gas prices, and record deficits.

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. 103

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 ''Restore a Rational Tax Rate on Petroleum Production Act of 2007''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) like many other countries, the United States has long provided export-related benefits under its tax law,

(2) producers and refiners of oil and natural gas were specifically denied the benefits of those export-related tax provisions,

(3) those export-related tax provisions were successfully challenged by the European Union as being inconsistent with our trade agreements,

(4) the Congress responded by repealing the export-related benefits and enacting a substitute benefit that was an effective rate reduction for United States manufacturers,

(5) producers and refiners of oil and natural gas were made eligible for the rate reduction even though they suffered no detriment from repeal of the export-related benefits, and

(6) the decision to provide the effective rate reduction to producers and refiners of oil and natural gas has operated as a reverse windfall profits tax, lowering the tax rate on the windfall profits they are currently enjoying.

SEC. 3. DENIAL OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, natural gas, or any primary product thereof during any taxable year described in section 167(h)(A).''.

(b) CONFORMING AMENDMENTS.—Section 199(c)(4) of such Code is amended—

(1) in subparagraph (A)(i)(III) by striking ''electricity, natural gas,'' and inserting ''electricity'', and

(2) in subparagraph (B)(ii) by striking ''electricity, natural gas,'' and inserting ''electricity''.

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

By Mr. REID (for Mr. INOUYE):

S. 106. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise today to introduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research. Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect. The purpose of this center is to support and disseminate information about basic and clinical social work research, and training, with emphasis on service to underserved and rural populations.

While the Federal Government provides funding for various social work research activities through the National Institutes of Health and other Federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our nation's children, families, the elderly, and others.

In order to meet the increasing challenges of bringing cost-effective, research-based, quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and the central role that the Center for Social Work can provide in facilitating their work.

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. 106

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Center for Social Work Research Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) social workers focus on the improvement of individual and family functioning and the creation of effective health and mental health prevention and treatment interventions in order for individuals to become more productive members of society;

(2) social workers provide front line prevention and treatment services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

(3) social workers are in a unique position to provide valuable research information on these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinary, family-centered and community-based approach.

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) IN GENERAL.—Section 401(a) of the Public Health Service Act (42 U.S.C. 281(a)), as

amended by the National Institutes of Health Reform Act of 2006) is amended by adding at the end the following:

''(26) The National Center for Social Work Research.''.

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

"Subpart 7—National Center for Social Work Research

"SEC. 485J. PURPOSE OF CENTER.

''The general purpose of the National Center for Social Work Research (referred to in this subpart as the 'Center') is the conduct and support of, and dissemination of targeted research concerning social work methods and outcomes related to problems of significant social concern. The Center shall—

''(1) promote research and training that is designed to inform social work practices, thus increasing the knowledge base which promotes a healthier America; and

''(2) provide policymakers with empirically-based research information to enable such policymakers to better understand complex social issues and make informed funding decisions about service effectiveness and cost efficiency.

"SEC. 485K. SPECIFIC AUTHORITIES.

''(a) IN GENERAL.—To carry out the purpose described in section 485J, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, the association of socioeconomic status, gender, ethnicity, age and geographical location and health, the social work care of individuals with, and families of individuals with, acute and chronic illnesses, child abuse, neglect, and youth violence, and child and family care to address problems of significant social concern especially in underserved populations and underserved geographical areas.

''(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

''(c) GRANTS.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under subsection (a).

"SEC. 485L. ADVISORY COUNCIL.

''(a) DUTIES.—

''(1) IN GENERAL.—The Secretary shall establish an advisory council for the Center that shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies with respect to such activities.

''(2) GIFTS.—The advisory council for the Center may recommend to the Secretary the acceptance, in accordance with section 231, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipment, or maintenance of facilities for the Center.

''(3) OTHER DUTIES AND FUNCTIONS.—The advisory council for the Center—

''(A)(i) may make recommendations to the Director of the Center with respect to research to be conducted by the Center;

''(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects that demonstrate the probability of making valuable contributions to human knowledge; and

''(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

''(B) may collect, by correspondence or by personal investigation, information relating to studies that are being carried out in the United States or any other country and, with the approval of the Director of the Center, make such information available through appropriate publications; and

''(C) may appoint subcommittees and convene workshops and conferences.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The advisory council shall be composed of the ex officio members described in paragraph (2) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

''(2) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall include—

''(A) the Secretary of Health and Human Services, the Director of NIH, the Director of the Center, the Chief Social Work Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Associate Director of Prevention Research at the National Institute of Mental Health, the Director of the Division of Epidemiology and Services Research, the Assistant Secretary of Health and Human Services for the Administration for Children and Families, the Assistant Secretary of Education for the Office of Educational Research and Improvement, the Assistant Secretary of Housing and Urban Development for Community Planning and Development, and the Assistant Attorney General for Office of Justice Programs (or the designees of such officers); and

''(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

''(3) APPOINTED MEMBERS.—The Secretary shall appoint not to exceed 18 individuals to the advisory council, of which—

''(A) not more than two-thirds of such individual shall be appointed from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center, and at least 7 such individuals shall be professional social workers who are recognized experts in the area of clinical practice, education, or research; and

''(B) not more than one-third of such individuals shall be appointed from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year.

''(4) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for an individual at grade GS–18 of the General Schedule.

''(c) TERMS.—

''(1) IN GENERAL.—The term of office of an individual appointed to the advisory council under subsection (b)(3) shall be 4 years, except that any individual appointed to fill a vacancy on the advisory council shall serve for the remainder of the unexpired term. A member may serve after the expiration of the member's term until a successor has been appointed.

''(2) REAPPOINTMENTS.—A member of the advisory council who has been appointed under subsection (b)(3) for a term of 4 years may not be reappointed to the advisory council prior to the expiration of the 2-year period beginning on the date on which the prior term expired.

''(3) VACANCY.—If a vacancy occurs on the advisory council among the members under subsection (b)(3), the Secretary shall make an appointment to fill that vacancy not later than 90 days after the date on which the vacancy occurs.

''(d) CHAIRPERSON.—The chairperson of the advisory council shall be selected by the Secretary from among the members appointed under subsection (b)(3), except that the Secretary may select the Director of the Center to be the chairperson of the advisory council. The term of office of the chairperson shall be 2 years.

''(e) MEETINGS.—The advisory council shall meet at the call of the chairperson or upon the request of the Director of the Center, but not less than 3 times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director of the Center.

''(f) ADMINISTRATIVE PROVISIONS.—The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

''(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 485M—

''(1) comments with respect to the activities of the advisory council in the fiscal years for which the report is prepared;

''(2) comments on the progress of the Center in meeting its objectives; and

''(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

"SEC. 485M. BIENNIAL REPORT.

''The Director of the Center, after consultation with the advisory council for the Center, shall prepare for inclusion in the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies of the Director of the Center in the fiscal years for which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 485L(g).

"SEC. 485N. QUARTERLY REPORT.

''The Director of the Center shall prepare and submit to Congress a quarterly report that contains a summary of findings and policy implications derived from research conducted or supported through the Center.''.

By Mr. REID (for Mr. INOUYE):

S. 107. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise to introduce legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much-needed infusion of behavioral science expertise into our community of public health providers. There is a growing recognition of the valuable contribution being made by psychologists toward solving some of our Nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

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. 107

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 ''Strengthen the Public Health Service Act''.

SEC. 2. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting '', or any public or nonprofit school that offers a graduate program in professional psychology'' after ''veterinary medicine'';

(2) in subsection (b)(4), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree''; and

(3) in subsection (c)(1), by inserting '', or schools that offer graduate programs in professional psychology'' after ''veterinary medicine''.

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree'';

(2) in subsection (c), in the matter preceding paragraph (1), by inserting '', or at a school that offers a graduate program in professional psychology'' after ''veterinary medicine''; and

(3) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking ''or podiatry'' and inserting ''podiatry, or professional psychology''; and

(B) in paragraph (4), by striking ''or podiatric medicine'' and inserting ''podiatric medicine, or professional psychology''.

SEC. 3. GENERAL PROVISIONS.

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by striking ''clinical'' and inserting ''professional''.

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 295m) is amended in the matter preceding paragraph (1) by striking ''clinical'' and inserting ''professional''.

(c) DEFINITIONS.—Section 799B(1)(B) of the Public Health Service Act (42 U.S.C. 295p(1)(B)) is amended by striking ''clinical'' each place the term appears and inserting ''professional''.

By Mr. REID (for Mr. INOUYE):

S. 108. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program. Psychologists have made a unique contribution in reaching out to the Nation's medically underserved populations. Expertise in behavioral science is useful in addressing grave concerns such as violence, addiction, mental illness, adolescent and child behavioral disorders, and family disruption. Establishment of a psychology post-doctoral program could be an effective way to find solutions to these issues.

Similar programs supporting additional, specialized training in traditionally underserved settings have been successful in retaining participants to serve the same populations. For example, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their repayment obligations, but have continued to work in the public sector or with the underserved.

While a doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, specialized post-doctoral fellowship programs help to develop particular diagnostic and treatment skills required to respond effectively to underserved populations. For example, what appears to be poor academic motivation in a child recently relocated from Southeast Asia might actually reflect a cultural value of reserve rather than a disinterest in academic learning. Specialized assessment skills enable the clinician to initiate effective treatment.

Domestic violence poses a significant public health problem and is not just a problem for the criminal justice system. Violence against women results in thousands of hospitalizations a year. Rates of child and spouse abuse in rural areas are particularly high, as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the nation's underserved.

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. 108

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 ''Psychologists in the Service of the Public Act of 2007''.

SEC. 2. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part C of title VII of the Public Health Service Act (42 D.S.C. 293k et seq.) is amended by adding at the end the following:

SEC. 749. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

''(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

''(b) ELIGIBLE ENTITIES.—

''(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

'' (A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

''(B) will provide services to a medically underserved population during the period of such grant;

''(C) will comply with the provisions of subsection (c); and

''(D) will provide any other information or assurances as the Secretary determines appropriate.

''(2) INSTITUTIONS.—In order to receIve a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

''(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

''(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (0) of paragraph (1);

''(C) will not use more than 10 percent of amounts provided under this section to pay

for the administrative costs of any fellowship programs established with such funds; and

''(D) will provide any other information or assurances as the Secretary determines appropriate.

''(c) CONTINUED PROVISION OF SERVICES.—Any in,dividual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for not less than 1 year after the term of the grant or fellowship has expired.

''(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' and 'medically underserved populations'.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 2008 through 2010.''.

By Mr. REID (for Mr. INOUYE):

S. 109. A bill to recognize the organization known as the National Academics of Practice; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a Federal charter for the National Academies of Practice. This organization represents outstanding health care professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, osteopathic medicine, pharmacy, podiatry, social work, and veterinary medicine. When fully established, each of the ten academies will possess 150 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has direct and immediate access to the recommendations of an interdisciplinary body of health care practitioners.

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. 109

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Academies of Practice Recognition Act of 2007''.

SEC. 2. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 3. CORPORATE POWERS.

The National Academies of Practice (referred to in this Act as the ''corporation'') shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 4. OBJECTIVES AND PURPOSES OF THE CORPORATION.

The objectives and purposes for which the corporation is organized shall be provided for in the articles of incorporation and shall include the following:

(1) Honoring persons who have made significant contributions to the practice of applied dentistry, medicine, nursing, optometry, osteopathy, pharmacy, podiatry, psychology, social work, veterinary medicine, and other health care professions.

(2) Improving the effectiveness of such professions by disseminating information about new techniques and procedures, promoting interdisciplinary practices, and stimulating multidisciplinary exchange of scientific and professional information.

(3) Upon request, advising the President, the members of the President's Cabinet, Congress, Federal agencies, and other relevant groups about practitioner issues in health care and health care policy, from a multidisciplinary perspective.

SEC. 5. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 6. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 7. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 9. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of the charter under this Act. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) FEDERAL ADVISORY ACTIVITIES.—While providing advice to Federal agencies, the corporation shall be subject to the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 stat. 700).

SEC. 10. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 11. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 12. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to Congress.

SEC. 14. DEFINITION.

In this Act, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 16. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. REID (for Mr. INOUYE):

S. 110. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I introduce legislation to amend Title 18 of the United States Code to allow our Nation's clinical social workers to use their mental health expertise on behalf of the Federal judiciary by conducting psychological and psychiatric exams.

I feel that the time has come to allow our Nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our Nation's best interest.

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. 110

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 ''Psychiatric and Psychological Examinations Act of 2007''.

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

Section 4247(b) of title 18, United States Code, is amended, in the first sentence, by striking ''psychiatrist or psychologist'' and inserting ''psychiatrist, psychologist, or clinical social worker''.

By Mr. REID (for Mr. INOUYE):

S. 111. A bill to amend title 10, United States Code, to recognize the United States Military Cancer Institute as an establishment within the Uniformed Services University of the Health Sciences, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, Today I introduce the United States Military Cancer Institute Research Collaborative Act. This legislation, twice passed by the Senate yet unsuccessful in the House, would formally establish the United States Military Cancer Institute, USMCI, and support the collaborative augmentation of research efforts in cancer epidemiology, prevention and control. Although the USMCI already exists as an informal collaborative effort, this bill will formally establish the institution with a mission of providing for the maintenance of health in the military by enhancing cancer research and treatment, and studying the epidemiological causes of cancer among various ethnic groups. By formally establishing the USMCI, it will be in a better position to unite military research efforts with other cancer research centers.

Cancer prevention, early detection, and treatment are significant issues for the military population, thus the USMCI was organized to coordinate the existing military cancer assets. The USMCI has a comprehensive database of its beneficiary population of 9 million people. The military's nationwide tumor registry, the Automated Central Tumor Registry, has acquired more than 180,000 cases in the last 14 years, and a serum repository of 30 million specimens from military personnel collected sequentially since 1987. This population is predominantly Caucasian, African-American, and Hispanic.

The USMCI currently resides in the Washington, D.C., area, and its components are located at the National Naval Medical Center, the Malcolm Grow Medical Center, the Armed Forces Institute of Pathology, and the Armed Forces Radiobiology Research Institute. There are more than 70 research workers, both active duty and Department of Defense civilian scientists, working in the USMCI.

The Director of the USMCI, Dr. John Potter, intends to expand research activities to military medical centers across the nation. Special emphasis will be placed on the study of genetic and environmental factors in carcinogenesis among the entire population, including Asian, Caucasian, African-American and Hispanic subpopulations.

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. 111

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

SECTION 1. THE UNITED STATES MILITARY CANCER INSTITUTE.

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2117. United States Military Cancer Institute

''(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

''(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

''(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

''(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

''(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

''(B) The prevention and early detection of cancer.

''(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

''(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

''(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

''(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

''(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2117. United States Military Cancer Institute.''.

By Mr. REID (for Mr. INOUYE):

S. 112. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a federally-qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the Native Hawaiian Medicaid Coverage Act of 2004. This legislation would authorize a Federal Medicaid Assistance Percent, FMAP, of 100 percent for the payment of health care costs of Native Hawaiians who receive health care from Federally Qualified Health Centers or the Native Hawaiian Health Care System.

This bill was originally a provision within the Medicare Prescription Drug Bill, which the Senate passed by an overwhelming majority of 76 to 21, but was dropped from the final Medicare Prescription Drug Conference Report.

This bill is modeled on the Native Alaskan Health Care Act, which provides for a Federal Medicaid Assistance Percent, FMAP, of 100 percent for payment of health care costs for Native Alaskans by the Indian Health Service, an Indian tribe, or a tribal organization.

Community health centers serve as the ''safety net'' for uninsured and medically underserved Native Hawaiians and other United States citizens, providing comprehensive primary and preventive health services to the entire community. Outpatient services offered to the entire family include comprehensive primary care, preventive health maintenance, and education outreach in the local community. Community health centers, with their multi-disciplinary approach, offer cost effective integration of health promotion and wellness with chronic disease management and primary care focused on serving vulnerable populations.

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. 112

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 ''Native Hawaiian Medicaid Coverage Act of 2007''.

SEC. 2. 100 PERCENT FMAP FOR MEDICAL ASSISTANCE PROVIDED TO A NATIVE HAWAIIAN THROUGH A FEDERALLY-QUALIFIED HEALTH CENTER OR A NATIVE HAWAIIAN HEALTH CARE SYSTEM UNDER THE MEDICAID PROGRAM.

(a) MEDICAID.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting '', and with respect to medical assistance provided to a Native Hawaiian (as defined in section 12 of the Native Hawaiian Health

Care Improvement Act) through a federally-qualified health center or a Native Hawaiian health care system (as so defined) whether directly, by referral, or under contract or other arrangement between a federally-qualified health center or a Native Hawaiian health care system and another health care provider'' before the period.

(b) EFFECTIVE DATE.—The amendment made by this section applies to medical assistance provided on or after the date of enactment of this Act.

By Mr. OBAMA (for himself and Ms. SNOWE):

S. 117. A bill to amend titles 10 and 38, United States Code, to improve benefits and services for members of the Armed Forces, veterans of the Global War on Terrorism, and other veterans, to require reports on the effects of the Global War on Terrorism, and for other purposes; to the Committee on Veterans' Affairs.

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

Since the day he arrived in Congress more than two decades ago, Lane Evans was a tireless advocate for the men and women with whom he served. When Vietnam vets started falling ill from Agent Orange, he led the effort to get them compensation. Lane was one of the first in Congress to speak out about the health problems facing Persian Gulf War veterans. He worked to help veterans suffering from Post-Traumatic Stress Disorder, and he also helped make sure thousands of homeless veterans in our country have a place to sleep. Lane Evans fought these battles for more than 20 years, and even in the face of his own debilitating disease, he kept fighting. Today, veterans across America have Lane Evans to thank for reminding this country of its duty to take care of those who have risked their lives to defend ours.

I am very proud today to introduce the Lane Evans Veterans Healthcare and Benefits Improvement Act of 2007. This bill honors a legislator who left behind an enduring legacy of service to our veterans. The legislation also is an important step towards caring for our men and women who are currently fighting for us.

I am being joined today by Senator OLYMPIA SNOWE, the lead cosponsor of this bill. Senator SNOWE has long been an advocate for veterans in her state, and I have been honored to work with her in the past on veterans issues. We have fought to reduce the backlog of disability claims at the Veterans Benefits Administration and to improve the military's ability to identify and treat Traumatic Brain Injury. Our introduction of the Lane Evans Bill is a continuation of these efforts.

Today, more than 1.5 million American troops have been deployed overseas as part of the Global War on Terror. These brave men and women who protected us are beginning to return home. Six hundred thousand people who served in Iraq and Afghanistan are now veterans, and more than 185,000 have already received treatment at the VA. That number is increasing every day. Many of these fighting men and women are coming home with major injuries. As a country, we are only beginning to understand the true costs of the Global War on Terror.

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

To avoid these costly shortfalls in the future, we have to do a better job keeping track of veterans. That's why the first thing the Lane Evans Act does is to establish a system to track Global War on Terror veterans. The VA established a similar data system following the Persian Gulf War. That effort has been invaluable in budget planning as well as in monitoring emerging health trends and diseases linked to the Gulf War. The Gulf War Veterans Information System also has been important to medical research and improved care for veterans. The sooner we begin keeping accurate track of our fighting men and women in Iraq, Afghanistan and beyond, the better and more efficiently we will be able to care for them.

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

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

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

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

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

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

Ms. SNOWE. Mr. President, I rise today as a proud cosponsor of S. 3988, the Lane Evans Veterans Healthcare and Benefits Improvement Act of 2007. After serving with Lane Evans in the House of Representatives for over a decade, I am honored to help introduce legislation that serves as a fitting tribute to a man whose unfaltering efforts on behalf of our nation's veterans went unmatched.

I also applaud Senator OBAMA for introducing this vital legislation at a time when over 600,000 courageous men and women have returned from combat in both Iraq and Afghanistan. In the past, Senator OBAMA and I have worked in a bipartisan manner to bolster the military's ability to detect and treat traumatic brain injury, and most recently, we have fought to reduce the backlog of claims at the Veterans Benefits Administration, VBA. Once again,

I thank Senator OBAMA for his continuing resoluteness and advocacy for our veterans.

Since the beginning of conflicts in Iraq and Afghanistan, nearly 1.5 million brave Americans have deployed overseas to take part in the global war on terror. Of those 1.5 million Americans, at least 184,400 have already received medical treatment from the Department of Veterans Affairs, VA. It is time the VA and the Department of Defense, DOD, have the capability to provide incoming veterans with timely and efficient medical treatment and postdeployment services. For too long now, provision of these critical services has been hampered by a lack of resources and policy restructuring.

In 2005, the Government Accountability Office revealed that the VA faced a budget shortfall of $3 billion, due to the agency's inability to correctly gauge the benefits for Iraq and Afghanistan veterans. As a result of spending shortfalls, the VA was forced to dip into contingency funds that could have compromised the funding for other vital veterans programs. In order to remedy these unacceptable deficiencies within the veterans' benefit system, this legislation will significantly enhance the ability of the DOD and the VA to accurately track veterans of Iraq and Afghanistan, by creating a data registry that will hold a comprehensive list of VA health care and benefits use. I remind my colleagues that a similar data system was established in 1998 for Gulf War I Veterans, and has been invaluable in assessing the necessary budgetary planning for our injured veterans from that conflict.

However, not all combat wounds are caused by bullets and shrapnel. Several studies have indicated that due to the nature of warfare in Iraq—with its intense urban fighting, terrorism and civilian combat—may cause a spike in the prevalence of post traumatic stress disorder, PTSD. According to the Veterans' Health Administration, as of October 2006, of the 184,524 Operation Enduring Freedom and Operation Iraqi Freedom veterans who have sought care from the VA, 29,041 have been diagnosed as having probable symptoms of PTSD.

I strongly believe that we have a commitment to ensure that veterans with PTSD receive compassionate, world-class health care and appropriate disability compensation determinations. It is imperative that we do all we can to detect, diagnose, and treat our veterans suffering from PTSD as quickly as possible, in order to help our veterans and their families move beyond the psychological trauma of war and lead healthy, productive lives.

This legislation's proposed data registry will further assist the VA with ongoing medical research into mental health, traumatic brain injury, and many other conditions. This legislation will also require the Department of Defense to conduct in-person physical and mental health exams with every service member 30 to 90 days after deployment to war zone, in order to ensure that potential cases of PTSD are identified and treated in a timely manner. By making the exams mandatory, the stigma associated with mental health screening and treatment can be eliminated. Additionally, multiple deployments to combat zones may factor into a higher susceptibility to PTSD, stressing the necessity for mental screening prior to redeployment, in order to ensure that no servicemember experiencing symptoms of PTSD is returned to duty without treatment. If the VA and the DOD continues its current mental health screening policy, nondisclosures of PTSD symptoms will continue to deter early intervention and future VA mental health services.

This legislation addresses the difficulties associated with PTSD symptoms that develop over prolonged periods of time. Currently, the window for new veterans to obtain health care at the VA is 2 years. However, in many circumstances, it takes years for PTSD symptoms and other problems related to mental health to emerge. Therefore, this legislation will extend the window for VA mental health care from 2 years to 5 years, ensuring the necessary mental health treatment for all veterans who are struggling to recover from the traumas of war.

Further, this legislation will take large steps towards improving the transfer of military and medical records in order for veterans to receive the health care and benefits they deserve. This bill requires DOD to provide each separating service member a full electronic copy of all military and medical records at the time of discharge. By facilitating the enhanced use of electronic records, veterans will be assured the proper access and management of their required care. Currently, a lack of swift access to military records and medical records has hampered the VA's ability to treat veterans in need of care in a timely and effective manner.

According to a December 2006 GAO report, while verifying veterans claims of PTSD, regional VA offices are unable to directly access and search an electronic library of medical and service records for all service branches, and therefore, must rely on a DOD research organization, whose average response time to regional office requests is nearly 1 year. Clearly, such a processing delay is not only inexcusable, it is potentially harmful to the veteran and his or her family. Increased access to electronic records will allow the VA to quickly identify the occurrence of stressful events or experiences that may lead to the necessary treatment for PTSD.

Finally, this legislation will also require the VA to provide equal briefings and transition services for all service members regarding VA health care, disability compensation, and other benefits, regardless of status. Often times, guardsmen and reservists receive limited transition assistance and employment training, largely due to their accelerated demobilization. Thus, this legislation will provide equitable and fair transition services for all returning veterans, regardless of their service branch, component or military status.

I have nothing but the utmost respect for those brave Americans who served in uniform with honor, courage, and distinction. The obligation our nation holds for its veterans is enormous, and it is an obligation that must be fulfilled every day. Since the attacks of September 11, millions of brave American men and women have answered our nation's call to service. Congress must now do everything in its power to answer our veterans' call, to ensure that they receive the medical care and treatment that they rightly earned and rightly deserve.

Once again, I am pleased to join Senator OBAMA in introducing S. 988, because I believe it is crucial to the welfare of our Nation's veterans, and I urge my colleagues to voice their support.

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

S. 118. A bill to give investigators and prosecutors the tools they need to combat public corruption; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to join with Senator PRYOR to introduce the ''Effective Corruption Prosecutions Act of 2007,'' a bill to strengthen the tools available to Federal prosecutors in combating public corruption. This bill gives investigators and prosecutors the statutory tools and the resources they need to ensure that serious and insidious public corruption is detected and punished.

In November, voters sent a strong message that they were tired of the culture of corruption. From war profiteers and corrupt officials in Iraq to convicted Administration officials to influence-peddling lobbyists and, regrettably, even Members of Congress, too many supposed public servants were serving their own interests, rather than the public interest. The American people staged an intervention and made it clear that they would not stand for it any longer. They expect the Congress to take action. We need to restore the people's trust by acting to clean up the people's government.

The Senate's new leadership is introducing important lobbying reform and ethics legislation. Similar legislation passed the Senate last year, but stalled in the House. This is a vital first step.

But the most serious corruption cannot be prevented only by changing our own rules. Bribery and extortion are committed by people bent on getting around the rules and banking that they won't get caught. These offenses are very difficult to detect and even harder to prove. Because they attack the core of our democracy, these offenses must

be found out and punished. Congress must send a signal that it will not tolerate this corruption by providing better tools for federal prosecutors to combat it. This bill will do exactly that.

First, the bill extends the statute of limitations for the most serious public corruption offenses. Specifically, it extends the statute of limitations from five years to eight years for bribery, deprivation of honest services, and extortion by a public official. This is an important step because public corruption cases are among the most difficult and time-consuming cases to investigate and prosecute. They often require use of informants and electronic monitoring, as well as review of extensive financial and electronic records, techniques which take time to develop and implement.

Bank fraud, arson, and passport fraud, among other offenses, all have 10-year statutes of limitations. Since public corruption offenses are so important to our democracy and these cases are so difficult to investigate and prove, a more modest extended statute of limitations for these offenses is a reasonable step to help our corruption investigators and prosecutors do their jobs. Corrupt officials should not be able to get away with their ill gotten gains just by waiting out the investigators.

This bill also facilitates the investigation and prosecution of an important offense known as Federal program bribery, Title 18, United States Code, section 666. Federal program bribery is the key Federal statute for prosecuting bribery involving state and local officials, as well as officials of the many organizations that receive substantial Federal money. This bill would allow agents and prosecutors investigating this important offense to request authority to conduct wiretaps and to use Federal program bribery as a basis for a racketeering charge.

Wiretaps, when appropriately requested and authorized, are an important method for agents and prosecutors to gain evidence of corrupt activities, which can otherwise be next to impossible to prove without an informant. The Racketeer Influenced and Corrupt Organizations (RICO) statute is also an important tool which helps prosecutors target organized crime and corruption.

Agents and prosecutors may currently request authority to conduct wiretaps to investigate many serious offenses, including bribery of federal officials and even sports bribery, and may predicate RICO charges on these offenses, as well. It is only reasonable that these important tools also be available for investigating the similar and equally important offense of federal program bribery.

Lastly, my bill authorizes $25 million in additional Federal funds over each of the next four years to give federal investigators and prosecutors needed resources to go after public corruption. Last month, FBI Director Mueller in written testimony to the Judiciary Committee called public corruption the FBI's top criminal investigative priority. However, a September 2005 Report by Department of Justice Inspector General Fine found that, from 2000 to 2004, there was an overall reduction in public corruption matters handled by the FBI. The report also found declines in resources dedicated to investigating public corruption, in corruption cases initiated, and in cases forwarded to US Attorney's Offices.

I am heartened by Director Mueller's assertion that there has recently been an increase in the number of agents investigating public corruption cases and the number of cases investigated, but I remain concerned by the Inspector General's findings. I am concerned because the FBI in recent years has diverted resources away from criminal law priorities, including corruption, into counterterrorism. The FBI may need to divert further resources to cover the growing costs of Sentinel, their data management system. The Department of Justice has similarly diverted resources, particularly from United States Attorney's Offices.

Additional funding is important to compensate for this diversion of resources and to ensure that corruption offenses are aggressively pursued. My bill will give the FBI, the United States Attorney's Offices, and the Public Integrity Section of the Department of Justice new resources to hire additional public corruption investigators and prosecutors. They can finally have the manpower they need to track down and make these difficult cases, and to root out the corruption.

If we are serious about addressing the egregious misconduct that we have recently witnessed, Congress must enact meaningful legislation to give investigators and prosecutors the resources they need to enforce our public corruption laws. I strongly urge Congress to do more to restore the public's trust in their government.

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. 118

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 ''Effective Corruption Prosecutions Act of 2007''.

SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3299. Corruption offenses

''Unless an indictment is returned or the information is filed against a person within 8 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

''(1) section 201 or 666;

''(2) section 1341, 1343, or 1346, if the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

''(3) section 1951, if the offense involves extortion under color of official right;

''(4) section 1952, to the extent that the unlawful activity involves bribery; or

''(5) section 1963, to the extent that the racketeering activity involves bribery chargeable under State law, or involves a violation of section 201 or 666.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3299. Corruption offenses.''.

(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed more than 5 years before the date of enactment of this Act.

SEC. 3. INCLUSION OF FEDERAL PROGRAM BRIBERY AS A PREDICATE FOR INTERCEPTION OF WIRE, ORAL OR ELECTRONIC COMMUNICATIONS AND AS A PREDICATE FOR A RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS OFFENSE.

(a) IN GENERAL.—Section 2516(c) of title 18, United States Code, is amended by adding after ''section 224 (bribery in sporting contests),'' the following: ''section 666 (theft or bribery concerning programs receiving Federal funds),''.

(b) IN GENERAL.—Section 1961 of title 18, United States Code, is amended by adding after ''section 664 (relating to embezzlement from pension and welfare funds),'' the following: ''section 666 (relating to theft or bribery concerning programs receiving Federal funds),''.

SEC. 4. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE PUBLIC CORRUPTION OFFENSES.

There are authorized to be appropriated to the Department of Justice, including the United States Attorneys' Offices, the Federal Bureau of Investigation, and the Public Integrity Section of the Criminal Division, $25,000,000 for each of the fiscal years 2008, 2009, 2010, and 2011, to increase the number of personnel to investigate and prosecute public corruption offenses including sections 201, 203 through 209, 641, 654, 666, 1001, 1341, 1343, 1346, and 1951 of title 18, United States Code.

By Mr. LEAHY (for himself, Mr. BINGAMAN, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. DORGAN, Mr. SCHUMER, Mr. WYDEN, Ms. CANTWELL, Mrs. CLINTON, Mr. MENENDEZ, and Mr. NELSON of Florida):

S. 119. A bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am reintroducing a bill that creates criminal penalties for war profiteers and cheats who would exploit taxpayer-funded efforts in Iraq and elsewhere around the world. Last year, despite the mounting evidence of widespread contractor fraud and abuse in Iraq, the Republican-controlled Senate would not act on it. Instead, the Congress took a terrible misstep in seeking to end the work of the Special Inspector General for Iraq Reconstruction. I have been proposing versions of this bill

since 2003, when it did pass the Senate. Unfortunately, this crucial provision was stripped out of the final version of a bill by a Republican-controlled conference committee.

There is growing evidence of widespread contractor fraud in Iraq, yet prosecuting criminal cases against these war profiteers is difficult under current law. We must crack down on this rampant fraud and abuse that squanders American taxpayers' dollars and jeopardizes the safety of our troops abroad. That is why I renew my efforts for accountability and action with the introduction of the War Profiteering Prevention Act of 2007. I am pleased to join with Senators BINGAMAN, KERRY, HARKIN, ROCKEFELLER, DORGAN, WYDEN, SCHUMER, CANTWELL, BILL NELSON, CLINTON, LAUTENBERG and MENENDEZ to introduce this legislation.

Congress has sent billions upon billions of dollars to Iraq with too little accountability and too few financial controls. More than $50 billion of this money has gone to private contractors hired to guard bases, drive trucks, feed and shelter the troops and rebuild the country. This is more than the annual budget of the Department of Homeland Security.

Instead of results from these companies, we are seeing penalties levied for allegations of fraud and abuse. At least 10 companies with billions of dollars in U.S. contracts for Iraq reconstruction have paid more than $300 million in penalties since 2000, to resolve allegations of bid rigging, fraud, delivery of faulty military parts and environmental damage. Seven other companies with Iraq reconstruction contracts have agreed to pay financial penalties without admitting wrongdoing.

In 2005, Halliburton took in approximately $3.6 billion from contracts to serve U.S. troops and rebuild the oil industry in Iraq. Halliburton executives say that the company received about $1 billion a month for Iraq work in 2006. In addition, last month, we learned of new plans to spend hundreds of millions more to create jobs in Iraq.

Last year, the Special Inspector General for Iraq Reconstruction found that millions of U.S. taxpayer funds appropriated for Iraq reconstruction have been lost and diverted. Yet we continue to send more taxpayer funds to Iraq, without accountability.

Too much of this money is unaccounted for, and many of the facilities and services that these funds were supposed to pay for are still nonexistent. We in Congress must ask—where did all the money go? We need to press for more accountability over the use and abuse of billions of taxpayers' dollars sent as development aid to Iraq, not less.

A new law to combat war profiteering in Iraq and elsewhere is sorely needed and long overdue. Although there are anti-fraud laws to protect against the waste of U.S. tax dollars at home, no law expressly prohibits war profiteering or expressly confers jurisdiction on U.S. federal courts to hear fraud cases involving war profiteering committed overseas.

The bill I introduced today would criminalize ''war profiteering''—overcharging taxpayers in order to defraud and to profit excessively from a war, military action, or reconstruction efforts. It would also prohibit any fraud against the United States involving a contract for the provision of goods or services in connection with a war, military action, or for relief or reconstruction activities. This new crime would be a felony, subject to criminal penalties of up to 20 years in prison and fines of up to $1 million, or twice the illegal gross profits of the crime.

The bill also prohibits false statements connected with the provision of goods or services in connection with a war or reconstruction effort. This crime would also be a felony, subject to criminal penalties of up to 10 years in prison and fines of up to $1 million, or twice the illegal gross profits of the crime.

The measure also addresses weakness in the existing laws used to combat war profiteering, by providing clear authority for the Government to seek criminal penalties and to recover excessive profits for war profiteering overseas. These are strong and focused sanctions that are narrowly tailored to punish and deter fraud or excessive profiteering in contracts, both at home and abroad.

The message sent by this bill is clear—any act to exploit the crisis situation in Iraq or elsewhere overseas for exorbitant gain is unacceptable, reprehensible, and criminal. Such deceit demeans and exploits the sacrifices that our military personnel are making in Iraq and Afghanistan, and around the world. This bill also builds on a strong legacy of historical efforts to stem war profiteering. Congress implemented excessive-profits taxes and contract renegotiation laws after both World Wars, and again after the Korean War. Advocating exactly such an approach, President Roosevelt once declared it our duty to ensure that ''a few do not gain from the sacrifices of the many.''

Our Government cannot in good faith ask its people to sacrifice for reconstruction efforts that allow some to profit unfairly. When U.S. taxpayers have been called upon to bear the burden of reconstruction contracts—where contracts are awarded in a system that offers little competition and even less accountability—concerns about wartime profiteering are a grave matter.

Combating war profiteering is not a Democratic issue, or a Republican issue. Rather, it is a cause that all Americans can support. When I first introduced this bill in 2003, it came to be cosponsored by 21 Senators. The Senate Appropriations Committee also unanimously accepted these provisions during a Senate Appropriations Committee markup of the $87 billion appropriations bill for Iraq and Afghanistan for Fiscal Year 2004, and this provision passed the Senate. Passing bipartisan war profiteering prevention legislation was the right thing to do then, and it is the right thing to do now.

I am hopeful that in a new year, and with a new Congress, we can make a fresh start and forge a bipartisan partnership on this important issue that will result in passage of this bill. I ask unanimous consent that a copy 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. 119

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 ''War Profiteering Prevention Act of 2007''.

SEC. 2. PROHIBITION OF PROFITEERING.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1039. War profiteering and fraud relating to military action, relief, and reconstruction efforts

''(a) PROHIBITION.—

''(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with a war, military action, or relief or reconstruction activities within the jurisdiction of the United States Government, knowingly and willfully—

''(A)(i) executes or attempts to execute a scheme or artifice to defraud the United States; or

''(ii) materially overvalues any good or service with the specific intent to defraud and excessively profit from the war, military action, or relief or reconstruction activities;

shall be fined under paragraph (2), imprisoned not more than 20 years, or both; or

''(B)(i) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

''(ii) makes any materially false, fictitious, or fraudulent statements or representations; or

''(iii) makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry;

shall be fined under paragraph (2) imprisoned not more than 10 years, or both.

''(2) FINE.—A person convicted of an offense under paragraph (1) may be fined the greater of—

''(A) $1,000,000; or

''(B) if such person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

''(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) VENUE.—A prosecution for an offense under this section may be brought—

''(1) as authorized by chapter 211 of this title;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1039. War profiteering and fraud relating to military action, relief, and reconstruction efforts.''.

(b) CIVIL FORFEITURE.—Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting ''1039,'' after ''1032,''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking ''or 1030'' and inserting ''1030, or 1039''.

(d) RICO.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting the following: '', section 1039 (relating to war profiteering and fraud relating to military action, relief, and reconstruction efforts)'' after ''liquidating agent of financial institution),''.

By Mr. BAUCUS (for himself and Mr. COLEMAN):

S. 122. A bill to amend the Trade Act of 1974 to extend benefits to service sector workers and firms, enhance certain trade adjustment assistance authorities, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am pleased today to introduce the Trade Adjustment Assistance Improvement Act of 2007 with my good friend and colleague, Senator NORM COLEMAN.

In 2006, the United States passed, signed or concluded no fewer than five new free trade agreements. This June, the President's authority to negotiate trade agreements will expire. Congress should extend the President's authority to negotiate these deals. But when we do, we must raise the bar higher than before. Each deal must surpass the last, in order to take advantage of and adjust to changes in the global marketplace that affect American businesses and workers.

Congress will consider these agreements on their merits. In most cases, these deals will mean more access for American producers and service providers. In some few cases, these agreements could mean more and fiercer competition for producers and providers here at home.

Competition is the engine that drives market economies like ours. It spawns innovation and creates new jobs. But just as jobs are created in new sectors of our economy, jobs are also lost in other sectors which experience sudden or unfair competition from abroad.

Whether and how effectively we help those firms and workers who feel the negative effects of our national trade policy will, in large part, determine whether and how effectively we can move a trade agenda forward this year.

During the last several Congresses, we have experienced unprecedented change in the global marketplace and in our labor market at home. I have worked to raise the bar on our efforts to help workers affected by these changes. Today, I propose again, more urgently than ever, that Congress and the administration work together to adapt our national worker adjustment strategies to the challenges of globalization. The Trade Adjustment Assistance Improvement Act is a first and necessary step in that direction.

The Trade Adjustment Assistance Improvement Act includes many proposals that Congress should consider before the program expires this September. The Act extends coverage to more of the workers who are affected by trade and globalization. And the Act will improve the overall efficiency and effectiveness of the program.

For more than a century, the manufacturing sector drove the American economy. So, when President Kennedy decided to open the American economy to more trade, he established the Trade Adjustment Assistance program to help workers in the manufacturing sector adjust to change.

Today, our economy depends upon service exports. More than 75 percent of the American labor force work in services. While many service sector jobs cannot be outsourced, technology change makes it possible to provide many services remotely, in such fields as accounting, healthcare, and computers and information technology. So when a large call center left Kalispell, Montana, three years ago for Canada, the Montana workers left behind did not have access to the same benefits that workers laid off from the Columbia Falls Aluminum manufacturing plant did. They should have.

Last year, the Department of Labor agreed, for the first time ever, that workers who produce software, an intangible product, should be eligible for Trade Adjustment Assistance. That was a step in the right direction. We should take the next step this year. We should finally extend coverage to American service workers. That is what my bill proposes.

Trade Adjustment Assistance certification takes place on a case-by-case, plant-by-plant basis. This means that while two factories producing the same products may both experience foreign competition that leads to layoffs, often only one of those factories' laid off workers gets certified as eligible for the program.

Consider the softwood lumber industry. At least 12 out of 35 Trade Adjustment Assistance petitions filed by workers in Montana's softwood lumber industry over the last 7 years were denied by the Department of Labor. Yet, all of these mills were similarly affected by the same market conditions—dumped and subsidized Canadian imports. The International Trade Commission found that Canadian imports injured or threatened to injury the softwood lumber industry on a national scale.

But the Department of Labor's certification process does not take into account the bigger—and often more meaningful—picture. It simply relies on data provided by individual companies that lay off the workers to make its case-by-case determination.

The legislation that I introduce today makes industry-wide certification automatic for workers anywhere in the United States if the President, the International Trade Commission, or another qualified Federal agency determines that imports are harming that industry. My bill also authorizes, but does not require, the Secretary of Labor to make industry-wide determinations if she receives three or more petitions in one industry within one 6-month period, or if the Senate Finance Committee and the House Ways and Means Committee pass a resolution requesting such an investigation.

We can anticipate and in some cases even prevent displacements by renewing and expanding our commitment to small and medium-sized American companies looking to recapture their competitive edge. One key, yet small program that can help prevent displacements and shifts in production to overseas is the TAA for Firms program in the Department of Commerce. The Firms program reaches out to companies that have experienced decreasing sales or production due to import competition and have laid off or expect to lay off workers.

This program is chronically underfunded, and it should also be available to service sector firms. This bill would authorize $50 million for this program to reach more small- and medium-sized businesses across the nation before they are forced to lay off their American workers and close their doors.

This bill also moves the Firms program from the Economic Development Administration at Commerce back into the International Trade Administration. That's where it was previously. And frankly that's where it ought to have remained. Despite the Firms program's proven track record, proposals related to the program under the Economic Development Administration have sought to either defund the program altogether, or to limit eligibility by increasing the profit-loss margin required for participation and arbitrary termination of firms after 2 years. The Firms program is a trade program and should be administered by an agency whose primary mission is to help American companies to adjust to and benefit from trade.

In 2002, with the passage of the Trade Adjustment Assistance Reform Act, I had great expectations for our first wage insurance demonstration project. In theory, wage insurance—or Alternative Trade Adjustment Assistance—encourages swift re-entry into the workforce by replacing a portion of a worker's lost wages when a worker accepts a lower paying job within 6 months of a layoff. Workers who choose wage insurance over traditional Trade Adjustment Assistance training and income assistance often have less access to good training or simply cannot afford to be out of work during their training. Wage insurance provides an incentive for employers to hire lower-skilled and older workers and train them on the job.

In practice, I have been disappointed with the Department of Labor's implementation of the wage insurance proposal that we crafted in 2002. In a 2004 review by the Government Accountability Office, the Department of Labor's implementation of the benefit came up far short of the mark. Last

year, the Government Accountability Office once again found that the Department needed to improve its implementation, focusing specifically on its outreach to and direction of state employment service offices.

I hope to work with the Department of Labor on strategies that will improve its outreach. Wage insurance can help put people back to work, and can even save money over traditional Trade Adjustment Assistance. But it cannot do either of those things if no one knows about the benefit.

This bill streamlines the process to qualify for wage insurance, and lowers the eligible age from 50 to 40. Wage replacement should be available to younger workers who would re-enter the workforce more quickly if they could afford the often steep wage cut.

Another key component of the Trade Adjustment Assistance Reform Act was the health care tax credit to help displaced workers and some retirees maintain access to health insurance coverage. As health costs grow, losing health insurance can be as financially devastating to workers as losing a job. While I still believe that the TAA health care tax credit holds promise, this is clearly an area where reforms are needed to help the credit achieve its purpose.

Today, the TAA health care tax credit helps only a fraction of the hundreds of thousands eligible for assistance. In its first 2 years, less than 6 percent of eligible workers and retirees enrolled. A GAO report released last year studying five major plant closings in 2003 and 2004 found that only 3 to 12 percent of eligible workers enrolled. More than half of the workers studied didn't sign up for the tax credit because the 65 percent subsidy was too low to make health coverage affordable.

The tax credit also suffers from complexity and administrative red tape. More than half of eligible workers in GAO's recent study didn't even know about the benefit. About a third of workers who knew about the benefit decided not to enroll because it was too confusing. Even those who understand it have to navigate complex rules and requirements to get the benefit.

We need to make this program simpler, more affordable, and more seamless so that more workers can take it up in the years ahead. We need to improve the information that workers and retirees get about the program and create systems to ensure that they get it. We need to cut down on the red tape. And we need to look at options to make this benefit more affordable so that we can truly reach the hundreds of thousands eligible for this benefit that Congress intended to help when we enacted these reforms 4 years ago. I plan to introduce a bill later in the year that will achieve these goals for reforming the health care tax credit and will look forward to working with Senator Coleman and other colleagues in this effort.

The forces of globalization, like trade and technology change, have created tremendous opportunities for American businesses and workers, from cutting the cost of living to increasing the margin of profit. Trade accounts for a quarter of our gross domestic product. The adjustments we have made to maximize trade's benefits save the average American household $9,000 annually.

But we must also make adjustments to respond to the challenges that come with globalization. American businesses in the 21st century face rapidly-changing consumer preferences and ever-swifter technological advances. Global competition is fierce. Innovation is the key to these companies' continued prosperity.

The same holds true for American workers. They know that they must adjust to changes in the labor market if they are to maintain their place in it. Workers must be prepared for one or more career shifts before retirement. They must acquire more skills, and refresh their skills more often.

We can help American companies adapt, and regain their competitive edge in the global marketplace. We can help more trade-displaced workers get back into the workforce. We should help these workers adapt not only to trade displacement, but to all the other aspects of globalization as well.

American workers and the companies that employ them must each continually adjust to a changing world marketplace. So too should our worker adjustment strategies.

Mr. President, I ask unanimous consent that the full 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. 122

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 ''Trade Adjustment Assistance Improvement Act of 2007''.

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

Sec. 1. Short title; table of contents.

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR SERVICES SECTOR

Sec. 101. Short title.
Sec. 102. Extension of trade adjustment assistance to services sector.
Sec. 103. Trade adjustment assistance for firms and industries.
Sec. 104. Monitoring and reporting.
Sec. 105. Effective date.

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR INDUSTRIES

Sec. 201. Other methods of requesting investigation.
Sec. 202. Notification.
Sec. 203. Industry-wide determination.
Sec. 204. Coordination with other trade provisions.
Sec. 205. Regulations.

TITLE III—OTHER TRADE ADJUSTMENT ASSISTANCE MATTERS

Subtitle A—Trade Adjustment Assistance

Sec. 301. Calculation of separation tolled during litigation.
Sec. 302. Establishment of Trade Adjustment Assistance Advisor.
Sec. 303. Office of Trade Adjustment Assistance.
Sec. 304. Certification of submissions.
Sec. 305. Wage insurance.
Sec. 306. Training.
Sec. 307. Funding for administrative costs.
Sec. 308. Authorization of appropriations.

Subtitle B—Data Collection

Sec. 311. Short title.
Sec. 312. Data collection; information to workers.
Sec. 313. Determinations by the Secretary of Labor.

Subtitle C—Trade Adjustment Assistance for Farmers

Sec. 321. Clarification of marketing year and other provisions.
Sec. 322. Eligibility.

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR SERVICES SECTOR

SEC. 101. SHORT TITLE.

This title may be cited as the ''Trade Adjustment Assistance Equity for Service Workers Act of 2007''.

SEC. 102. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm, or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS; SERVICE WORKERS; SHIFTS IN PRODUCTION.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm, or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided'';

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm, or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles'';

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(v) by striking '', if the certification of eligibility'' and all that follows to the end period; and

(B) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

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

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

SEC. 103. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''or service sector firm'' after ''any agricultural firm'';

(ii) in subparagraph (B)(ii), by inserting ''or service'' after ''of an article''; and

(iii) in subparagraph (C), by striking ''articles like or directly competitive with articles which are produced'' and inserting ''articles or services like or directly competitive with articles or services which are produced or provided''; and

(C) by adding at the end the following:

''(e) BASIS FOR SECRETARY DETERMINATION.—

''(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.''.

(2) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking ''For purposes of'' and inserting ''(a) FIRM.—For purposes of''; and

(B) by adding at the end the following:

''(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.''.

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting ''or service'' after ''new product''.

(c) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 249 of the Trade Act of 1974 (19 U.S.C. 2321) is amended by striking ''subpena'' and inserting ''subpoena'' each place it appears in the heading and the text.

(2) TABLE OF CONTENTS.—The table of contents for the Trade Act of 1974 is amended by striking ''Subpena'' in the item relating to section 249 and inserting ''Subpoena''.

SEC. 104. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary'' and inserting ''(a) MONITORING PROGRAMS.—The Secretary'';

(B) by inserting ''and services'' after ''imports of articles'';

(C) by inserting ''and domestic provision of services'' after ''domestic production'';

(D) by inserting ''or providing services'' after ''producing articles''; and

(E) by inserting '', or provision of services,'' after ''changes in production''; and

(2) by adding at the end the following:

''(b) COLLECTION OF DATA AND REPORTS ON SERVICE SECTOR.—

''(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Improvement Act of 2007, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

''(2) SECRETARY OF COMMERCE.—Not later than 180 days after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.''.

SEC. 105. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date that is 90 days after the date of the enactment of this Act.

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR INDUSTRIES

SEC. 201. OTHER METHODS OF REQUESTING INVESTIGATION.

Section 221 of the Trade Act of 1974 (19 U.S.C. 2271) is amended—

(1) by adding at the end the following:

''(c) OTHER METHODS OF INITIATING A PETITION.—Upon the request of the President or the United States Trade Representative, or the resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, the Secretary shall promptly initiate an investigation under this chapter to determine the eligibility for adjustment assistance of—

''(1) a group of workers (which may include workers from more than one facility or employer); or

''(2) all workers in an occupation as that occupation is defined in the Bureau of Labor Statistics Standard Occupational Classification System.'';

(2) in subsection (a)(2), by inserting ''or a request or resolution filed under subsection (c),'' after ''paragraph (1),''; and

(3) in subsection (a)(3), by inserting '', request, or resolution'' after ''petition'' each place it appears.

SEC. 202. NOTIFICATION.

Section 2243 of the Trade Act of 1974 (19 U.S.C. 2274) is amended to read as follows:

''SEC. 224. NOTIFICATIONS REGARDING AFFIRMATIVE DETERMINATIONS AND SAFEGUARDS.

''(a) NOTIFICATIONS REGARDING CHAPTER 1 INVESTIGATIONS AND DETERMINATIONS.—Whenever the International Trade Commission makes a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the Commission shall immediately—

''(1) notify the Secretary of Labor of that finding; and

''(2) in the case of a finding with respect to an agricultural commodity, as defined in section 291, notify the Secretary of Agriculture of that finding.

''(b) NOTIFICATION REGARDING BILATERAL SAFEGUARDS.—The International Trade Commission shall immediately notify the Secretary of Labor and, in an investigation with respect to an agricultural commodity, the Secretary of Agriculture, whenever the Commission makes an affirmative determination pursuant to one of the following provisions:

''(1) Section 421 of the Trade Act of 1974 (19 U.S.C. 2451).

''(2) Section 312 of the United States-Australia Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(3) Section 312 of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(4) Section 312 of the United States-Singapore Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(5) Section 312 of the United States-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(6) Section 302(b) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3352(b)).

''(7) Section 212 of the United States-Jordan Free Trade Agreement Implementation Act (19 U.S.C. 2112).

''(8) Section 312 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (19 U.S.C. 4062).

''(9) Section 312 of the United States-Bahrain Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(10) Section 312 of the United States-Oman Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(c) AGRICULTURAL SAFEGUARDS.—The Commissioner of Customs shall immediately notify the Secretary of Labor and, in the case of an agricultural commodity, the Secretary of Agriculture, whenever the Commissioner of Customs assesses additional duties on a product pursuant to one of the following provisions:

''(1) Section 202 of the United States-Australia Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(2) Section 202 of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(3) Section 201(c) of the United States-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(4) Section 309 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3358).

''(5) Section 301(a) of the United States-Canada Free Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note).

''(6) Section 404 of the United States-Israel Free Trade Agreement Implementation Act (19 U.S.C. 2112 note).

''(7) Section 202 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (19 U.S.C. 4032).

''(d) TEXTILE SAFEGUARDS.—The President shall immediately notify the Secretary of Labor whenever the President makes a positive determination pursuant to one of the following provisions:

''(1) Section 322 of the United States-Australia Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(2) Section 322 of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(3) Section 322 of the United States-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(4) Section 322 of the United States-Singapore Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(5) Section 322 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (19 U.S.C. 4082).

''(6) Section 322 of the United States-Bahrain Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(7) Section 322 of the United States-Oman Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).

''(e) ANTIDUMPING AND COUNTERVAILING DUTIES.—Whenever the International Trade Commission makes a final affirmative determination pursuant to section 705 or section 735 of the Tariff Act of 1930 (19 U.S.C. 1671d or 1673d), the Commission shall immediately notify the Secretary of Labor and, in the case of an agricultural commodity, the Secretary of Agriculture, of that determination.''.

SEC. 203. INDUSTRY-WIDE DETERMINATION.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended by adding at the end the following:

''(e) INVESTIGATION REGARDING INDUSTRY-WIDE CERTIFICATION.—If the Secretary receives a request or a resolution under section 221(c) on behalf of workers in a domestic industry or occupation (described in section 221(c)(2)) or receives 3 or more petitions under section 221(a) within a 180-day period on behalf of groups of workers in a domestic industry or occupation, the Secretary shall make an industry-wide determination under subsection (a) of this section with respect to the domestic industry or occupation in which the workers are or were employed. If the Secretary does not make a determination and issue a certification under the preceding sentence, the Secretary shall make a determination of eligibility under subsection (a) with respect to each group of workers in that domestic industry or occupation from which a petition was received.''.

SEC. 204. COORDINATION WITH OTHER TRADE PROVISIONS.

(a) INDUSTRY-WIDE CERTIFICATION BASED ON GLOBAL SAFEGUARDS.—

(1) RECOMMENDATIONS BY ITC.—

(A) Section 202(e)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2252(e)(2)(D)) is amended by striking '', including the provision of trade adjustment assistance under chapter 2''.

(B) Section 203(a)(3)(D) of the Trade Act of 1974 (19 U.S.C. 2253(a)(3)(D)) is amended by striking '', including the provision of trade adjustment assistance under chapter 2''.

(2) ASSISTANCE FOR WORKERS.—Section 203(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2253(a)(1)(A)) is amended to read as follows:

''(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry—

''(i) the President shall take all appropriate and feasible action within his power; and

''(ii)(I) the Secretary of Labor shall certify as eligible to apply for adjustment assistance under section 223 workers employed in the domestic industry defined by the Commission if such workers become totally or partially separated, or are threatened to become totally or partially separated, not earlier than 1 year before, or not later than 1 year after, the date on which the Commission made its report to the President under section 202(f); and

''(II) in the case of a finding with respect to an agricultural commodity as defined in section 291, the Secretary of Agriculture shall certify as eligible to apply for adjustment assistance under section 293 agricultural commodity producers employed in the domestic production of the agricultural commodity that is the subject of the finding during the most recent marketing year.''.

(b) INDUSTRY-WIDE CERTIFICATION BASED ON BILATERAL SAFEGUARD PROVISIONS OR ANTIDUMPING OR COUNTERVAILING DUTY ORDERS.—

(1) IN GENERAL.—Subchapter A of chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by inserting after section 224 the following new section:

''SEC. 224A. INDUSTRY-WIDE CERTIFICATION WHERE BILATERAL SAFEGUARD PROVISIONS INVOKED OR ANTIDUMPING OR COUNTERVAILING DUTIES IMPOSED.

''(a) IN GENERAL.—

''(1) MANDATORY CERTIFICATION.—Not later than 10 days after the date on which the Secretary of Labor receives a notification with respect to the imposition of a trade remedy, safeguard determination, or antidumping or countervailing duty determination under section 224 (a), (b), (c), (d), or (e), the Secretary shall certify as eligible for trade adjustment assistance under section 223(a) workers employed in the domestic production of the article that is the subject of the trade remedy, safeguard determination, or antidumping or countervailing duty determination, as the case may be, if such workers become totally or partially separated, or are threatened to become totally or partially separated not more than 1 year before or not more than 1 year after the applicable date.

''(2) APPLICABLE DATE.—In this section, the term 'applicable date' means—

''(A) the date on which the affirmative or positive determination or finding is made in the case of a notification under section 224 (a), (b), or (d);

''(B) the date on which a final determination is made in the case of a notification under section 224(e); or

''(C) the date on which additional duties are assessed in the case of a notification under section 224(c).

''(b) QUALIFYING REQUIREMENTS FOR WORKERS.—The provisions of subchapter B shall apply in the case of a worker covered by a certification under this section or section 223(e), except as follows:

''(1) Section 231(a)(5)(A)(ii) shall be applied—

''(A) by substituting '30th week' for '26th week' in subclause (I); and

''(B) by substituting '26th week' for '20th week' in subclause (II).

''(2) The provisions of section 236(a)(1) (A) and (B) shall not apply.''.

(2) AGRICULTURAL COMMODITY PRODUCERS.—Chapter 6 of title II of the Trade Act of 1974 (19 U.S.C. 2401 et seq.) is amended by striking section 294 and inserting the following:

''SEC. 294. INDUSTRY-WIDE CERTIFICATION FOR AGRICULTURAL COMMODITY PRODUCERS WHERE SAFEGUARD PROVISIONS INVOKED OR ANTIDUMPING OR COUNTERVAILING DUTIES IMPOSED.

''(a) IN GENERAL.—Not later than 10 days after the date on which the Secretary of Agriculture receives a notification with respect to the imposition of a trade remedy, safeguard determination, or antidumping or countervailing duty determination under section 224 (b), (c), or (e), the Secretary shall certify as eligible for trade adjustment assistance under section 293(a) agricultural commodity producers employed in the domestic production of the agricultural commodity that is the subject of the trade remedy, safeguard determination, or antidumping or countervailing duty determination, as the case may be, during the most recent marketing year.

''(b) APPLICABLE DATE.—In this section, the term 'applicable date' means—

''(1) the date on which the affirmative or positive determination or finding is made in the case of a notification under section 224(b);

''(2) the date on which a final determination is made in the case of a notification under section 224(e); or

''(3) the date on which additional duties are assessed in the case of a notification under section 224(c).''.

(c) TECHNICAL AMENDMENTS.—The table of contents for title II of the Trade Act of 1974 is amended—

(1) by striking the item relating to section 224 and inserting the following:

''Sec. 224. Notifications regarding affirmative determinations and safeguards.'';

(2) by inserting after the item relating to section 224, the following:

''Sec. 224A. Industry-wide certification based on bilateral safeguard provisions invoked or antidumping or countervailing duties imposed.'';

and

(3) by striking the item relating to section 294, and inserting the following:

''Sec. 294. Industry-wide certification for agricultural commodity producers where safeguard provisions invoked or antidumping or countervailing duties imposed.''.

SEC. 205. REGULATIONS.

The Secretary of the Treasury, the Secretaries of Agriculture and Labor, and the International Trade Commission may promulgate such regulations as may be necessary to carry out the amendments made by this title.

TITLE III—OTHER TRADE ADJUSTMENT ASSISTANCE MATTERS

Subtitle A—Trade Adjustment Assistance

SEC. 301. CALCULATION OF SEPARATION TOLLED DURING LITIGATION.

Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end the following:

''(h) SPECIAL RULE FOR CALCULATING SEPARATION.—Notwithstanding any other provision of this chapter, any period during which a judicial or administrative appeal is pending with respect to the denial by the Secretary of a petition under section 223 shall not be counted for purposes of calculating the period of separation under subsection (a)(2) and an adversely affected worker that would otherwise be entitled to a trade readjustment allowance shall not be denied such allowance because of such appeal.''.

SEC. 302. ESTABLISHMENT OF TRADE ADJUSTMENT ASSISTANCE ADVISOR.

(a) IN GENERAL.—Subchapter A of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 221, the following new section:

"SEC. 221A. ESTABLISHMENT OF TRADE ADJUSTMENT ASSISTANCE ADVISOR.

''(a) IN GENERAL.—There is established in the Department of Labor an office to be known as the 'Office of Trade Adjustment Assistance Advisor' (in this section referred to as the 'Office'). The Office shall be headed by a Director, who shall be responsible for providing assistance and advice to any person or entity described in section 221(a)(1) desiring to file a petition for certification of eligibility under section 221.

''(b) TECHNICAL ASSISTANCE.—The Director shall coordinate with each agency responsible for providing adjustment assistance under this chapter or chapter 6 (including the Office of Trade Adjustment Assistance established under section 255A) and shall provide technical and legal assistance and advice to enable persons or entities described in section 221(a)(1) to prepare and file petitions for certification under section 221.''.

(b) TECHNICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 221, the following:

''Sec. 221A. Establishment of Office of Trade Adjustment Assistance Advisor.''.

SEC. 303. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following:

"SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of the Trade Adjustment Assistance Improvement Act of 2007, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance (in this section referred to as the 'Office').

''(b) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.

''(c) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following:

''Sec. 255A. Office of Trade Adjustment Assistance.''.

SEC. 304. CERTIFICATION OF SUBMISSIONS.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), as amended by section 203, is amended by adding at the end the following:

''(f) CERTIFICATION OF SUBMISSIONS.—If an employer submits a petition on behalf of a group of workers pursuant to section 221(a)(1) or if the Secretary requests evidence or information from an employer in order to make a determination under this section, the accuracy and completeness of any evidence or information submitted by the employer shall be certified by the employer's legal counsel or by an officer of the employer.''.

SEC. 305. WAGE INSURANCE.

(a) IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

''(3) ELIGIBILITY.—A worker in a group that the Secretary has certified as eligible to apply for adjustment assistance under section 223 may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

''(A) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(B) is at least 40 years of age;

''(C) earns not more than $50,000 a year in wages from reemployment;

''(D) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(E) does not return to the employment from which the worker was separated.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2)) are amended by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)'' each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3)''.

(c) EXTENSION.—Section 246(b)(1) of such Act is amended by striking ''5 years'' and inserting ''10 years''.

SEC. 306. TRAINING.

(a) MODIFICATION OF ENROLLMENT DEADLINES.—Section 231(a)(5)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''16th week'' and inserting ''26th week''; and

(2) in subclause (II), by striking ''8th week'' and inserting ''20th week''.

(b) EXTENSION OF ALLOWANCE TO ACCOMMODATE TRAINING.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293), as amended by section 301, is amended by adding at the end the following:

''(i) EXTENSION OF ALLOWANCE.—Notwithstanding any other provision of this section, a trade readjustment allowance may be paid to a worker for a number of additional weeks equal to the number of weeks the worker's enrollment in training was delayed beyond the deadline applicable under section 231(a)(5)(A)(ii) pursuant to a waiver granted under section 231(c)(1)(E).''.

(c) FUNDING FOR TRAINING.—Section 236(a) of the Trade Act of 1974 (19 U.S.C. 2296(a)) is amended—

(1) in paragraph (1) by striking ''Upon such approval'' and all that follows to the end; and

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

''(2)(A) Upon approval of a training program under paragraph (1), and subject to the limitations imposed by this section, an adversely affected worker covered by a certification issued under section 223 shall be eligible to have payment of the costs of that training, including any costs of an approved training program incurred by a worker before a certification was issued under section 223, made on behalf of the worker by the Secretary directly or through a voucher system.

''(B) Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Improvement Act of 2007, the Secretary shall develop, and submit to Congress for approval, a formula that provides workers with an individual entitlement for training costs to be administered pursuant to sections 239 and 240. The formula shall take into account—

''(i) the number of workers enrolled in trade adjustment assistance;

''(ii) the duration of the assistance;

''(iii) the anticipated training costs for workers; and

''(iv) any other factors the Secretary deems appropriate.

''(C) Until such time as Congress approves the formula, the total amount of payments that may be made under subparagraph (A) for any fiscal year shall not exceed 50 percent of the amount of trade readjustment allowances paid to workers during that fiscal year.''.

(d) APPROVED TRAINING PROGRAMS.—

(1) IN GENERAL.—Section 236(a)(5) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)) is amended—

(A) by striking ''and'' at the end of subparagraph (E);

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

(C) by inserting after subparagraph (E) the following:

''(F) integrated workforce training;

''(G) entrepreneurial training; and''.

(2) DEFINITION.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319), as amended by 102(c), is amended by adding at the end the following:

''(19) The term 'integrated workforce training' means training that integrates occupational skills training with English language acquisition.''.

SEC. 307. FUNDING FOR ADMINISTRATIVE COSTS.

Section 241 of the Trade Act of 1974 (19 U.S.C. 2313) is amended by adding at the end the following:

''(d) Funds provided by the Secretary to a State to cover administrative costs associated with the performance of a State's responsibilities under section 239 shall be sufficient to cover all costs of the State associated with operating the trade adjustment assistance program, including case worker costs.''.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ''2007'' and inserting ''2012''.

(b) FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by inserting ''and $50,000,000 for each of fiscal years 2008 through 2012,'' after ''fiscal years 2003 through 2007,''.

(c) TERMINATION.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by striking ''2007'' each place it appears and inserting ''2012''.

(d) FARMERS.—Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking ''2007'' and inserting ''2012''.

Subtitle B—Data Collection

SEC. 311. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Accountability Act''.

SEC. 312. DATA COLLECTION; INFORMATION TO WORKERS.

(a) DATA COLLECTION.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

"SEC. 250. DATA COLLECTION; REPORT.

''(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter. The Secretary shall collect and publish, on an annual basis, the following:

''(1) The number of workers certified and the number of workers actually participating in the trade adjustment assistance program.

''(2) The time for processing petitions.

''(3) The number of training waivers granted.

''(4) The number of workers receiving benefits and the type of benefits being received.

''(5) The number of workers enrolled in, and the duration of, training by major types of training.

''(6) Earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act.

''(7) Reemployment rates and sectors in which dislocated workers have been employed.

''(8) The cause of dislocation identified in each petition that resulted in a certification under this chapter.

''(9) The number of petitions filed and workers certified in each congressional district of the United States.

''(b) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

''(1) STATE PARTICIPATION.—Participation by each State in the collection of data required under subsection (a) and shall provide incentives for States to supplement employment and wage data obtained through the use of unemployment insurance wage records.

''(2) MONITORING.—Monitoring by each State of internal control measures with respect to program measurement data collected by each State.

''(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

''(c) REPORT.—

''(1) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and make available to each State and to the public a report that includes the information collected under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking ''Departments of Labor and Commerce'' and inserting ''Departments of Labor, Commerce, and Agriculture''.

(2) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking ''The Secretary of Commerce and the Secretary of Labor'' and inserting ''The Secretaries of Commerce, Labor, and Agriculture''.

(3) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

''Sec. 250. Data collection; report.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 313. DETERMINATIONS BY THE SECRETARY OF LABOR.

Section 223(c) of the Trade Act of 1974 (19 U.S.C. 2273(c)) is amended to read as follows:

''(c) PUBLICATION OF DETERMINATIONS.—Upon reaching a determination on a petition, the Secretary shall—

''(1) promptly publish a summary of the determination in the Federal Register together with the Secretary's reasons for making such determination; and

''(2) make the full text of the determination available to the public on the Internet website of the Department of Labor with full-text searchability.''.

Subtitle C—Trade Adjustment Assistance for Farmers

SEC. 321. CLARIFICATION OF MARKETING YEAR AND OTHER PROVISIONS.

(a) IN GENERAL.—Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: '', or in the case of an agricultural commodity that has no officially designated marketing year, in a 12-month period for which the petitioner provides written request''.

(b) FISHERMEN.—Notwithstanding any other provision of law, for purposes of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) fishermen who harvest wild stock shall be eligible for adjustment assistance to the same extent and in the same manner as a group of workers under such chapter 2.

SEC. 322. ELIGIBILITY.

(a) IN GENERAL.—Section 292(c)(1) of the Trade Act of 1974 (19 U.S.C. 2401a(c)(1)) is amended by striking ''80 percent'' and inserting ''90 percent''.

(b) SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.—Paragraph (2) of section 292(d) of the Trade Act of 1974 (19 U.S.C. 2401A(d)(2)) is amended to read as follows:

''(2) imports of articles like or directly competitive with the agricultural commodity, or class of goods within the agricultural commodity, produced by the group contributed importantly to the decline in price determined under subsection (c)(1) without regard to whether imports of such articles increased in any year subsequent to the year the group was first certified.''.

(c) NET FARM INCOME.—Section 296(a)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2401e(a)(1)(C)) is amended by inserting before the end period the following: ''or the producer had no positive net farm income for the 2 most recent consecutive years in which no adjustment assistance was received by the producer under this chapter''.

By Ms. LANDRIEU:

S. 123. A bill to authorize the project for hurricane and storm damage reduction, Morganza to the Gulf of Mexico, Louisiana; to the Committee on Environment and Public Works.

Ms. LANDRIEU. Mr. President, Hurricanes Katrina and Rita revealed the Gulf Coast's vulnerability to storms and flooding. With the help of generous Americans, the people of the gulf coast have been working hard over the last year and a half to rebuild their economy, their communities, and their lives.

Since these devastating storms struck in 2005, Congress directed the U.S. Army Corps of Engineers to better protect America's gulf coast. Yet Congress's failure to pass a Water Resources Development Act WRDA, has delayed much of the needed protection. Of all of the many worthy projects throughout the Nation awaiting WRDA passage, there is one hurricane protection project that stands out and cries for immediate congressional authorization with or without a WRDA bill. Accordingly, I am introducing legislation to singularly authorize this long overdue project known as ''Morganza to the Gulf of Mexico Hurricane Protection.''

This project includes a series of levees, locks and other systems through Terrebonne and Lafourche Parishes in Louisiana. When complete, the Morganza to the Gulf project will protect about 120,000 people and 1,700 square miles of land against storm surges such as those caused by Hurricanes Katrina and Rita.

The Morganza to the Gulf project is distinguishable from all other projects awaiting WRDA passage because it was originally authorized in the last enacted WRDA bill in 2000, with the requirement that the Army Corps of Engineers deliver a favorable feasibility report by December 31 of that year. The Corps eventually submitted its report more than a year late, causing the authorization to expire despite the Corps' favorable recommendation.

Though repeated attempts have been made, Congress has been unable to deliver a new WRDA bill since 2000. As a result, vital hurricane protection for a portion of southeast Louisiana that the Corps recommends after years of environmental and economic analysis is awaiting congressional action, and an area of America's gulf coast remains needlessly vulnerable. Notably, every failed WRDA bill that the Senate, the House, and its committees have separately passed since 2000 has authorized the Morganza to the Gulf Hurricane Protection project. Simply stated, there is no other item in WRDA that has been kicked down the road as many times as this.

This bill that I introduce today fully authorizes the Morganza to the Gulf project in accordance with the plans and subject to the conditions of the Corps' report.

I urge my colleagues to support this legislation and ask unanimous consent that a copy of my statement and the bill appear in the RECORD.

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

S. 123

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

SECTION 1. MORGANZA TO THE GULF OF MEXICO PROJECT.

(a) IN GENERAL.—The Secretary of the Army shall carry out the project for hurricane and storm damage reduction, Morganza to the Gulf of Mexico, Louisiana, substantially in accordance with the plans, and subject to the conditions, described in the Reports of the Chief of Engineers dated August 23, 2002, and July 22, 2003, at a total cost of $886,700,000, with an estimated Federal cost of $576,355,000 and an estimated non-Federal cost of $310,345,000.

(b) CREDIT.—The Secretary shall credit toward the non-Federal share of the cost of the project elements the cost of design and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project elements if the Secretary determines that the work is integral to the project elements.

(c) OPERATIONS AND MAINTENANCE.—The operation, maintenance, repair, rehabilitation, and replacement of the Houma Navigation Canal lock complex and the Gulf Intracoastal Waterway floodgate features of the project described in subsection (a) that provide for inland waterway transportation shall be a Federal responsibility, in accordance with section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212).

By Mr. ALLARD:

S. 124. A bill to provide certain counties with the ability to receive television broadcast signals of their choice; to the Committee on Commerce, Science, and Transportation.

Mr. ALLARD. Mr. President, another piece of legislation that I am introducing today addresses an issue important to citizens of southern Colorado.

The problem is this: cable and satellite subscribers in two southern Colorado counties are forced by current law to receive New Mexico television stations. Lately, I hear almost every day from my constituents that they would prefer to receive Colorado television over New Mexico television.

The problem stems from the fact that these two Colorado counties are located in the Albuquerque designated market area, as determined by Nielsen Media Research. As a matter of fairness, citizens of Colorado should be eligible to receive Colorado TV. Consumers should choose which television stations they receive, especially since they are the ones paying for it.

The bill I am introducing does just that. It makes a commonsense change to the law that allows citizens of La Plata and Montezuma Counties to receive television stations from Denver, not Albuquerque.

I hope that my colleagues will join me in supporting this bill that is nearly identical to laws enacted in previous Congresses that addressed similar problems in other States.

By Mr. ALLARD:

S. 125. A bill to establish the Granada Relocation Center National Historic Site as an affiliated unit of the National Park System; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, I am introducing a bill dealing with the Granada Relocation Camp, also known as Camp Amache. It played an important, but sad, part in United States history. Camp Amache, one of 10 internment camps in the Nation, was established in August 1942 by the U.S. Government during World War II as a place to house the Japanese from the west coast and was closed on August 15, 1945. This is a significant part of American history and it should be preserved. My bill today will designate the Granada Relocation Camp as a national historic site in Colorado.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 126. A bill to modify the boundary of Mesa Verde National Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, another piece of legislation I am introducing today will authorize the expansion of the boundary of Mesa Verde National Park. The boundary adjustment will allow for the incorporation of 324 acres of land owned by the Henneman family, which is being purchased by the Conservation Fund for conveyance to the park, as well as a 38-acre parcel that will be donated to the park by the Mesa Verde Foundation.

Mesa Verde National Park protects some of the best preserved and most notable archeological sites in the world. There are over 4,000 known archeological sites in the park, including 600 cliff dwellings. These sites were constructed by ancestral Puebloans, who occupied this area for over 700 years, from 600 A.D. to 1300 A.D.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 127. A bill to amend the Great Sand Dunes National Park and Preserve Act of 2000 to explain the purpose and provide for the administration of the Baca National Wildlife Refuge; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, the Baca National Wildlife Refuge Purpose bill will give the U.S. Fish and Wildlife Service management tools that will allow the agency to run the Baca National Wildlife Refuge in a way that achieves the most beneficial use of this wonderful natural resource. The Baca National Wildlife Refuge consists of 92,500 acres of wetlands, sage brush, and riparian lands adjacent to the Great Sand Dunes National Park in southern Colorado. I, along with my former colleague from Colorado's 3rd Congressional District, U.S. Representative Scott McInnis, sponsored the legislation that converted the Sand Dunes from a monument to a park. This legislation also authorized the Federal acquisition of the Baca Ranch lands and I remain actively interested in the area's management.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 128. A bill to amend the Cache La Poudre River Corridor Act to designate a new management entity, make certain technical and conforming amendments, enhance private property protections, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, I am introducing legislation which will extend congressional authorization for the Cache la Poudre Heritage Area in northern Colorado and will give local citizens greater management authority over the area. Under the original legislation, authored by former Colorado. Senator Hank Brown, the Secretary of Interior was to appoint a commission to work with the National Park Service and manage the area, but because of a technicality, the Secretary was unable to appoint the commission. In response, local citizens stepped up and formed the Poudre Heritage Alliance to support the Heritage Area until an official commission could be named. This legislation would rectify this, and empower local residents to continue the work they have been doing on behalf of the heritage area.

By Mr. ALLARD:

S. 129. A bill to study and promote the use of energy-efficient computer servers in the United States; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, I am introducing a bill that will authorize the EPA to conduct a study of the growth in energy consumption by computer data centers operated by the Federal Government and by private corporations. The study will also examine industry movement toward energy efficient microchips and computer servers, potential cost savings associated with the movement to more efficient machines and what, if any, impacts to performance come with increased efficiency. The results of the study will allow us to more fully understand the impact that the growing number of computers in use throughout the country has on energy consumption. This information will better position Congress to make recommendations to Federal agencies on their energy use and computer selection.

It will also provide private industry with information that will allow them to choose computer models that will decrease their energy consumption, making their companies more efficient and profitable.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 130. A bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under Medicare; to the Committee on Finance.

Mr. ALLARD. Mr. President, currently American seniors enjoy Medicare health plans called cost contracts. Under legislation I am introducing today, seniors will be able to continue utilizing these valued health plans.

Medicare cost contract plans are vital to America. Cost contracts provide Medicare beneficiaries in many rural areas and small cities throughout our country with an affordable, high-quality option to the traditional Medicare fee-for-service plan. For many of these beneficiaries, Medicare Advantage plans do not provide access to physicians in the community.

Medicare cost contracts are managed care plans that are reimbursed on a cost basis for providing health services. Under current law, cost contracts are one option for Medicare beneficiaries. Cost contract premiums cover Medicare deductibles and additional benefits not covered by basic Medicare. Further, for the costs of a normal Medicare fee-for-service copayment, seniors with cost contracts can use any Medicare provider regardless of whether they participate in the health plans network. This is critical in rural areas where physicians are scarce.

Cost contracts are vital to seniors who have them. From New York to Oregon, and even to Hawaii, America's seniors are enrolled in cost contract plans. Cost contracts are especially important in rural Colorado. Of the Coloradans with cost contract plans, 89 percent live in rural Colorado, where few physicians will see patients under straight Medicare or Medicare Advantage.

Many beneficiaries who are enrolled in Medicare cost contract plans live on limited incomes. Under the traditional Medicare program, beneficiaries incur considerable out-of-pocket expenses. In addition, Medicare supplemental insurers frequently age-adjust premiums

and either refuse coverage or impose coverage restrictions for pre-existing conditions. Medicare cost contract plans provide an affordable alternative.

Unfortunately, under current law cost contracts soon will terminate.

I believe Congress should work to extend Medicare cost contracts further. My bill, the Medicare Cost Contract Extension and Refinement Act of 2007, would accomplish this by extending by five years the cost contract sunset date of December 31, 2007, to December 31, 2012.

Cost contracts have been a bipartisan issue, with bipartisan support in the past. Senator Wyden of Oregon worked to get an extension for cost contracts in the 109th Congress, and I look forward to working with him again during the 110th.

By Mr. ALLARD (for himself and Mr. REED):

S. 131. A bill to extend for 5 years the Mark-to-Market program of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ALLARD. Mr. President, I turn now to the issue of housing. Congress created the Mark-to-Market Program in 1997 to reduce Section 8 costs while preserving the affordability and availability of low-income rental housing. The purpose of the program is to reduce the property rents to market level while simultaneously restructuring property debt to prevent FHA defaults.

Studies seem to show that the program has been an overwhelming success. Nearly 250,000 units of affordable housing have been preserved due to the Mark-to-Market Program. This is affordable housing that would have been permanently lost as affordable otherwise. According to HUD, the program has also saved taxpayers more than $2 billion.

The original legislation authorized the Mark-to-Market Program for 4 years, which was subsequently extended for 5 additional years. Therefore, the Mark-to-Market program authority was scheduled to expire on September 30, 2006. Fortunately, the program authority was temporarily extended under the continuing resolutions.

When the program was extended in 2001, it appeared that 5 additional years would be sufficient time for nearly all eligible properties to complete the Mark-to-Market process. However, more recent projections show that nearly 78,000 properties will face rent reductions over the next 5 years.

It is important to note that even though the program will expire, these Section 8 properties with above market rates will still be required to have their rents reduced to market levels. Without the proper tools to also restructure the debt, many owners will lack sufficient funds for property maintenance or mortgage payments. Because many Section 8 properties are also FHA insured, this will result in a significant number of claims against FHA, in addition to many tenant displacements.

Clearly, no one finds this a desirable scenario. Failure to extend the Mark-to-Market Program would be bad for tenants and bad for taxpayers. Thus, I am pleased to join with Senator REED of Rhode Island in reintroducing the Mark-to-Market Extension Act of 2007. Our bill would extend the program for 5 additional years to allow the remaining properties to go through the Mark-to-Market process. Frankly, I can see no downside to extending the program; It maintains affordable housing for less money.

I am pleased to work with industry groups and with my colleagues to see that this very worthwhile program is extended for an additional 5 years.

By Mr. ALLARD:

S. 132. A bill to end the trafficking of methamphetamines and precursor chemicals across the United States and its borders; to the Committee on the Judiciary.

Mr. ALLARD. Mr. President, the first bill I present today is to address one of the biggest current scourges of our citizens—methamphetamine abuse.

Just this week, a report published by Colorado's Meth Task Force cited Denver as a major distribution center for meth in the U.S.

Our Nation has been hard hit by the illegal trafficking of meth across U.S. borders. This is a national issue that is growing at a rate that constantly presents a challenge to our talented law enforcement officials. Through our work on the Combat Meth Act, we have provided them with many tools to fight the domestic production of meth. We are now called upon to respond to the issue of foreign produced meth as it presents a growing threat to the U.S.

In just 10 years, meth has become America's worst drug problem—worse than marijuana, cocaine or heroin. My home state of Colorado, like the rest of the Nation, faces challenges associated with the growing epidemic. Although the number of meth labs in the state is on the decline, meth distribution remains rampant because of Denver's location at the intersection of two major interstate highways, both of which serve as pipelines for the distribution of meth after it enters our country.

This evidence is echoed by the many local drug task forces, law enforcement officials, and District Attorneys who are tasked with tackling meth within our communities and who I have worked with on this issue.

According to estimates from the DEA, an alarming 80 percent of the meth used in the United States comes from larger labs, increasingly abroad, while only 20 percent of the meth consumed in this country comes from small laboratories.

Therefore, I propose that we improve efforts to curb the flow of meth both within and across our borders. We must take steps to expand enforcement to reduce the amount of meth being trafficked into the United States by establishing stricter penalties for meth offenders, improving coordination with foreign law enforcement officials, and examining the serious meth problems faced by Indian reservations.

The Methamphetamine Trafficking Enforcement Act of 2007 that I am introducing today is a first step to fighting the trafficking of this drug. My bill addresses the distribution issue by dramatically lowering the quantity and dollar amount thresholds for federal criminal prosecution of leaders of methamphetamine distribution rings.

The trafficking of meth across our borders makes Federal action necessary, but this is not our war to fight alone. This bill also presses upon the United States Trade Representative, the Secretary of State, the Attorney General, and the Secretary of Homeland Security to include new ways to curb the illicit use and shipment of pseudoephedrine, ephedrine, and similar chemicals in multilateral and bilateral negotiations. Federal law enforcement officials will collaborate with their foreign counterparts to fight meth internationally. Working together, we can find a long term solution.

According to the U.S. Department of Justice, the use, production and distribution of meth on Indian lands has increased in the past decade. With limited numbers of tribal law enforcement officials, meth can easily flow into and be trafficked out of many Indian reservations. This bill urges the Attorney General to research and report to Congress the challenges faced by all Indian reservations and make recommendations to help them address meth trafficking and abuse.

We must recognize the immediacy of the issue of methamphetamine trafficking. It is important that we protect the U.S. and its borders to ensure national security and the safety of our communities. I look forward to working with my colleagues on this issue and invite them to cosponsor the Methamphetamine Trafficking Enforcement Act of 2007.

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

S. 133. A bill to promote the national security and stability of the economy of the United States by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes; to the Committee on Finance.

Mr. OBAMA. Mr. President, in 2005, Congress enacted the Renewable Fuels Standard, RFS, as part of the Energy Policy Act. The RFS is a commitment by the United States government that, henceforth, ethanol must comprise a substantial part of the national vehicle fuel supply, with a goal of 7.5 billion gallons of ethanol in our gasoline by 2012.

Ethanol production has responded vigorously to this national policy. In fact, in only two years, ethanol production has boomed to where it now far exceeds the RFS target for this year. It is

widely anticipated that ethanol production will surpass the target for the year 2012 by the end of this year, five years early.

Clearly, it is time to increase the RFS targets. I am pleased to be an original cosponsor of the bill introduced today by my colleagues, Senator HARKIN and Senator LUGAR, that will increase those targets to 30 billion gallons by the year 2020 and 60 billion gallons by the year 2030. I hope my colleagues will support the provisions of that bill.

But for an expanded RFS to be successful, we must lay further groundwork. We cannot meet the targets and deadlines of an expanded RFS without a robust package of policies that set the stage for the next decade.

So far, we've met our biofuels goals by producing ethanol made from sugars that come from corn. This approach, by itself, has been profoundly successful in many rural communities but will eventually reach its maximum capacity. While that day is still several years away, we must begin preparations now. We must build upon our current path. We must continue our pursuit in cracking the code for corn cellulosics. We must pour the foundation for the next generation of biofuels made from the broadest range of agriculture feedstocks. Our vocabulary must expand to cellulosics and biobutanols, manure and miscanthus.

The American Fuels Act, which I introduce today, breathes life into an expanded RFS. The American Fuels Act is the heart, the centerpiece, the key to ensuring that an expanded RFS is successful. That's why I am pleased to be joined today by my esteemed colleagues, Senator LUGAR and Senator HARKIN, in the introduction of this bill.

The premise of the American Fuels Act is to create a ''Biofuels Triangle'' that focuses on (1). production, (2). distribution, and (3) consumption.

To expand production, we create an ''Alternative Diesel Standard'' for diesels that complements the RFS for gasoline. The Alternative Diesel Standard requires 2 billion gallons of alternative diesels into the 40 billion gallon domestic diesel supply by the year 2016, encouraging greater use of biofuel feedstocks like vegetable oils, animal fats, coal-to-liquids, manure, and municipal waste. We call for the establishment of a cellulosic biomass fuels credit of an additional 76.5 cents per gallon so that first-generation cellulosic plants can be built to meet the 250 million gallon production goals by 2012.

To expand distribution, the American Fuels Act provides a tax credit for ethanol producers to invest in on-site blending equipment, bypassing oil refineries so that E–85 can be transported directly to the pump at your local gas station. Our bill also provides freedom for fuel franchisers by making it illegal for oil companies to stop their branded franchises from selling biofuels should these local businessmen wish to respond to their customer's request for biofuels. This bill also gives franchisers the power to sue oil companies for imposing any restrictions.

And to expand consumption, the American Fuels Act encourages the manufacture of more vehicles that can function on higher ethanol blends like E–85 so that more passenger cars to be flexible fuel vehicles. We provide a $100 tax credit to automakers for each ethanol-capable vehicle produced beyond the CAFE credit or any other government requirement. We require that 100 percent of the Federal fleet must be ethanol-capable or hybrids in the next 7 years. And we require that any public transit agency that uses Federal dollars to upgrade bus fleets must purchase an alternative fuel bus, or pledge to use alternative fuels in those buses.

To oversee these efforts, we create a Director of Energy Security in the Office of the President to ensure that our massive investment in domestically produced fuels get the national security leadership and coordination it requires.

Our dependence on oil is hurting our economy and jeopardizing our national security by keeping us tied to the world's most dangerous and unstable regimes. It's the fossil fuels we insist on burning—particularly oil—that are the single greatest cause of climate change and the damaging weather patterns that have been its result. Never has the failure to take on a single challenge so detrimentally affected nearly every aspect of our well-being as Nation. And never have the possible solutions had the potential to do so much good for so many generations to come.

That's why I urge my colleagues to join us in cosponsoring the American Fuels Act. I ask for their support, and for the swift enactment of this bill. I ask unanimous consent that the text of the American Fuels Act 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. 133

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 ''American Fuels Act of 2007''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Office of Energy Security.
Sec. 3. Credit for production of qualified flexible fuel motor vehicles.
Sec. 4. Incentives for the retail sale of alternative fuels as motor vehicle fuel.
Sec. 5. Freedom for fuel franchisers.
Sec. 6. Alternative diesel fuel content of diesel.
Sec. 7. Excise tax credit for production of cellulosic biomass ethanol.
Sec. 8. Incentive for Federal and State fleets for medium and heavy duty hybrids.
Sec. 9. Credit for qualifying ethanol blending and processing equipment.
Sec. 10. Public access to Federal alternative refueling stations.
Sec. 11. Purchase of clean fuel buses.
Sec. 12. Domestic fuel production volumes to meet Department of Defense needs.
Sec. 13. Federal fleet energy conservation improvement.

SEC. 2. OFFICE OF ENERGY SECURITY.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of Energy Security appointed under subsection (c)(1).

(2) OFFICE.—The term ''Office'' means the Office of Energy Security established by subsection (b).

(b) ESTABLISHMENT.—There is established in the Executive Office of the President the Office of Energy Security.

(c) DIRECTOR.—

(1) IN GENERAL.—The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RATE OF PAY.—The Director shall be paid at a rate of pay equal to level I of the Executive Schedule under section 5312 of title 5, United States Code.

(d) RESPONSIBILITIES.—

(1) IN GENERAL.—The Office, acting through the Director, shall be responsible for overseeing all Federal energy security programs, including the coordination of efforts of Federal agencies to assist the United States in achieving full energy independence.

(2) SPECIFIC RESPONSIBILITIES.—In carrying out paragraph (1), the Director shall—

(A) serve as head of the energy community;

(B) act as the principal advisor to the President, the National Security Council, the National Economic Council, the Domestic Policy Council, and the Homeland Security Council with respect to intelligence matters relating to energy security;

(C) with request to budget requests and appropriations for Federal programs relating to energy security—

(i) consult with the President and the Director of the Office of Management and Budget with respect to each major Federal budgetary decision relating to energy security of the United States;

(ii) based on priorities established by the President, provide to the heads of departments containing agencies or organizations within the energy community, and to the heads of such agencies and organizations, guidance for use in developing the budget for Federal programs relating to energy security;

(iii) based on budget proposals provided to the Director by the heads of agencies and organizations described in clause (ii), develop and determine an annual consolidated budget for Federal programs relating to energy security; and

(iv) present the consolidated budget, together with any recommendations of the Director and any heads of agencies and organizations described in clause (ii), to the President for approval;

(D) establish and meet regularly with a council of business and labor leaders to develop and provide to the President and Congress recommendations relating to the impact of energy supply and prices on economic growth;

(E) submit to Congress an annual report that describes the progress of the United States toward the goal of achieving full energy independence; and

(F) carry out such other responsibilities as the President may assign.

(e) STAFF.—

(1) IN GENERAL.—The Director may, without regard to the civil service laws (including regulations), appoint and terminate such personnel as are necessary to enable the Director to carry out the responsibilities of the Director under this section.

(2) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Director may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the personnel appointed by the Director shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 3. CREDIT FOR PRODUCTION OF QUALIFIED FLEXIBLE FUEL MOTOR VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45O. PRODUCTION OF QUALIFIED FLEXIBLE FUEL MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, in the case of a manufacturer, the qualified flexible fuel motor vehicle production credit determined under this section for any taxable year is an amount equal to the incremental flexible fuel motor vehicle cost for each qualified flexible fuel motor vehicle produced in the United States by the manufacturer during the taxable year.

''(b) INCREMENTAL FLEXIBLE FUEL MOTOR VEHICLE COST.—With respect to any qualified flexible fuel motor vehicle, the incremental flexible fuel motor vehicle cost is an amount equal to the lesser of—

''(1) the excess of—

''(A) the cost of producing such qualified flexible fuel motor vehicle, over

''(B) the cost of producing such motor vehicle if such motor vehicle was not a qualified flexible fuel motor vehicle, or

''(2) $100.

''(c) QUALIFIED FLEXIBLE FUEL MOTOR VEHICLE.—For purposes of this section, the term 'qualified flexible fuel motor vehicle' means a flexible fuel motor vehicle—

''(1) the production of which is not required for the manufacturer to meet—

''(A) the maximum credit allowable for vehicles described in paragraph (2) in determining the fleet average fuel economy requirements (as determined under section 32904 of title 49, United States Code) of the manufacturer for the model year ending in the taxable year, or

''(B) the requirements of any other provision of Federal law, and

''(2) which is designed so that the vehicle is propelled by an engine which can use as a fuel a gasoline mixture of which 85 percent (or another percentage of not less than 70 percent, as the Secretary may determine, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) of the volume of consists of ethanol.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(2) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) 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.

''(4) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credits allowable under this section and section 30B) shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

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

''(6) TERMINATION.—This section shall not apply to any vehicle produced after December 31, 2011.

''(7) CROSS REFERENCE.—For an election to claim certain minimum tax credits in lieu of the credit determined under this section, see section 53(e).''.

(b) CREDIT ALLOWED AGAINST THE ALTERNATIVE MINIMUM TAX.—Section 38(c)(4)(B) of the Internal Revenue Code of 1986 (defining specified credits) is amended by striking the period at the end of clause (ii)(II) and inserting '', and'', and by adding at the end the following new clause:

''(iii) the credit determined under section 45O.''.

(c) ELECTION TO USE ADDITIONAL AMT CREDIT.—Section 53 of the Internal Revenue Code of 1986 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

''(e) ADDITIONAL CREDIT IN LIEU OF FLEXIBLE FUEL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—In the case of a taxpayer making an election under this subsection for a taxable year, the amount otherwise determined under subsection (c) shall be increased by any amount of the credit determined under section 45O for such taxable year which the taxpayer elects not to claim pursuant to such election.

''(2) ELECTION.—A taxpayer may make an election for any taxable year not to claim any amount of the credit allowable under section 45O with respect to property produced by the taxpayer during such taxable year. An election under this subsection may only be revoked with the consent of the Secretary.

''(3) CREDIT REFUNDABLE.—The aggregate increase in the credit allowed by this section for any taxable year by reason of this subsection shall for purposes of this title (other than subsection (b)(2) of this section) be treated as a credit allowed to the taxpayer under subpart C.''.

(d) CONFORMING AMENDMENTS.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end the following new paragraph:

''(32) the qualified flexible fuel motor vehicle production credit determined under section 45N, plus''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45O. Production of qualified flexible fuel motor vehicles.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to motor vehicles produced in model years ending after the date of the enactment of this Act.

SEC. 4. INCENTIVES FOR THE RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 40A the following new section:

"SEC. 40B. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—The alternative fuel retail sales credit for any taxable year is the applicable amount for each gallon of alternative fuel sold at retail by the taxpayer during such year.

''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount shall be determined in accordance with the following table:

"In the case of any sale:	**The applicable amount for each gallon is:**
Before 2010	35 cents
During 2010 or 2011	20 cents
During 2012	10 cents.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' means any fuel at least 85 percent (or another percentage of not less than 70 percent, as the Secretary may determine, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) of the volume of which consists of ethanol.

''(2) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in this section) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(3) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

''(A) which is capable of operating on an alternative fuel,

''(B) the original use of which commences with the taxpayer,

''(C) which is acquired by the taxpayer for use or lease, but not for resale, and

''(D) which is made by a manufacturer.

''(d) ELECTION TO PASS CREDIT.—A person which sells alternative fuel at retail may elect to pass the credit allowable under this section to the purchaser of such fuel or, in the event the purchaser is a tax-exempt entity or otherwise declines to accept such credit, to the person which supplied such fuel, under rules established by the Secretary.

''(e) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(f) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2012.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit), as amended by section 4(d), is amended by striking ''plus'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', plus'', and by adding at the end the following new paragraph:

''(33) the alternative fuel retail sales credit determined under section 40B(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 40A the following new item:

''Sec. 40B. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of enactment of this Act, in taxable years ending after such date.

SEC. 5. FREEDOM FOR FUEL FRANCHISERS.

(a) PROHIBITION ON RESTRICTION OF INSTALLATION OF ALTERNATIVE FUEL PUMPS.—

(1) IN GENERAL.—Title I of the Petroleum Marketing Practices Act (15 U.S.C. 2801 et seq.) is amended by adding at the end the following:

"SEC. 107. PROHIBITION ON RESTRICTION OF INSTALLATION OF ALTERNATIVE FUEL PUMPS.

''(a) DEFINITION.—In this section:

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' means any fuel—

''(A) at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any combination of those fuels; or

''(B) any mixture of biodiesel (as defined in section 40A(d)(1) of the Internal Revenue Code of 1986) and diesel fuel (as defined in section 4083(a)(3) of the Internal Revenue Code of 1986), determined without regard to any use of kerosene and containing at least 20 percent biodiesel.

''(2) FRANCHISE-RELATED DOCUMENT.—The term 'franchise-related document' means—

''(A) a franchise under this Act; and

''(B) any other contract or directive of a franchisor relating to terms or conditions of the sale of fuel by a franchisee.

''(b) PROHIBITIONS.—

''(1) IN GENERAL.—Notwithstanding any provision of a franchise-related document in effect on the date of enactment of this section, no franchisee or affiliate of a franchisee shall be restricted from—

''(A) installing on the marketing premises of the franchisee an alternative fuel pump;

''(B) converting an existing tank and pump on the marketing premises of the franchisee for alternative fuel use;

''(C) advertising (including through the use of signage or logos) the sale of any alternative fuel; or

''(D) selling alternative fuel in any specified area on the marketing premises of the franchisee (including any area in which a name or logo of a franchisor or any other entity appears).

''(2) ENFORCEMENT.—Any restriction described in paragraph (1) that is contained in a franchise-related document and in effect on the date of enactment of this section—

''(A) shall be considered to be null and void as of that date; and

''(B) shall not be enforced under section 105.

''(c) EXCEPTION TO 3-GRADE REQUIREMENT.—No franchise-related document that requires that 3 grades of gasoline be sold by the applicable franchisee shall prevent the franchisee from selling an alternative fuel in lieu of 1 grade of gasoline.''.

(2) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 101(13) of the Petroleum Marketing Practices Act (15 U.S.C. 2801(13)) is amended by adjusting the indentation of subparagraph (C) appropriately.

(B) TABLE OF CONTENTS.—The table of contents of the Petroleum Marketing Practices Act (15 U.S.C. 2801 note) is amended—

(i) by inserting after the item relating to section 106 the following:

''Sec. 107. Prohibition on restriction of installation of alternative fuel pumps.'';

and

(ii) by striking the item relating to section 202 and inserting the following:

''Sec. 202. Automotive fuel rating testing and disclosure requirements.''.

(b) APPLICATION OF GASOHOL COMPETITION ACT OF 1980.—Section 26 of the Clayton Act (15 U.S.C. 26a) is amended—

(1) by redesignating subsection (c) as subsection (d);

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

''(c) RESTRICTION PROHIBITED.—For purposes of subsection (a), restricting the right of a franchisee to install on the premises of that franchisee qualified alternative fuel vehicle refueling property (as defined in section 30C(c) of the Internal Revenue Code of 1986) shall be considered an unlawful restriction.''; and

(3) in subsection (d) (as redesignated by paragraph (1)), by striking ''(d) As used in this section,'' and inserting the following:

SEC. 6. ALTERNATIVE DIESEL FUEL CONTENT OF DIESEL.

(a) FINDINGS.—Congress finds that—

(1) section 211(o) of the Clean Air Act (42 U.S.C. 7535(o)) (as amended by section 1501 of the Energy Policy Act of 2005 (Public Law 109–58)) established a renewable fuel program under which entities in the petroleum sector are required to blend renewable fuels into motor vehicle fuel based on the gasoline motor pool;

(2) the need for energy diversification is greater as of the date of enactment of this Act than it was only months before the date of enactment of the Energy Policy Act (Public Law 109–58; 119 Stat. 594); and

(3)(A) the renewable fuel program under section 211(o) of the Clean Air Act requires a small percentage of the gasoline motor pool, totaling nearly 140,000,000,000 gallons, to contain a renewable fuel; and

(B) the small percentage requirement described in subparagraph (A) does not include the 40,000,000,000-gallon diesel motor pool.

(b) ALTERNATIVE DIESEL FUEL PROGRAM FOR DIESEL MOTOR POOL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) the following:

''(p) ALTERNATIVE DIESEL FUEL PROGRAM FOR DIESEL MOTOR POOL.—

''(1) DEFINITION OF ALTERNATIVE DIESEL FUEL.—

''(A) IN GENERAL.—In this subsection, the term 'alternative diesel fuel' means biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))) and any blending components derived from alternative fuel (provided that only the alternative fuel portion of any such blending component shall be considered to be part of the applicable volume under the alternative diesel fuel program established by this subsection).

''(B) INCLUSIONS.—The term 'alternative diesel fuel' includes a diesel fuel substitute produced from—

''(i) animal fat;

''(ii) plant oil;

''(iii) recycled yellow grease;

''(iv) single-cell or microbial oil;

''(v) thermal depolymerization;

''(vi) thermochemical conversion;

''(vii) a coal-to-liquid process (including the Fischer-Tropsch process) that provides for the sequestration of carbon emissions;

''(viii) a diesel-ethanol blend of not less than 7 percent ethanol; or

''(ix) sugar, starch, or cellulosic biomass.

''(2) ALTERNATIVE DIESEL FUEL PROGRAM.—

''(A) REGULATIONS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations to ensure that diesel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of alternative diesel fuel determined in accordance with subparagraph (B).

''(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

''(I) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

''(II) shall not—

''(aa) restrict geographic areas in which alternative diesel fuel may be used; or

''(bb) impose any per-gallon obligation for the use of alternative diesel fuel.

''(iii) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator fails to promulgate regulations under clause (i), the percentage of alternative diesel fuel in the diesel motor pool sold or dispensed to consumers in the United States, on a volume basis, shall be 0.6 percent for calendar year 2009.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2009 THROUGH 2016.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2009 through 2016 shall be determined in accordance with the following table:

''Applicable volume of Alternative diesel fuel in diesel motor pool (in millions of gallons):	Calendar year:
250	2009
500	2010
750	2011
1,000	2012
1,250	2013
1,500	2014
1,750	2015
2,000	2016

''(ii) CALENDAR YEAR 2017 AND THEREAFTER.—The applicable volume for calendar year 2017 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, based on a review of the implementation of the program during calendar years 2009 through 2016, including a review of—

''(I) the impact of the use of alternative diesel fuels on the environment, air quality, energy security, job creation, and rural economic development; and

''(II) the expected annual rate of future production of alternative diesel fuels to be used as a blend component or replacement to the diesel motor pool.

''(iii) MINIMUM APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for calendar year 2017 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of diesel that the Administrator estimates will be sold or introduced into commerce during the calendar year; and

''(II) the ratio that—

''(aa) 2,000,000,000 gallons of alternative diesel fuel; bears to

''(bb) the number of gallons of diesel sold or introduced into commerce during calendar year 2016.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF DIESEL SALES.—Not later than October 31 of each of calendar years 2008 through 2016, the Administrator of the Energy Information Administration shall provide to the Administrator an estimate, with respect to the following calendar year, of the volumes of diesel projected to be sold or introduced into commerce in the United States.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2009 through 2016,

based on the estimate provided under subparagraph (A), the Administrator shall determine and publish in the Federal Register, with respect to the following calendar year, the alternative diesel fuel obligation that ensures that the requirements of paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The alternative diesel fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refineries, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of diesel sold or introduced into commerce in the United States; and

''(III) subject to subparagraph (C), consist of a single applicable percentage that applies to all categories of persons described in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments to prevent the imposition of redundant obligations on any person described in subparagraph (B)(ii)(I).

''(4) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated pursuant to paragraph (2)(A) shall provide for the generation of an appropriate amount of credits by any person that refines, blends, or imports diesel that contains a quantity of alternative diesel fuel that is greater than the quantity required under paragraph (2).

''(B) USE OF CREDITS.—A person that generates a credit under subparagraph (A) may use the credit, or transfer all or a portion of the credit to another person, for the purpose of complying with regulations promulgated pursuant to paragraph (2).

''(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid during the 1-year period beginning on the date on which the credit is generated.

''(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated pursuant to paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits under subparagraph (A) to meet the requirements of paragraph (2) by carrying forward a credit generated during a previous year on the condition that the person, during the calendar year following the year in which the alternative diesel fuel deficit is created—

''(i) achieves compliance with the alternative diesel fuel requirement under paragraph (2); and

''(ii) generates or purchases additional credits under subparagraph (A) to offset the deficit of the previous year.

''(5) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on receipt of a petition of 1 or more States by reducing the national quantity of alternative diesel fuel for the diesel motor pool required under paragraph (2) based on a determination by the Administrator, after public notice and opportunity for comment, that—

''(i) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) there is an inadequate domestic supply of alternative diesel fuel.

''(B) PETITIONS FOR WAIVERS.—Not later than 90 days after the date on which the Administrator receives a petition under subparagraph (A), the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove the petition.

''(C) TERMINATION OF WAIVERS.—

''(i) IN GENERAL.—Except as provided in clause (ii), a waiver under subparagraph (A) shall terminate on the date that is 1 year after the date on which the waiver is provided.

''(ii) EXCEPTION.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may extend a waiver under subparagraph (A), as the Administrator determines to be appropriate.''.

(c) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1), by striking ''or (o)'' each place it appears and inserting ''(o), or (p)''; and

(2) in paragraph (2), by striking ''and (o)'' each place it appears and inserting ''(o), and (p)''.

(d) TECHNICAL AMENDMENTS.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) in subsection (i)(4), by striking ''section 324'' each place it appears and inserting ''section 325'';

(2) in subsection (k)(10), by indenting subparagraphs (E) and (F) appropriately;

(3) in subsection (n), by striking ''section 219(2)'' and inserting ''section 216(2)'';

(4) by redesignating the second subsection (r) and subsection (s) as subsections (s) and (t), respectively; and

(5) in subsection (t)(1) (as redesignated by paragraph (4)), by striking ''this subtitle'' and inserting ''this part''.

SEC. 7. EXCISE TAX CREDIT FOR PRODUCTION OF CELLULOSIC BIOMASS ETHANOL.

(a) ALLOWANCE OF EXCISE TAX CREDIT.—

(1) IN GENERAL.—Section 6426 of the Internal Revenue Code of 1986 (relating to credit for alcohol fuel, biodiesel, and alternative fuel mixtures) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

''(f) CELLULOSIC BIOMASS ETHANOL CREDIT.—

''(1) IN GENERAL.—For purposes of this section, in the case of a cellulosic biomass ethanol producer, the cellulosic biomass ethanol credit is the product of—

''(A) the product of 51 cents times the equivalent number of gallons of renewable fuel specified in section 211(o)(4) of the Clean Air Act, times

''(B) the number of gallons of qualified cellulosic biomass ethanol fuel production of such producer.

''(2) DEFINITIONS.—

''(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' has the meaning given such term under section 211(o)(1)(A) of the Clean Air Act.

''(B) QUALIFIED CELLULOSIC BIOMASS ETHANOL FUEL PRODUCTION.—The term 'qualified cellulosic biomass ethanol fuel production' means any alcohol which is cellulosic biomass ethanol which during the taxable year—

''(i) is sold by the producer to another person —

''(I) for use by such other person in the production of an alcohol fuel mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such cellulosic biomass ethanol at retail to another person and places such ethanol in the fuel tank of such other person, or

''(ii) is used or sold by the producer for any purpose described in clause (i).

''(3) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (b) or (c) to any taxpayer with respect to any fuel to the extent that a credit has been allowed with respect to such fuel to any taxpayer under this subsection or a payment has been made with respect to such fuel under section 6427(e).

''(4) TERMINATION.—This section shall not apply to any sale or use for any period after December 31, 2008.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6426(a) of such Code is amended—

(i) by striking ''subsection (d)'' in paragraph (2) and inserting ''subsections (d) and (f)'', and

(ii) by striking ''and (e)'' in the last sentence and inserting '', (e), and (f)''.

(B) The heading for section 6426 of such Code is amended to read as follows:

''SEC. 6426. CREDIT FOR CERTAIN FUELS AND FUEL MIXTURES.''.

(C) The table of section for subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6426 and inserting the following new item:

''Sec. 6426. Credit for certain fuels and fuel mixtures.''.

(b) CELLULOSIC BIOMASS ETHANOL NOT USED FOR A TAXABLE PURPOSE.—

(1) IN GENERAL.—Section 6427(e) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) CELLULOSIC BIOMASS ETHANOL.—If any person sells or uses cellulosic biomass ethanol (as defined in section 6426(f)(2)(A)) for a purpose described in section 6426(f)(2)(B) in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the cellulosic biomass ethanol credit with respect to such fuel.''.

(2) DENIAL OF DOUBLE BENEFIT.—Paragraph (4) of section 6427(e) of such Code, as redesignated by paragraph (1), is amended to read as follows:

''(4) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—

''(A) IN GENERAL.—No amount shall be payable under paragraph (1), (2), or (3) with respect to any mixture, alternative fuel, or cellulosic biomass ethanol with respect to which an amount is allowed as a credit under section 6426.

''(B) CELLULOSIC BIOMASS ETHANOL.—No amount shall be payable under paragraph (1) or (2) with respect to any cellulosic biomass ethanol if a payment has been made with respect to such ethanol under paragraph (3).''.

(3) TERMINATION.—Paragraph (6) of section 6427(e) of such Code, as redesignated by paragraph (1), is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) any cellulosic biomass ethanol credit (as defined in section 6426(f)(2)(A)) sold or used after December 31, 2008.''.

(4) CONFORMING AMENDMENT.—Paragraph (5) of section 6427(e) of such Code, as redesignated by paragraph (1), is amended by striking ''or alternative fuel mixture credit'' and inserting '', alternative fuel mixture credit, or cellulosic biomass ethanol credit''.

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

SEC. 8. INCENTIVE FOR FEDERAL AND STATE FLEETS FOR MEDIUM AND HEAVY DUTY HYBRIDS.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (3), by striking ''or a dual fueled vehicle'' and inserting '', a dual fueled vehicle, or a medium or heavy duty vehicle that is a hybrid vehicle'';

(2) by redesignating paragraphs (11), (12), (13), and (14) as paragraphs (12), (14), (15), and (16), respectively;

(3) by inserting after paragraph (10) the following:

''(11) the term 'hybrid vehicle' means a vehicle powered both by a diesel or gasoline engine and an electric motor that is recharged as the vehicle operates;''; and

(4) by inserting after paragraph (12) (as redesignated by paragraph (2)) the following:

''(13) the term 'medium or heavy duty vehicle' means a vehicle that—

''(A) in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; and

''(B) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds;''.

SEC. 9. CREDIT FOR QUALIFYING ETHANOL BLENDING AND PROCESSING EQUIPMENT.

(a) ALLOWANCE OF QUALIFYING ETHANOL BLENDING AND PROCESSING EQUIPMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the qualifying ethanol blending and processing equipment credit.''.

(b) AMOUNT OF QUALIFYING ETHANOL BLENDING AND PROCESSING EQUIPMENT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48B the following new section:

''SEC. 48C. QUALIFYING ETHANOL BLENDING AND PROCESSING EQUIPMENT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying ethanol blending and processing equipment credit for any taxable year is an amount equal to 50 percent of the basis of the qualifying ethanol blending and processing equipment placed in service at a qualifying facility during such taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) for qualifying ethanol blending and processing equipment placed in service at any 1 qualifying facility during any taxable year shall not exceed $2,000,000.

''(c) QUALIFYING ETHANOL BLENDING AND PROCESSING EQUIPMENT.—For purposes of this section, the term 'qualifying ethanol blending and processing equipment' means any technology installed in or on a qualifying facility for blending ethanol with petroleum fuels for the purpose of direct retail sale, including in-line blending equipment, storage tanks, pumps and piping for denaturants, and load-out equipment.

''(d) QUALIFYING FACILITY.—For purposes of this section, the term 'qualifying facility' means any facility which produces not less than 1,000,000 gallons of ethanol during the taxable year.

''(e) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(f) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.

''(g) TERMINATION.—This section shall not apply to property placed in service after December 31, 2014.''.

(c) RECAPTURE OF CREDIT WHERE EMISSIONS REDUCTION OFFSET IS SOLD.—Paragraph (1) of section 50(a) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR QUALIFYING ETHANOL BLENDING AND PROCESSING EQUIPMENT.—For purposes of subparagraph (A), any investment property which is qualifying ethanol blending and processing equipment (as defined in section 48C(c)) shall cease to be investment credit property with respect to a taxpayer if such taxpayer receives a payment in exchange for a credit for emission reductions attributable to such qualifying pollution control equipment for purposes of an offset requirement under part D of title I of the Clean Air Act.''.

(d) SPECIAL RULE FOR BASIS REDUCTION; RECAPTURE OF CREDIT.—Paragraph (3) of section 50(c) of the Internal Revenue Code of 1986 (relating to basis adjustment to investment credit property) is amended by inserting ''or qualifying ethanol blending and processing equipment credit'' after ''energy credit''.

(e) CERTAIN NONRECOURSE FINANCING EXCLUDED FROM CREDIT BASE.—Section 49(a)(1)(C) of the Internal Revenue Code of 1986 (defining credit base) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the basis of any property which is part of any qualifying ethanol blending and processing equipment under section 48C.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 10. PUBLIC ACCESS TO FEDERAL ALTERNATIVE REFUELING STATIONS.

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL REFUELING STATION.—The term ''alternative fuel refueling station'' has the meaning given the term ''qualified alternative fuel vehicle refueling property'' in section 30C(c)(1) of the Internal Revenue Code of 1986.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ACCESS TO FEDERAL ALTERNATIVE REFUELING STATIONS.—Not later than 18 months after the date of enactment of this Act—

(1) except as provided in subsection (d)(1), any Federal property that includes at least 1 fuel refueling station shall include at least 1 alternative fuel refueling station; and

(2) except as provided in subsection (d)(2), any alternative fuel refueling station located on property owned by the Federal government shall permit full public access for the purpose of refueling using alternative fuel.

(c) DURATION.—The requirements described in subsection (b) shall remain in effect until the sooner of—

(1) the date that is 7 years after the date of enactment of this Act; or

(2) the date on which the Secretary determines that not less than 5 percent of the commercial refueling infrastructure in the United States offers alternative fuels to the general public.

(d) EXCEPTIONS.—

(1) WAIVER.—Subsection (b)(1) shall not apply to any Federal property under the jurisdiction of a Federal agency if the Secretary determines that alternative fuel is not reasonably available to retail purchasers of the fuel, as certified by the head of the agency to the Secretary.

(2) NATIONAL SECURITY EXEMPTION.—Subsection (b)(2) does not apply to property of the Federal government that the Secretary, in consultation with the Secretary of Defense, has certified must be exempt for national security reasons.

(e) REPORT.—Not later than October 31 of each year beginning after the date of enactment of this Act, the President shall submit to Congress a report that describes the progress of the agencies of the Federal Government (including the Executive Office of the President) in complying with—

(1) the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.);

(2) Executive Order 13149 (65 Fed. Reg. 24595; relating to greening the government through Federal fleet and transportation efficiency); and

(3) the fueling center requirements of this section.

SEC. 11. PURCHASE OF CLEAN FUEL BUSES.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by inserting after section 5325 the following:

''§ 5326. Purchase of clean fuel buses

''(a) DEFINITIONS.—In this section:

''(1) ALTERNATIVE DIESEL FUEL.—

''(A) IN GENERAL.—The term 'alternative diesel fuel' means—

''(i) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))); and

''(ii) any blending components derived from alternative fuel.

''(B) INCLUSIONS.—The term 'alternative diesel fuel' includes a diesel fuel substitute produced from—

''(i) animal fat;

''(ii) plant oil;

''(iii) recycled yellow grease;

''(iv) single-cell or microbial oil;

''(v) thermal depolymerization;

''(vi) thermochemical conversion;

''(vii) a coal-to-liquid process (including the Fischer-Tropsch process) that provides for the sequestration of carbon emissions; or

''(viii) a diesel-ethanol blend of not less than 7 percent ethanol.

''(2) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(A) dedicated energy crops and trees;

''(B) wood and wood residues;

''(C) plants;

''(D) grasses;

''(E) agricultural residues;

''(F) fibers;

''(G) animal wastes and other waste materials; and

''(H) municipal solid waste.

''(3) CLEAN FUEL BUS.—The term 'clean fuel bus' means a vehicle that—

''(A) is capable of being powered by—

''(i) compressed natural gas;

''(ii) liquefied natural gas;

''(iii) 1 or more batteries;

''(iv) a fuel that is composed of at least 85 percent ethanol (or another percentage of not less than 70 percent, as the Secretary may determine, by rule, to provide for requirements relating to cold start, safety, or vehicle functions);

''(v) electricity (including a hybrid electric or plug-in hybrid electric vehicle);

''(vi) a fuel cell;

''(vii) a fuel that is composed of at least 22 percent biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)) (or another percentage of not less than 10 percent, as the Secretary may determine, by rule, to provide for requirements relating to cold start, safety, or vehicle functions);

''(viii) ultra-low sulfur diesel; or

''(ix) liquid fuel manufactured with a coal feedstock; and

''(B) has been certified by the Administrator of the Environmental Protection

Agency to significantly reduce harmful emissions, particularly in a nonattainment area (as defined in section 171 of the Clean Air Act (42 U.S.C. 7501)).

''(4) QUALIFIED ALTERNATIVE FUEL PRODUCER.—The term 'qualified alternative fuel producer' means a producer of qualified fuels that, during the applicable taxable year—

''(A) are sold by the producer to another person—

''(i) for use by the person in the production of a mixture of qualified fuels in the trade or business of the person (other than casual off-farm production);

''(ii) for use by the other person as a fuel in a trade or business; or

''(iii) that—

''(I) sells to another person the qualified fuel at retail; and

''(II) places the qualified fuel in the fuel tank of the person that purchased the qualified fuel; or

''(B) are used or sold by the producer for any purpose described in subparagraph (A).

''(5) QUALIFIED FUEL.—The term 'qualified fuel' includes—

''(A) cellulosic biomass ethanol;

''(B) ethanol produced in facilities in which animal waste or other waste materials are digested or otherwise used to displace at least 90 percent of the fossil fuels that would otherwise be used in the production of ethanol;

''(C) renewable fuels;

''(D) alternative diesel fuels;

''(E) sugar, starch, or cellulosic biomass; and

''(F) any other fuel that is not substantially petroleum.

''(6) RENEWABLE FUEL.—The term 'renewable fuel' means fuel, at least 85 percent of the volume of which—

''(A)(i) is produced from grain, starch, oilseeds, vegetable, animal, or fish materials including fats, greases, and oils, sugarcane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

''(ii) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place in which decaying organic material is found; and

''(B) is used to substantially replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(b) PURCHASE OF BUSES.—Subject to subsections (c) and (d), beginning on the date that is 2 years after the date of enactment of this section, a bus purchased using funds made available from the Mass Transit Account of the Highway Trust Fund shall be a clean fuel bus.

''(c) ULTRA-LOW SULFUR DIESEL.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not more than 20 percent of the amount of the funds provided to a recipient to purchase buses under this section may be used by the recipient to purchase clean fuel buses that are capable of being powered by a fuel described in clause (iv), (vii), (viii), or (ix) of subsection (a)(3)(A).

''(2) EXCEPTION.—Paragraph (1) shall not apply if the recipient enters into a 3–year purchase agreement with a qualified alternative fuel producer to acquire qualified fuels in a volume sufficient to power the clean fuel buses purchased using amounts made available under this section.

''(d) USE OF CERTAIN ALTERNATIVE FUELS.—

''(1) IN GENERAL.—To be eligible to receive funds under subsection (c)(2) for the purchase of a clean fuel bus that is capable of being powered by a fuel described in clause (iv), (vii), or (ix) of subsection (a)(3)(A), an applicant or recipient shall submit to the Secretary—

''(A) a certification that the applicant will operate the clean fuel bus only with the fuel at all times in accordance with the fuel capacity and use of the fuel recommended by the manufacturer of the clean fuel bus; and

''(B) not later than 180 days after the purchase of the clean fuel bus and every 180 days thereafter, a report that documents that the fuel was used in accordance with subparagraph (A) during the 180-day period ending on the date of the report.

''(2) NONCOMPLIANCE.—Failure of an applicant or recipient of funds to provide the certification or documentation required under paragraph (1) shall—

''(A) be considered a violation of the agreement to receive the funds; and

''(B) require the applicant or recipient to reimburse the Secretary the full amount of the funds not later than 90 days after the Secretary has determined that a violation has occurred.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5325 the following:

''5326. Clean fuel buses''.

SEC. 12. DOMESTIC FUEL PRODUCTION VOLUMES TO MEET DEPARTMENT OF DEFENSE NEEDS.

Section 2922d of title 10, United States Code is amended—

(1) in the heading, by striking ''**and tar sands**'' and inserting ''**tar sands, and other sources**'';

(2) in subsection (a), by striking ''fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a 'covered fuel') that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States'' and inserting ''fuel produced, in whole or in part, from coal, oil shale, and tar sands that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States and fuel produced in the United States using starch, sugar, cellulosic biomass, plant or animal oils, or thermal chemical conversion, thermal depolymerization, or thermal conversion processes (referred to in this section as a 'covered fuel')'';

(3) in subsection (d), by striking ''1 or more years'' and inserting ''up to 5 years'';

(4) in subsection (e), by striking the period at the end and inserting the following: '', with consideration given to military installations closed or realigned under a round of defense base closure and realignment.''; and

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

''(f) PRODUCTION FACILITIES FOR COVERED FUELS.—The Secretary of Defense may enter into contracts or other agreements with private companies or other entities to develop and operate production facilities for covered fuels, and may provide for the construction or capital modification of production facilities for covered fuels.''.

SEC. 13. FEDERAL FLEET ENERGY CONSERVATION IMPROVEMENT.

(a) DEFINITIONS.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (3), by inserting before the semicolon at the end the following: '', including a vehicle that is propelled by electric drive transportation technology, engine dominant hybrid electric technology, or plug-in hybrid technology'';

(2) in paragraph (13), by striking ''and'' after the semicolon at the end;

(3) in paragraph (14), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(15) the term 'electric drive transportation technology' means—

''(A) technology that uses an electric motor for all or part of the motive power of a vehicle (regardless of whether off-board electricity is used), including—

''(i) a battery electric vehicle;

''(ii) a fuel cell vehicle;

''(iii) an engine dominant hybrid electric vehicle;

''(iv) a plug-in hybrid electric vehicle;

''(v) a plug-in hybrid fuel cell vehicle; and

''(vi) an electric rail vehicle; or

''(B) technology that uses equipment for transportation (including transportation involving any mobile source of air pollution) that uses an electric motor to replace an internal combustion engine for all or part of the work of the equipment, including corded electric equipment that is linked to transportation or a mobile source of air pollution;

''(16) the term 'engine dominant hybrid electric vehicle' means an on-road or nonroad vehicle that—

''(A) is propelled by an internal combustion engine or heat engine using—

''(i) any combustible fuel; and

''(ii) an on-board, rechargeable storage device; and

''(B) has no means of using an off-board source of electricity; and

''(17) the term 'plug-in hybrid electric vehicle' means an on-road or nonroad vehicle that is propelled by an internal combustion engine or heat engine using—

''(A) any combustible fuel;

''(B) an on-board, rechargeable storage device; and

''(C) a means of using an off-board source of electricity.''.

(b) MINIMUM FEDERAL FLEET REQUIREMENT.—Section 303(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)) is amended—

(1) in subparagraph (C), by striking ''and'' after the semicolon;

(2) in subparagraph (D), by striking ''fiscal year 1999 and thereafter,'' and inserting ''each of fiscal years 1999 through 2013; and''; and

(3) by inserting after subparagraph (D) the following:

''(E) 100 percent in fiscal year 2014 and thereafter,''.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 134. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, I am introducing the Arkansas Valley Conduit bill, which will ensure the construction of a pipeline that will provide the small, financially strapped towns and water agencies along the lower Arkansas River with safe, clean, affordable water. This project was originally authorized by Congress in 1962, over 40 years ago, as a part of the Fryingpan-Arkansas Project. Due to several long years of drought and increasing Federal water quality standards, current water delivery methods are not enough. By creating an 80-percent Federal, 20-percent local cost share formula to help offset the construction costs of the conduit, this legislation will protect the future of southeastern Colorado's drinking water supplies and prevent further economic hardship.

By Mr. ALLARD:

S. 135. A bill to authorize the Secretary of the Army to acquire land for

the purposes of expanding Pinon Canyon Maneuver Site, and for other purposes; to the Committee on Armed Services.

Mr. ALLARD. Mr. President, another bill dealing with the large military presence in Colorado relates to the expansion of the Army's Pinon Canyon Maneuver Site. Due to an emphasis on rapid mobility, modularity, and maneuverability in recent years, the Army's ability to project force across the battlefield has increased exponentially. As such, the Army transformation is also driving higher their requirement for training space.

With its close location to Fort Carson, Pinon Canyon was perfectly suited for the Army's training needs 20 years ago. However, with the arrival of 10,000 new soldiers to Fort Carson, the Army has determined that the size of the site needs to be increased in order to meet Fort Carson's new operational training requirements.

I have been told repeatedly by Army officials that the genesis of Fort Carson's expansion proposal occurred when several landowners approached Fort Carson and expressed their strong desire to sell. I also understand that sufficient numbers of willing sellers exist to support a significant expansion of the site. However, many in the community surrounding Pinon Canyon have major questions that need to be answered.

In order to get some of these major questions answered, a reporting requirement was placed in the 2006 Defense Authorization bill, approved by both the Senate and the House. However, the Department of Army is restricted on communicating about any specific land acquisition proposal until a waiver for that site has been granted by the Secretary of Defense, which has yet to be granted. Thus, the Army's hands were tied and they were unable to meet the full reporting requirements in the 2006 Defense authorization. I understand the difficult position the Army is on this issue, but I believe it is absolutely necessary that they provide the information to the community and to Congress prior to any acquisition of property.

The leadership at Fort Carson has done a great job of reaching out and providing what information it could to the local communities. However, the Pentagon has not been as forthcoming. I believe the Congress and, more importantly, the local communities in Southeastern Colorado need more information before we can decide whether this proposed expansion is necessary and appropriate.

With these objectives in mind, today I am introducing a bill that clearly defines the process under which the Army can expand the Pinon Canyon Maneuver Site. This legislation prohibits the use of eminent domain, requires the Army to pay fair market value. Most importantly, the bill does not allow the Army to proceed with land acquisition until it delivers the answers previously sought on the environmental and economic impacts of expansion and also must offer options for compensating the loss of property tax revenue.

It is vital that the Army take the time to answer these important questions to help alleviate the affected communities concerns. A number of counties and small towns in Southeastern Colorado could be adversely affected by this expansion, and this study will help us better understand the extent of these impacts and provide options for mitigating them.

By Mr. ALLARD:

S. 136. A bill to expand the National Domestic Preparedness Consortium to include the Transportation Technology Center; to the Committee on Homeland Security and Governmental Affairs.

Mr. ALLARD. Mr. President, in another area, the events of the past several years remind us of the vital role of first responders in responding to natural disasters and terrorists attacks. It is important that our first responders receive the training needed to make critical, life-saving decisions under emergency circumstances. I believe that an essential element of preparing our first responders is to provide them with hands-on experience in real-world training environments.

The importance of real world training was called to my attention by a visit to the Transportation Technology Training Center, TTC, in Pueblo, CO. There, I witnessed first hand the tools at our Nation's disposal to equip our first responders with the training they need, specifically in the context of rail and mass transit. But our national training consortium does not currently include a facility that is uniquely focused on emergency preparedness within the railroad and mass transit environment. The inclusion of TTC would fill a critical gap in its current training agenda.

TTC is a federally owned, 52-square-mile multimodal testing and training facility in Pueblo, CO, operated by the Association of American Railroads, AAR. Each year, an average of 1,700 first responders travel to Pueblo, CO, to participate in TTC's training program. The facility has trained more than 20,000 students in its 20-year history.

The ERTC is regarded as the ''graduate school'' of hazmat training because of its focus on hands on, true to life, training exercises on actual rail vehicles, including tank cars and passenger rail cars. The ERTC is uniquely positioned to teach emergency response for railway-related emergencies.

It is for these reasons that today I introduce a bill authorizing the National Domestic Preparedness Consortium, as expanded to include the Transportation Technology Center in Pueblo, CO, and providing for its coordination and use by the Department of Homeland Security in training the Nation's first responders.

By Mr. CARDIN:

S. 137. A bill to amend title XVIII of the Social Security Act to provide additional beneficiary protections; to the Committee on Finance.

Mr. CARDIN. 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. 137

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 ''Preserving Medicare for All Act of 2007''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Negotiation of prices for medicare prescription drugs.
Sec. 3. Guaranteed prescription drug benefits.
Sec. 4. Full reimbursement for qualified retiree prescription drug plans.
Sec. 5. Repeal of comparative cost adjustment (cca) program.
Sec. 6. Repeal of MA Regional Plan Stabilization Fund.
Sec. 7. Repeal of cost containment provisions.
Sec. 8. Removal of exclusion of benzodiazepines from required coverage under the Medicare prescription drug program.

SEC. 2. NEGOTIATION OF PRICES FOR MEDICARE PRESCRIPTION DRUGS.

Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and inserting the following:

''(i) NEGOTIATION; NO NATIONAL FORMULARY OR PRICE STRUCTURE.—

''(1) NEGOTIATION OF PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have and exercise authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.

''(2) NO NATIONAL FORMULARY OR PRICE STRUCTURE.—In order to promote competition under this part and in carrying out this part, the Secretary may not require a particular formulary or institute a price structure for the reimbursement of covered part D drugs.''.

SEC. 3. GUARANTEED PRESCRIPTION DRUG BENEFITS.

(a) IN GENERAL.—Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended to read as follows:

''ASSURING ACCESS TO A CHOICE OF COVERAGE

''SEC. 1860D–3. (a) ACCESS TO A CHOICE OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

''(1) CHOICE OF AT LEAST THREE PLANS IN EACH AREA.—Beginning on January 1, 2008, the Secretary shall ensure that each part D eligible individual has available, consistent with paragraph (2), a choice of enrollment in—

''(A) a nationwide prescription drug plan offered by the Secretary in accordance with subsection (b); and

''(B) at least 2 qualifying plans (as defined in paragraph (3)) in the area in which the individual resides, at least one of which is a prescription drug plan.

''(2) REQUIREMENT FOR DIFFERENT PLAN SPONSORS.—The requirement in paragraph (1)(B) is not satisfied with respect to an area if only one entity offers all the qualifying plans in the area.

''(3) QUALIFYING PLAN DEFINED.—For purposes of this section, the term 'qualifying plan' means—

''(A) a prescription drug plan;

''(B) an MA–PD plan described in section 1851(a)(2)(A)(i) that provides—

''(i) basic prescription drug coverage; or

''(ii) qualified prescription drug coverage that provides supplemental prescription drug coverage so long as there is no MA monthly supplemental beneficiary premium applied under the plan, due to the application of a credit against such premium of a rebate under section 1854(b)(1)(C); or

''(C) a nationwide prescription drug plan offered by the Secretary in accordance with subsection (b).

''(b) HHS AS PDP SPONSOR FOR A NATIONWIDE PRESCRIPTION DRUG PLAN.—

''(1) IN GENERAL.—The Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall take such steps as may be necessary to qualify and serve as a PDP sponsor and to offer a prescription drug plan that offers basic prescription drug coverage throughout the United States. Such a plan shall be in addition to, and not in lieu of, other prescription drug plans offered under this part.

''(2) PREMIUM; SOLVENCY; AUTHORITIES.—In carrying out paragraph (1), the Secretary—

''(A) shall establish a premium in the amount of $35 for months in 2008 and, for months in subsequent years, in the amount specified in this paragraph for months in the previous year increased by the annual percentage increase described in section 1860D–2(b)(6) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved;

''(B) is deemed to have met any applicable solvency and capital adequacy standards; and

''(C) shall exercise such authorities (including the use of regional or other pharmaceutical benefit managers) as the Secretary determines necessary to offer the prescription drug plan in the same or a comparable manner as is the case for prescription drug plans offered by private PDP sponsors.

''(c) FLEXIBILITY IN RISK ASSUMED.—In order to ensure access pursuant to subsection (a) in an area the Secretary may approve limited risk plans under section 1860D–11(f) for the area.''.

(b) CONFORMING AMENDMENT.—Section 1860D–11(g) of the Social Security Act (42 U.S.C. 1395w–111(g)) is amended by adding at the end the following new paragraph:

''(8) APPLICATION.—This subsection shall not apply on or after January 1, 2008.''.

SEC. 4. FULL REIMBURSEMENT FOR QUALIFIED RETIREE PRESCRIPTION DRUG PLANS.

(a) ELIMINATION OF TRUE OUT-OF-POCKET LIMITATION.—Section 1860D–2(b)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)(ii) is amended—

(1) by inserting ''under a qualified retiree prescription drug plan (as defined in section 1860D–22(a)(2)),'' after ''under section 1860D–14,''; and

(2) by inserting '', under such a qualified retiree prescription drug plan,'' after ''(other than under such section''.

(b) EQUALIZATION OF SUBSIDIES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide for such increase in the special subsidy payment amounts under section 1860D–22(a)(3) of the Social Security Act (42 U.S.C. 1395w–132(a)(3)) as may be appropriate to provide for payments in the aggregate equivalent to the payments that would have been made under section 1860D–15 of such Act (42 U.S.C. 1395w–115) if the individuals were not enrolled in a qualified retiree prescription drug plan. In making such computation, the Secretary shall not take into account the application of the amendments made by section 1202 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2480).

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on January 1, 2008.

SEC. 5. REPEAL OF COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM.

Subtitle E of title II of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2214), and the amendments made by such subtitle, are repealed.

SEC. 6. REPEAL OF MA REGIONAL PLAN STABILIZATION FUND.

(a) IN GENERAL.—Subsection (e) of section 1858 of the Social Security Act (42 U.S.C. 1395w–27a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1858(f)(1) of the Social Security Act (42 U.S.C. 1395w–27a(f)(1)) is amended by striking ''subject to subsection (e),''.

SEC. 7. REPEAL OF COST CONTAINMENT PROVISIONS.

Subtitle A of title VIII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2357) is repealed and any provisions of law amended by such subtitle are restored as if such subtitle had not been enacted.

SEC. 8. REMOVAL OF EXCLUSION OF BENZODIAZEPINES FROM REQUIRED COVERAGE UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.

(a) REMOVAL OF EXCLUSION.—

(1) IN GENERAL.—Section 1860D–2(e)(2) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)) is amended—

(A) by striking ''subparagraph (E)'' and inserting ''subparagraphs (E) and (J)''; and

(B) by inserting ''and benzodiazepines'' after ''smoking cessation agents''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to prescriptions dispensed on or after January 1, 2008.

(b) REVIEW OF BENZODIAZEPINE PRESCRIPTION POLICIES TO ASSURE APPROPRIATENESS AND TO AVOID ABUSE.—The Secretary of Health and Human Services shall review the policies of Medicare prescription drug plans (and MA–PD plans) under parts C and D of title XVIII of the Social Security Act regarding the filling of prescriptions for benzodiazepine to ensure that these policies are consistent with accepted clinical guidelines, are appropriate to individual health histories, and are designed to minimize long term use, guard against over-prescribing, and prevent patient abuse.

(c) DEVELOPMENT BY MEDICARE QUALITY IMPROVEMENT ORGANIZATIONS OF EDUCATIONAL GUIDELINES FOR PHYSICIANS REGARDING PRESCRIBING OF BENZODIAZEPINES.—The Secretary of Health and Human Services shall provide, in contracts entered into with Medicare quality improvement organizations under part B of title XI of the Social Security Act, for the development by such organizations of appropriate educational guidelines for physicians regarding the prescribing of benzodiazepines.

By Mrs. BOXER:

S. 146. A bill to require the Federal Government to purchase fuel efficient automobiles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, last year many Americans paid over $3—and in some places in California, $4—for a gallon of gasoline.

At the same time, oil companies made record profits. Enough is enough!

We need to help the American public and reduce our dependence on oil. The Federal Government should be taking the lead on this issue. Sadly, it is not.

In 2005, the Federal Government purchased 64,000 passenger vehicles. According to the U.S. Department of Energy, the average fuel economy of the new vehicles purchased for the fleet in 2005 was an abysmal 21.4 miles per gallon.

Today, hybrid cars on the market can achieve over 50 miles per gallon and SUVs can obtain 36 miles per gallon. The Government's average of 21.4 miles to the gallon is too low.

Instead, our government needs to purchase fuel-efficient cars, SUVs, and light trucks. This can be done today. I drive a Toyota Prius that gets over 50 mpg. The Ford Escape SUV can get 36 mpg.

The Federal Government should be a leader in protecting our environment and national security.

That is why I am reintroducing the Government Fleet Fuel Economy Act. The bill requires the federal government to purchase vehicles that are fuel-efficient to the greatest extent possible.

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

S. 148. A bill to establish the Paterson Great Falls National Park in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LAUTENBERG. Mr. President, I rise today with great pride to reintroduce legislation which would create a national park in my hometown of Paterson, NJ, The Paterson Great Falls National Park Act of 2007, which I first introduced last year, would bring long-deserved recognition and accessibility to one of our Nation's most beautiful and historic landmarks. I am pleased that my colleague from New Jersey, Senator MENENDEZ, is cosponsoring this legislation.

The Great Falls are located where the Passaic River drops nearly 80 feet straight down, on its course towards New York Harbor. It is one of the tallest and most spectacular waterfalls on the east coast, but the incredible natural beauty of the falls should not overshadow its tremendous importance as the powerhouse of industry in New Jersey and the infant United States. Indeed, in 1778, Alexander Hamilton visited the Great Falls and immediately realized the potential of the falls for industrial applications and development. Hamilton was instrumental in creating the planned community in Paterson—the first of its kind nationwide—centered on the Great Falls, and industry thrived on the power generated by the falls. Rogers Locomotive Works, the premier steam locomotive manufacturer of the 19th century, was

located in the shadow of the falls, as were many other vitally important manufacturing enterprises.

President Ford recognized the importance of the area by declaring the falls and its surroundings a ''National Historic Landmark'' in 1976; he called the falls ''a symbol of the industrial might which helps to make the United States the most powerful nation in the world.'' Now, it is time that we recognize the importance of this historic area by making it New Jersey's first national park. This would be of special importance because so few of our national parks are in urban areas. I believe that it is time we acknowledge that many of our most significant national treasures are located in densely populated areas, and creating a national park in Paterson is an ideal opportunity to do just that.

I grew up in Paterson, and I have appreciated the majesty and beauty of the Great Falls for many years. By creating a national park in Paterson, more Americans can be exposed to the exceptional cultural, natural, and historic significance of the Great Falls, and that is why I will passionately advocate for the passage of this bill. I have been delighted to again work with my good friend, Congressman BILL PASCRELL—another longtime resident of Paterson—on this issue, as well as with a bipartisan group of lawmakers from my home State, all of whom believe strongly in this cause. I urge my colleagues to support the passage of this legislation, which is so important to New Jersey and all of America.

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. 148

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 ''Paterson Great Falls National Park Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Great Falls Historic District in Paterson, New Jersey is the site Alexander Hamilton selected to implement his vision of American economic independence and transform a rural agrarian society based on slavery into a global economy based on freedom.

(2) President Ford announced the designation of the Historic District as a National Historic Landmark in 1976 and declared it ''a symbol of the industrial might which helps to make America the most powerful nation in the world''.

(3) The Historic District was established as a National Historic District in 1996.

(4) Exceptional natural and cultural resources make the Historic District America's only National Historic District that contains both a National Historic Landmark and a National Natural Resource.

(5) The Historic District embodies Hamilton's vision of an American economy based on—

(A) diverse industries to avoid excessive reliance on any single manufactured product;

(B) innovative engineering and technology, including the successful use of water, a renewable energy source, to power industry and manufacturing;

(C) industrial production of goods not only for domestic consumption but also for international trade; and

(D) meritocracy and opportunities for all.

(6) Pierre L'Enfant's water power system at Great Falls and the buildings erected around it over two centuries constitute the finest and most extensive remaining example of engineering, planning, and architectural works that span the entire period of America's growth into an industrial power.

(7) A National Park Service unit in Paterson is necessary to give the American people an opportunity to appreciate the physical beauty and historical importance of the Historic District.

(8) Congress and the National Park Service recognized the national significance of the Historic District through listing on the National Register of Historic Places and designation as a National Historic Landmark and a National Historic District.

(9) The Historic District is suitable for addition to the National Park System because—

(A) the national park will promote themes not adequately represented in National Park System, including aspects of African-American history and the inspiration Great Falls has been for renowned American writers and artists;

(B) the national park will promote civic engagement by attracting and engaging people who currently feel little or no connection to National Parks or the founding fathers;

(C) the national park will interpret America's developing history in the historical and global context; and

(D) the national park will foster partnerships among federal, state and local governments and private donors and non-profit organizations.

(10) The Historic District is a physically and fiscally feasible site for a national park because—

(A) all of the required natural and cultural resources are on property largely owned by local government entities;

(B) it is of a manageable size; and

(C) much of the funding will come from private donors and the State of New Jersey, which has committed substantial sums of money to fund a state park that will assist in the funding of the national park.

(11) The national park provides enormous potential for public use because its location and urban setting make it easily accessible for millions of Americans.

(12) The historic Hinchliffe stadium, adjacent to the Historic District, was home to the New York Black Yankees for many years, including 1933 when it hosted the Colored Championship of the Nation, and it was added to the National Register of Historic Places by the National Park Service in 2004.

(13) Larry Doby played in Hinchliffe Stadium both as a star high school athlete and again as Negro League player, shortly before becoming the first African-American to play in the American League.

(14) A National Park Service unit, in partnership with private donors and state and local governments, represents the most effective and efficient method of preserving the Historic District for the public.

(15) A National Park Service unit in Paterson is necessary to give the Historic District the continuity and professionalism required to attract private donors from across the country.

(16) Though the State of New Jersey will be a strong partner with a significant financial commitment, the State alone cannot preserve the Historic District and present it to the public without a National Park System unit in Paterson.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a unit of the National Park System in Paterson, New Jersey, consisting of the Historic District and historic Hinchliffe Stadium; and

(2) to create partnerships among Federal, State, and local governments, non-profit organizations, and private donors to preserve, enhance, interpret, and promote the cultural sites, historic structures, and natural beauty of the Historic District and the historic Hinchliffe Stadium for the benefit of present and future generations.

SEC. 3. DEFINITIONS.

In this Act:

(1) HISTORIC DISTRICT.—The term ''Historic District'' means the Great Falls National Historic District in Paterson, New Jersey, consisting of approximately 118 acres, as specified in the National Register of Historic Places.

(2) NATIONAL PARK.—The term ''national park'' means the Paterson Great Falls National Park established by section 4.

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

(4) MANAGEMENT PLAN.—The term ''management plan'' means the integrated resource management plan prepared pursuant to section 6.

(5) PARTNERSHIP.—The term ''Partnership'' means the Paterson Great Falls National Park Partnership established in section 7.

(6) ADVISORY COUNCIL.—The term ''Advisory Council'' means the Paterson Great Falls National Park Advisory Council established pursuant to section 8.

SEC. 4. PATERSON GREAT FALLS NATIONAL PARK.

(a) ESTABLISHMENT.—There is established in Paterson, New Jersey, the Paterson Great Falls National Park as a unit of the National Park System.

(b) BOUNDARIES.—The boundaries of the national park shall be—

(1) the Historic District as listed on the National Register of Historic Places; and

(2) the historic Hinchliffe Stadium as listed on the National Register of Historic Places.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The national park shall be administered in partnership by the Secretary, the State of New Jersey, City of Paterson and its applicable subdivisions, and others in accordance with the provisions of law generally applicable to units of the National Park System (including the Act of August 25, 1916 (16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (16 U.S.C. 461 et seq.)), and in accordance with the management plan.

(b) STATE AND LOCAL JURISDICTION.—Nothing in this section shall be construed to diminish, enlarge, or modify any right of the State of New Jersey or any political subdivision thereof to exercise civil and criminal jurisdiction or to carry out State laws, rules, and regulations within the national park.

(c) COOPERATIVE AGREEMENTS.—

(1) The Secretary may consult and enter into cooperative agreements with the State of New Jersey or its political subdivisions to acquire from and provide to the State or its political subdivisions goods and services to be used in the cooperative management of lands within the national park, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States.

(2) The Secretary, after consultation with the Partnership, may enter into cooperative agreements with owners of property of nationally significant historic or other cultural

resources within the national park in order to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(A) the public may have access to such property at specified, reasonable times for purposes of viewing property or exhibits or attending programs established by the Secretary under this subsection; and

(B) no changes or alterations shall be made in the properties, except by mutual agreements between the Secretary and the other parties to the agreements.

(d) CONSTRUCTION OF FACILITIES ON NON-FEDERAL LANDS.—In order to facilitate the administration of the national park, the Secretary is authorized, subject to the availability of appropriated funds, to construct essential administrative or visitor use facilities on non-Federal public lands within the national park. Such facilities and the use thereof shall be in conformance with applicable plans

(e) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept and use donated funds, property, and services to carry out this section.

(f) MANAGEMENT IN ACCORDANCE WITH INTEGRATED MANAGEMENT PLAN.—The Secretary shall preserve, interpret, manage, and provide educational and recreational uses for the national park, in consultation with the owners and managers of lands in the national park, in accordance with the management plan.

SEC. 6. INTEGRATED RESOURCE MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Partnership shall submit to the Secretary a management plan for the national park to be developed and implemented by the Partnership.

(b) CONTENTS.—The management plan shall include, at a minimum, each of the following:

(1) A program providing for coordinated administration of the national park with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, and local levels, and nonprofit organizations, including each of the following:

(A) A plan to finance and support the public improvements and services recommended in the management plan, including allocation of non-Federal matching requirements and a delineation of profit sector roles and responsibilities.

(B) A program for the coordination and consolidation, to the extent feasible, of activities that may be carried out by Federal, State, and local agencies having jurisdiction over land within the national park, including planning and regulatory responsibilities.

(2) Policies and programs for the following purposes:

(A) Enhancing public recreational and cultural opportunities in the national park.

(B) Conserving, protecting, and maintaining the scenic, historical, cultural, and natural values of the national park.

(C) Developing educational opportunities in the national park.

(D) Enhancing public access to the national park, including development of transportation networks.

(E) Identifying potential sources of revenue from programs or activities carried out within the national park.

(F) Protecting and preserving sites with historical, cultural, natural, Native American and African American significance.

(3) A policy statement that recognizes existing economic activities within the national park.

(c) CONSULTATION AND PUBLIC HEARINGS.—In developing the management plan, the Partnership shall:

(1) Consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands within the national park.

(2) Consult with interested conservation, business, professional, and citizen organizations.

(3) Conduct public hearings or meetings for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the management plan.

(d) APPROVAL OF THE MANAGEMENT PLAN.—

(1) IN GENERAL.—The Partnership shall submit the management plan to the Governor of New Jersey for review. The Governor shall have 90 days to review and make any recommendations regarding the management plan. After considering the Governor's recommendations, if any, the Partnership shall submit the plan to the Secretary, who shall approve or disapprove the plan not later than 90 days after receiving the management plan from the Partnership. In reviewing the management plan, the Secretary shall consider each of the following:

(A) The adequacy of public participation.

(B) Assurances from State and local officials regarding implementation of the management plan.

(C) The adequacy of regulatory and financial tools that are in place to implement the management plan.

(2) DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall, not later than 60 days after the date of such disapproval, submit to the Partnership in writing the reasons for the disapproval and recommendations for revision. Not later than 90 days after receipt of such notice of disapproval and recommendations, the Partnership shall revise and resubmit the management plan to the Secretary who shall approve or disapprove the revision not later than 60 days after receiving the revised management plan.

(3) RESULT OF FAILURE TO APPROVE OR DISAPPROVE.—If the Secretary does not take action within the deadlines set forth in paragraphs (1) or (2), the plan shall be deemed to have been approved.

(e) Prior to adoption of the Partnership's plan, the Secretary and the Partnership shall assist the owners and managers of lands within the national park to ensure that existing programs, services, and activities that promote the purposes of this section are supported.

SEC. 7. PATERSON GREAT FALLS NATIONAL PARK PARTNERSHIP.

(a) ESTABLISHMENT.—There is hereby established the Paterson Great Falls National Historical Park Partnership whose purpose shall be to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of the management plan.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 13 members appointed by the Secretary, of whom—

(A) 4 members shall be appointed by the Secretary from nominees submitted by the Governor of the State of New Jersey;

(B) 2 members shall be appointed by the Secretary from nominees submitted by the City Council of Paterson;

(C) 2 members shall be appointed by the Secretary from the Paterson Great Falls National Park Advisory Board; and

(D) 1 member shall be appointed by the Secretary from nominees submitted by the Board of Chosen Freeholders of Passaic County, New Jersey.

(2) CHAIRPERSON; VICE CHAIRPERSON.—The Partnership shall elect one of its members as Chairperson and one as Vice Chairperson. The term of office of the Chairperson and Vice Chairperson shall be one year. The Vice Chairperson shall serve as chairperson in the absence of the Chairperson.

(3) VACANCIES.—A vacancy in the Partnership shall be filled in the same manner in which the original appointment was made.

(4) TERMS.—Terms of service—

(A) members of the Partnership shall serve for terms of 3 years and may be reappointed not more than once; and

(B) a member may serve after the expiration of his or her term until a successor has been appointed.

(5) DEADLINE.—The Secretary shall appoint the first members of the Partnership within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsection (b)(1).

(c) COMPENSATION.—Members of the Partnership shall serve without pay, but while away from their homes or regular places of business in the performance of services for the Partnership, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) MEETINGS.—The Partnership shall meet at the call of the Chairperson or a majority of its members.

(e) QUORUM.—A majority of the Partnership shall constitute a quorum.

(f) STAFF.—The Secretary shall provide the Partnership with such staff and technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may accept the services of personnel detailed from the State of New Jersey, any political subdivision of the State, or any entity represented on the Partnership.

(g) HEARINGS.—The Partnership may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Partnership may deem appropriate.

(h) DONATIONS.—Notwithstanding any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

(i) USE OF FUNDS TO OBTAIN MONEY.—The Partnership may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(j) MAILS.—The Partnership may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(k) OBTAINING PROPERTY.—The Partnership may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties, except that the Partnership may not acquire any real property or interest in real property.

(l) COOPERATIVE AGREEMENTS.—For purposes of carrying out the management plan, the Partnership may enter into cooperative agreements with the State of New Jersey, any political subdivision thereof, or with any organization or person.

SEC. 8. PATERSON GREAT FALLS NATIONAL PARK ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Secretary, acting through the Director of the National Park Service, shall establish an advisory committee to be known as the Paterson Great Falls National Park Advisory Council. The purpose of the Advisory Council shall be to represent various groups with interests in the National Park and make recommendations to the Partnership on issues related to

the development and implementation of the management plan. The Advisory Council is encouraged to establish committees relating to specific National Park management issues, such as education, tourism, transportation, natural resources, cultural and historic resources, and revenue raising activities. Participation on any such committee shall not be limited to members of the Advisory Council.

(b) MEMBERSHIP.—The Advisory Council shall consist of not fewer than 15 individuals, to be appointed by the Secretary, acting through the Director of the National Park Service. The Secretary shall appoint no fewer than 3 individuals to represent each of the following categories of entities:

(1) Municipalities.

(2) Educational and cultural institutions.

(3) Environmental organizations.

(4) Business and commercial entities, including those related to transportation and tourism.

(5) Organizations representing African American and Native American interests in the Historic District.

(c) PROCEDURES.—Each meeting of the Advisory Council and its committees shall be open to the public.

(d) FACA.—The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby waived with respect to the Advisory Council.

SEC. 9. FINANCIAL AND TECHNICAL ASSISTANCE.

The Secretary may provide to any owner of property within the National Park containing nationally significant historic or cultural resources, in accordance with cooperative agreements or grant agreements, as appropriate, such financial and technical assistance to mark, interpret, and restore non-Federal properties within the National Park as the Secretary determines appropriate to carry out the purposes of this Act, provided that—

(1) the Secretary, acting through the National Park Service, shall have right of access at reasonable times to public portions of the property covered by such agreements for the purpose of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to the agreements.

SEC. 10. ACQUISITION OF LAND.

(a) GENERAL AUTHORITY.—The Secretary may acquire land or interests in land within the boundaries of the National Park by donation, purchase with donated or appropriated funds, or exchange.

(b) STATE PROPERTY.—Property owned by the State of New Jersey or any political subdivision of the State may be acquired only by donation.

(c) CONSENT.—No lands or interests therein within the boundaries of the park may be acquired without the consent of the owner, unless the Secretary determines that the land is being developed, or is proposed to be developed, in a manner which is detrimental to the natural, scenic, historic, and other values for which the park is established.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this section, provided that no funds may be appropriated for land acquisition.

(b) MATCHING REQUIREMENT.—Amounts appropriated in any fiscal year to carry out this section may only be expended on a matching basis in a ration of at least 3 non-Federal dollars to every Federal dollar. The non-Federal share of the match may be in the form of cash, services, or in-kind contributions, fairly valued.

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 149. A bill to address the effect of the death of a defendant in Federal criminal proceedings; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am pleased to join Senator SESSIONS in re-introducing the ''Preserving Crime Victims' Restitution Act.'' The Act would clarify the rule of law and procedures that should be applied when a criminal defendant, such as former Enron CEO Kenneth Lay, dies after he has been duly convicted, but before his appeals are final.

This bill passed the Senate unanimously at the end of the 109th Congress, but unfortunately it was not taken up by the House. Except for minor, technical corrections, this new bill is the same as what the Senate passed in the last Congress, and I urge my colleagues to speedily pass this bill, as you did before, so that it can be enacted into law.

As I mentioned when I introduced this bill last fall, we have worked closely with the Department of Justice in crafting this legislation, and have used much of DOJ's suggested language. DOJ fully supports the principles contained in this bill, and has indicated that it supports fixing this problem now to ensure that, despite a defendant's death, hard-won convictions are preserved so that restitution remains available for the victims of crime.

This bill would establish that, if a defendant dies after being convicted of a federal offense, his conviction will not be vacated. Instead, the court will be directed to issue a statement that the defendant was convicted—either by a guilty plea or a verdict finding him guilty—but then died before his case or appeal was final.

It would codify the current rule that no further punishments can be imposed on a person who is convicted if they die before a sentence is imposed or they have an opportunity to appeal their conviction. It would clarify that, unlike punishment, other relief (such as restitution to the victims) that could have been sought against a convicted defendant can continue to be pursued and collected after the defendant's death. It would establish a process to ensure that after a person dies, a representative of his estate can challenge or appeal his conviction if they want, and can also secure a lawyer—either on their own or by having one appointed and, if the Government had filed a criminal forfeiture action—in which it had sought to reach the defendant's assets that were linked to his crimes—the Government would get an extra 2 years after the defendant's death to file a civil forfeiture lawsuit so that it could try to recover those same assets in a different, and traditionally-accepted manner.

The need for this legislation was vividly demonstrated on October 17, 2006, when U.S. District Judge Sim Lake, of the Southern District of Texas, wiped clean the criminal record of Enron founder Kenneth Lay, even after a jury and judge had unanimously found him guilty of 10 criminal charges, including securities fraud, wire fraud involving false and misleading statements, bank fraud and conspiracy.

The decision to dismiss Mr. Lay's conviction was not based on any error in the trial, suggestion of unfairness in the proceedings, or allegation of his innocence. Instead, it was simply based on the fact that Mr. Lay died before his conviction had been affirmed on appeal, under a common law rule known as ''abatement.''

In other words, the order essentially meant that Mr. Lay was ''convicted but not guilty''—''innocent by reason of his death.''

Judge Lake granted this dismissal even in the face of DOJ Enron Task Force filings, which noted how Mr. Lay's conviction ''provided the basis for the likely disgorgement of fraud proceeds totaling tens of millions of dollars.'' In other words, the dismissal meant that millions of dollars that the jury found was obtained by Mr. Lay illegally at the expense of former Enron employees and shareholders, would remain untouched in the Lay estate. These employees and shareholders will now find it much harder to lay claim to these ill-gotten gains held by Mr. Lay's estate, because they will be unable to point to his criminal conviction as proof of his wrongdoing.

I do not fault Judge Lake for issuing this order. He made it clear that he was simply following the binding precedent issued in 2004 by the full U.S. Court of Appeals for the 5th Circuit, in a case called United States v. Estate of Parsons.

But as I noted in a letter I wrote to Attorney General Gonzales on October 20, 2006, the Fifth Circuit's Parsons decision goes far beyond the traditional rule of law in this area. While the common-law doctrine of abatement has historically wiped out ''punishments'' following a criminal defendant's death, the Supreme Court has never held that it must also wipe out a victim's right to other forms of relief such as restitution, which simply compensate third parties who were injured by criminal misconduct.

As the six dissenters in Parsons noted, the majority's '' 'finality rationale' is a completely novel judicial creation which has not been embraced or even suggested by . . . other courts.'' The Third and Fourth Circuits, for example, have expressly refused to take this position, and upheld a restitution order after a criminal defendant's death.

The Parsons decision was remarkable in several other respects, including the fact that (as the dissenters noted), its new rule of law was apparently inspired by a single law review article. That academic piece boldly claimed that a criminal defendant's right of appeal is ''evolving into a constitutional right,''

and suggested that a conviction untested by appellate review is unreliable and illegitimate. This notion runs contrary to the traditional rule applied in virtually every other context—where a jury's findings are typically respected under the law.

Of course a defendant is presumed innocent at the outset of his case. After a jury has deliberated and unanimously issued a formal finding of guilt, however, that presumption of innocence no longer stands.

The Parsons ''finality'' rationale even raises the possibility that a defendant who fully admitted his wrongdoing and pleaded guilty, but who then died while an appeal of his sentence was pending, could have his entire criminal conviction erased.

In fact, that has already occurred, in the 1994 case of United States v. Pogue, where the D.C. Circuit ordered the dismissal of a conviction of a defendant whose appeal was pending—even though the docketing statement had said that the defendant intended to challenge only his sentence, and not his underlying conviction.

Following Judge Lake's decision, I sent a letter to the Attorney General, asking him to appeal the order and continue the fight for Enron victims. Unfortunately, the Justice Department decided in November to withdraw its appeal, leaving it up to the victims themselves to pursue any further relief.

I am very disappointed in this decision. These victims have had their livelihoods and retirement stripped from them, and they deserved a Justice Department that was willing to fight vigorously to protect their interests.

Enron's collapse in 2001 wiped out thousands of jobs, more than $60 billion in market value, and more than $2 billion in pension plans. When America's seventh largest company crumbled into bankruptcy after its accounting tricks could no longer hide its billions in debt, countless former Enron employees and shareholders lost their entire life savings after investing in Enron's 401(k) plan.

Many of these Enron victims have been following closely the years of preparation by the Enron Task Force, and the four-month jury trial and separate one-week bench trial, hoping to finally recover some restitution in this criminal case. And despite Mr. Lay's vigorous efforts to avoid being held accountable for his actions, a conviction was finally secured.

Yet now these people have essentially been victimized again. They will be forced to start all over in their efforts to get back some portion of the pension funds on which they expected to subsist, and the other hard-earned assets that will remain beyond their reach, despite the unanimous, hard-fought verdicts finding Mr. Lay guilty of all ten counts with which he had been charged.

I believe in situations like this, leaving the victims without this recourse is an unacceptable outcome. That is why I am introducing this bill to prevent further injustices like this from ever happening again.

While I have no desire for our Government to punish a criminal defendant who dies, the calculation should be different when we are determining how to make up for harm suffered by other innocent victims.

This legislation offers a fair solution and orderly process in the event that a criminal defendant dies prior to his final appeal.

The time has come for Congress to end this injustice—hopefully, by acting quickly enough to assist these Enron victims, but in any event in a way that will solve the problems that the Lay dismissal so starkly illustrated.

I urge my colleagues in the Senate to quickly pass this bill, as you did in the 109th Congress, so that we can enact it into law in the 110th Congress.

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. 149

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 ''Preserving Crime Victims' Restitution Act of 2007''.

SEC. 2. EFFECT OF DEATH OF A DEFENDANT IN FEDERAL CRIMINAL PROCEEDINGS.

(a) IN GENERAL.—Subchapter A of chapter 227 of title 18, United States Code, is amended by adding at the end the following:

''§ 3560. Effect of death of a defendant in Federal criminal proceedings

''(a) GENERAL RULE.—Notwithstanding any other provision of law, the death of a defendant who has been convicted of a Federal criminal offense shall not be the basis for abating or otherwise invalidating a plea of guilty or nolo contendere accepted, a verdict returned, a sentence announced, or a judgment entered prior to the death of that defendant, or for dismissing or otherwise invalidating the indictment, information, or complaint on which such a plea, verdict, sentence, or judgment is based, except as provided in this section.

''(b) DEATH AFTER PLEA OR VERDICT.—

''(1) ENTRY OF JUDGMENT.—If a defendant dies after a plea of guilty or nolo contendere has been accepted or a verdict has been returned, but before judgment is entered, the court shall enter a judgment incorporating the plea of guilty or nolo contendere or the verdict, with the notation that the defendant died before the judgment was entered.

''(2) PUNITIVE SANCTIONS.—

''(A) DEATH BEFORE SENTENCE ANNOUNCED.—If a defendant dies after a plea of guilty or nolo contendere has been accepted or a verdict has been returned and before a sentence has been announced, no sentence of probation, supervision, or imprisonment may be imposed, no criminal forfeiture may be ordered, and no liability for a fine or special assessment may be imposed on the defendant or the defendant's estate.

''(B) DEATH AFTER SENTENCING OR JUDGMENT.—The death of a defendant after a sentence has been announced or a judgment has been entered, and before that defendant has exhausted or waived the right to a direct appeal—

''(i) shall terminate any term of probation, supervision, or imprisonment, and shall terminate the liability of that defendant to pay any amount remaining due of a criminal forfeiture, of a fine under section 3613(b), or of a special assessment under section 3013; and

''(ii) shall not require return of any portion of any criminal forfeiture, fine, or special assessment already paid.

''(3) RESTITUTION.—

''(A) DEATH BEFORE SENTENCE ANNOUNCED.—If a defendant dies after a plea of guilty or nolo contendere has been accepted or a verdict has been returned and before a sentence has been announced, the court shall, upon a motion under subsection (c)(2) by the Government or any victim of that defendant's crime, commence a special restitution proceeding at which the court shall adjudicate and enter a final order of restitution against the estate of that defendant in an amount equal to the amount that would have been imposed if that defendant were alive.

''(B) DEATH AFTER SENTENCING OR JUDGMENT.—The death of a defendant after a sentence has been announced shall not be a basis for abating or otherwise invalidating restitution announced at sentencing or ordered after sentencing under section 3664(d)(5) of this title or any other provision of law.

''(4) CIVIL PROCEEDINGS.—The death of a defendant after a plea of guilty or nolo contendere has been accepted, a verdict returned, a sentence announced, or a judgment entered, shall not prevent the use of that plea, verdict, sentence, or judgment in civil proceedings, to the extent otherwise permitted by law.

''(c) APPEALS, MOTIONS, AND PETITIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), after the death of a defendant convicted in a criminal case—

''(A) no appeal, motion, or petition by or on behalf of that defendant or the personal representative or estate of that defendant, the Government, or a victim of that defendant's crime seeking to challenge or reinstate a plea of guilty or nolo contendere accepted, a verdict returned, a sentence announced, or a judgment entered prior to the death of that defendant shall be filed in that case after the death of that defendant; and

''(B) any pending motion, petition, or appeal in that case shall be dismissed with the notation that the dismissal is due to the death of the defendant.

''(2) EXCEPTIONS.—

''(A) RESTITUTION.—If a defendant dies after being convicted in a criminal case but prior to sentencing or the exhaustion or waiver of direct appeal, the personal representative of that defendant, the Government, or any victim of that defendant's crime may file or pursue an otherwise permissible direct appeal, petition for mandamus or a writ of certiorari, or an otherwise permissible motion described in section 3663, 3663A, 3664, or 3771, to the extent that the appeal, petition, or motion raises an otherwise permissible claim to—

''(i) obtain, in a special restitution proceeding, a final order of restitution under subsection (b)(3);

''(ii) enforce, correct, amend, adjust, reinstate, or challenge any order of restitution; or

''(iii) challenge or reinstate a verdict, plea of guilty or nolo contendere, sentence, or judgment on which—

''(I) a restitution order is based; or

''(II) restitution is being or will be sought by an appeal, petition, or motion under this paragraph.

''(B) OTHER CIVIL ACTIONS AFFECTED.—If a defendant dies after being convicted in a criminal case but prior to sentencing or the exhaustion or waiver of direct appeal, the

personal representative of that defendant, the Government, or any victim of that defendant's crime may file or pursue an otherwise permissible direct appeal, petition for mandamus or a writ of certiorari, or an otherwise permissible motion under the Federal Rules of Criminal Procedure, to the extent that the appeal, petition, or motion raises an otherwise permissible claim to challenge or reinstate a verdict, plea of guilty or nolo contendere, sentence, or judgment that the appellant, petitioner, or movant shows by a preponderance of the evidence is, or will be, material in a pending or reasonably anticipated civil proceeding, including civil forfeiture proceedings.

''(C) COLLATERAL CONSEQUENCES.—

''(i) IN GENERAL.—Except as provided in subparagraphs (A) and (B), the Government may not restrict any Federal benefits or impose collateral consequences on the estate or a family member of a deceased defendant based solely on the conviction of a defendant who died before that defendant exhausted or waived the right to direct appeal unless, not later than 90 days after the death of that defendant, the Government gives notice to that estate or family member of the intent of the Government to take such action.

''(ii) PERSONAL REPRESENTATIVE.—If the Government gives notice under clause (i), the court shall appoint a personal representative for the deceased defendant that is the subject of that notice, if not otherwise appointed, under section (d)(2)(A).

''(iii) TOLLING.—If the Government gives notice under clause (i), any filing deadline that might otherwise apply against the defendant, the estate of the defendant, or a family member of the defendant shall be tolled until the date of the appointment of that defendant's personal representative under clause (ii).

''(3) BASIS.—In any appeal, petition, or motion under paragraph (2), the death of the defendant shall not be a basis for relief.

''(d) PROCEDURES REGARDING CONTINUING LITIGATION.—

''(1) IN GENERAL.—The standards and procedures for a permitted appeal, petition, motion, or other proceeding under subsection (c)(2) shall be the standards and procedures otherwise provided by law, except that the personal representative of the defendant shall be substituted for the defendant.

''(2) SPECIAL PROCEDURES.—If continuing litigation is initiated or could be initiated under subsection (c)(2), the following procedures shall apply:

''(A) NOTICE AND APPOINTMENT OF PERSONAL REPRESENTATIVE.—The district court before which the criminal case was filed (or the appellate court if the matter is pending on direct appeal) shall—

''(i) give notice to any victim of the convicted defendant under section 3771(a)(2), and to the personal representative of that defendant or, if there is none, the next of kin of that defendant; and

''(ii) appoint a personal representative for that defendant, if not otherwise appointed.

''(B) COUNSEL.—Counsel shall be appointed for the personal representative of a defendant convicted in a criminal case who dies if counsel would have been available to that defendant, or if the personal representative of that defendant requests counsel and otherwise qualifies for the appointment of counsel, under section 3006A.

''(C) TOLLING.—The court shall toll any applicable deadline for the filing of any motion, petition, or appeal during the period beginning on the date of the death of a defendant convicted in a criminal case and ending on the later of—

''(i) the date of the appointment of that defendant's personal representative; or

''(ii) where applicable, the date of the appointment of counsel for that personal representative.

''(D) RESTITUTION.—If restitution has not been fully collected on the date on which a defendant convicted in a criminal case dies—

''(i) any amount owed under a restitution order (whether issued before or after the death of that defendant) shall be collectible from any property from which the restitution could have been collected if that defendant had survived, regardless of whether that property is included in the estate of that defendant;

''(ii) any restitution protective order in effect on the date of the death of that defendant shall continue in effect unless modified by the court after hearing or pursuant to a motion by the personal representative of that defendant, the Government, or any victim of that defendant's crime; and

''(iii) upon motion by the Government or any victim of that defendant's crime, the court shall take any action necessary to preserve the availability of property for restitution under this section.

''(e) FORFEITURE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the death of an individual does not affect the Government's ability to seek, or to continue to pursue, civil forfeiture of property as authorized by law.

''(2) TOLLING OF LIMITATIONS FOR CIVIL FORFEITURE.—Notwithstanding the expiration of any civil forfeiture statute of limitations or any time limitation set forth in section 983(a) of this title, not later than the later of the time period otherwise authorized by law and 2 years after the date of the death of an individual against whom a criminal indictment alleging forfeiture is pending, the Government may commence civil forfeiture proceedings against any interest in any property alleged to be forfeitable in the indictment of that individual.

''(f) DEFINITIONS.—In this section—

''(1) the term 'accepted', relating to a plea of guilty or nolo contendere, means that a court has determined, under rule 11(b) of the Federal Rules of Criminal Procedure, that the plea is voluntary and supported by a factual basis, regardless of whether final acceptance of that plea may have been deferred pending review of a presentence report or otherwise;

''(2) the term 'announced', relating to a sentence, means that the sentence has been orally stated in open court;

''(3) the term 'convicted' refers to a defendant—

''(A) whose plea of guilty or nolo contendere has been accepted; or

''(B) against whom a verdict of guilty has been returned;

''(4) the term 'direct appeal' means an appeal filed, within the period provided by rule 4(b) of the Federal Rules of Appellate Procedure, from the entry of the judgment or order of restitution, including review by the Supreme Court of the United States; and

''(5) the term 'returned', relating to a verdict, means that the verdict has been orally stated in open court.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following:

''3560. Effect of death of a defendant in Federal criminal proceedings.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to any criminal case or appeal pending on or after July 1, 2007.

SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of the provisions of this Act, the amendments made by this Act, and the application of such provisions or amendments to any person or circumstance shall not be affected.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. LAUTENBERG):

S. 150. A bill to amend the safe Drinking Water Act to protect the health of pregnant women, fetuses, infants, and children by requiring a health advisory and drinking water standard for perchlorate; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation that would order EPA to promptly establish a health advisory and then a drinking water standard for perchlorate. I am pleased that the Senior Senator from California, Mrs. FEINSTEIN, and the Senior Senator from New Jersey, Mr. LAUTENBERG, have joined as original cosponsors of this measure.

This legislation will require the U.S. Environmental Protection Agency (EPA) to establish a standard for perchlorate contamination in drinking water supplies by December 31, 2007. EPA still has not committed to establishing a tap water standard for this widespread contaminant, decades after learning that perchlorate is a problem in our drinking water.

Perchlorate is a clear and present danger to California's and much of America's health. We cannot wait any longer to address this threat. EPA needs to get moving and protect our drinking water now.

Drinking water sources for more than 20 million Americans are contaminated with perchlorate. Perchlorate is the main ingredient in rocket fuel, which accounts for 90 percent of its use. Perchlorate is also used for ammunition, fireworks, highway safety flares, air bags, and fertilizers. It dissolves readily in many liquids, including water, and moves easily and quickly through the ground.

Perchlorate was first discovered in drinking water in 1957, and at the latest in the mid-1980s, EPA was aware that perchlorate contaminates drinking water. Since 1997, when California developed a new, more sensitive testing method that can detect perchlorate down to 4 parts per billion, perchlorate has been found in soil, groundwater, and surface water throughout the U.S.

According to a May 2005 report from the Government Accountability Office, perchlorate contamination has been detected in water and soil at almost 400 sites in the U.S., with levels ranging from 4 parts per billion to millions of parts per billion.

GAO also said that limited EPA data show that perchlorate has polluted 35 States and the District of Columbia, and is known to have contaminated 153 public water systems in 26 States. Those data likely underestimate total exposure, as illustrated by the finding

of the California Department of Health Services that perchlorate contamination has affected at least 276 drinking water wells sources and 77 drinking water systems in California alone.

The Food and Drug Administration and other scientific researchers have detected perchlorate in the United States food supply, including in lettuce, milk, cucumbers, tomatoes, carrots, cantaloupe, wheat, and spinach, and in human breast milk.

Perchlorate can harm human health, especially in pregnant women and children, by interfering with thyroid gland, which is needed to produce important hormones that help control human health and development. The thyroid helps to ensure children's proper mental and physical development, in addition to helping to control metabolism. Thyroid problems in expectant mothers or infants can affect babies, and result in delayed development and decreased learning capability.

The largest and most comprehensive study to date on the effects of low levels of perchlorate exposure in women was recently published by researchers from the Centers for Disease Control and Prevention (CDC). CDC found that there were significant changes in thyroid hormones in women with low iodine levels who were exposed to perchlorate. The CDC researchers also found that even small increases in low-level perchlorate exposure may affect the thyroid's production of hormones in iodine deficient women. About 36 percent of women in the U.S. have iodine levels equal to or below those of the women in the study.

EPA has not established a health advisory or national primary drinking water regulation for perchlorate. Instead, the agency has established a ''Drinking Water Equivalent Level'' (DWEL) of 24.5 parts per billion for this toxin. The agency's DWEL does not take into consideration all routes of exposure to perchlorate, and has been criticized by experts for failing to sufficiently consider the body weight, unique exposure, and vulnerabilities of certain pregnant women and fetuses, infants, and children. It is based primarily upon a small human study by Greer et al., which tested a small number of adults. The DWEL also does not take into account the new much larger studies from CDC, and other data indicating potential effects at lower perchlorate levels than previously found.

Alarming levels of perchlorate have been discovered in Lake Mead and the Colorado River, the drinking water source for millions of Southern Californians. Communities in the Inland Empire, San Gabriel Valley, Santa Clara Valley, and the Sacramento area are also grappling with perchlorate contamination.

My bill will ensure that EPA acts swiftly to address this threat to our health and welfare. I look forward to working with my colleagues to pass this important piece of legislation.

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

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

S. 150

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 ''Protecting Pregnant Women and Children From Perchlorate Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) perchlorate—

(A) is a chemical used as the primary ingredient of solid rocket propellant;

(B) is also used in fireworks, road flares, and other applications.

(2) waste from the manufacture and improper disposal of chemicals containing perchlorate is increasingly being discovered in soil and water;

(3) according to the Government Accountability Office, perchlorate contamination has been detected in water and soil at almost 400 sites in the United States, with concentration levels ranging from 4 parts per billion to millions of parts per billion;

(4) the Government Accountability Office has determined that the Environmental Protection Agency does not centrally track or monitor perchlorate detections or the status of perchlorate cleanup, so a greater number of contaminated sites may already exist;

(5) according to the Government Accountability Office, limited Environmental Protection Agency data show that perchlorate has been found in 35 States and the District of Columbia and is known to have contaminated 153 public water systems in 26 States;

(6) those data are likely underestimates of total drinking water exposure, as illustrated by the finding of the California Department of Health Services that perchlorate contamination sites have affected approximately 276 drinking water sources and 77 drinking water systems in the State of California alone;

(7) Food and Drug Administration scientists and other scientific researchers have detected perchlorate in the United States food supply, including in lettuce, milk, cucumbers, tomatoes, carrots, cantaloupe, wheat, and spinach, and in human breast milk;

(8)(A) perchlorate can harm human health, especially in pregnant women and children, by interfering with uptake of iodide by the thyroid gland, which is necessary to produce important hormones that help control human health and development;

(B) in adults, the thyroid helps to regulate metabolism;

(C) in children, the thyroid helps to ensure proper mental and physical development; and

(D) impairment of thyroid function in expectant mothers or infants may result in effects including delayed development and decreased learning capability;

(9)(A) in October 2006, researchers from the Centers for Disease Control and Prevention published the largest, most comprehensive study to date on the effects of low levels of perchlorate exposure in women, finding that—

(i) significant changes existed in thyroid hormones in women with low iodine levels who were exposed to perchlorate; and

(ii) even low-level perchlorate exposure may affect the production of hormones by the thyroid in iodine-deficient women; and

(B) in the United States, about 36 percent of women have iodine levels equivalent to or below the levels of the women in the study described in subparagraph (A); and

(10) the Environmental Protection Agency has not established a health advisory or national primary drinking water regulation for perchlorate, but instead established a ''Drinking Water Equivalent Level'' of 24.5 parts per billion for perchlorate, which—

(A) does not take into consideration all routes of exposure to perchlorate;

(B) has been criticized by experts as failing to sufficiently consider the body weight, unique exposure, and vulnerabilities of certain pregnant women and fetuses, infants, and children; and

(C) is based primarily on a small study and does not take into account new, larger studies of the Centers for Disease Control and Prevention or other data indicating potential effects at lower perchlorate levels than previously found.

(b) PURPOSES.—The purposes of this Act are—

(1) to require the Administrator of the Environmental Protection Agency to establish, by not later than 90 days after the date of enactment of this Act, a health advisory for perchlorate in drinking water that fully protects pregnant women, fetuses, infants, and children, taking into consideration body weight and exposure patterns and all routes of exposure to perchlorate; and

(2) to require the Administrator of the Environmental Protection Agency to establish promptly a national primary drinking water regulation for perchlorate that fully protects pregnant women, fetuses, infants, and children, taking into consideration body weight and exposure patterns and all routes of exposure to perchlorate.

SEC. 3. HEALTH ADVISORY AND NATIONAL PRIMARY DRINKING WATER REGULATION FOR PERCHLORATE.

Section 1412(b)(12) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(12)) is amended by adding at the end the following:

''(C) PERCHLORATE.—

''(i) SCHEDULE, HEALTH ADVISORY, AND STANDARD.—Notwithstanding any other provision of this section, the Administrator shall publish a health advisory and promulgate a national primary drinking water regulation for perchlorate, in accordance with the schedule and provisions established by this subparagraph, that fully protect, with an adequate margin of safety, the health of vulnerable persons (including pregnant women, fetuses, infants, and children), taking into consideration body weight, exposure patterns, and all routes of exposure.

''(ii) HEALTH ADVISORY.—Not later than 90 days after the date of enactment of this subparagraph, the Administrator shall publish a health advisory for perchlorate in accordance with clause (i).

''(iii) PROPOSED REGULATIONS.—Not later than August 1, 2007, the Administrator shall propose a national primary drinking water regulation for perchlorate in accordance with clause (i).

''(iv) FINAL REGULATIONS.—Not later than December 31, 2007, after providing notice and an opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for perchlorate in accordance with clause (i).''.

By Mrs. BOXER:

S. 152. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a program to help States expand the educational system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I rise to reintroduce the Early Education Act. This bill will enable children across our nation to be prepared with the initial skills and abilities to successfully begin their education.

I strongly believe that there should be a national commitment to establish that all children have access to high quality prekindergarten programs. This bill is a step forward in making that possible.

Of the nearly 8 million and 3- and 4-year-olds that could be in early education, fewer than half are enrolled in an early education program. In my State of California alone, just 65 percent of 4-year-olds are in preschool.

The result is that too many children come to school ill-prepared to learn. They lack language and social skills. Almost all experts now agree that an early education experience is one of the most effective strategies for improving later school performance.

Researchers have discovered that children have a learning capacity that can and should be developed at a much earlier age than was previously thought. The National Research Council reported that prekindergarten educational opportunities are critical in developing early language and literacy skills and preventing reading difficulties in young children.

Furthermore, studies have shown that children who participate in prekindergarten programs are less likely to be held back a grade, show greater learning retention and initiative, have better social skills, are more enthusiastic about school, and are more likely to have good attendance records.

In fact, prekindergarten programs pay for themselves in long-term benefits. It is estimated that for every dollar invested in early education, about $7 are saved in later costs.

My bill, the Early Education Act, would create a program in at least 10 States to provide one year of prekindergarten early education in the public schools. There is a 50 percent matching requilement, and the $300 million authorized annually under this bill would be used by States to supplement—not supplant—other Federal, State or local funds. This bill would serve approximately 136,000 children.

Our children need a solid foundation that builds on current education system by providing them with early learning skills. I urge my colleagues to support this legislation.

By Mrs. BOXER:

S. 153. A bill to provide for the monitoring of the long-term medical health of firefighters who responded to emergencies in certain disaster areas and for the treatment of such firefighters; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, I introduce the Healthy Firefighters Act, an important bill that would protect the firefighters who respond to emergencies. The bill is inspired by the brave firefighters from the San Jacinto Ranger District, who responded to the Esperanza Incident wildfire in southern California in October of 2006.

We rely on firefighters to protect us when disaster strikes, and they selflessly place themselves in danger to provide that protection. One danger they face in the course of performing their duties is exposure to toxins—including fine particulates, carbon monoxide, sulfur, formaldehyde, mercury, heavy metals, and benzene—that can have a significant negative effect on their health.

We owe it to this country's brave firefighters to minimize their sacrifice for our safety, to the greatest extent possible. My bill would require the U.S. Fire Administrator to contract with a medical research university to conduct long-term medical health monitoring of firefighters who responded to emergencies in any areas declared a disaster by the Federal Government, and provide healthcare for those firefighters who suffer health problems as a consequence of their work in those disaster areas. Pulmonary illness, neurological damage, and cardiovascular damage are examples of illnesses for which firefighters would be monitored and treated under this bill.

I urge my colleagues to consider and pass this bill to benefit firefighters, who are among this country's most heroic citizens.

By Mr. BUNNING (for himself, Mr. OBAMA, Mr. LUGAR, Mr. PRYOR, Ms. MURKOWSKI, Mr. BOND, Mr. THOMAS, Mr. MARTINEZ, Mr. ENZI, Ms. LANDRIEU, and Mr. CRAIG):

S. 154. A bill to promote coal-to-liquid fuel activities; to the Committee on Energy and Natural Resources.

Mr. BUNNING. Mr. President, I rise today to introduce the Coal-to-Liquid Fuel Promotion Act of 2007.

For too long, America has ignored its energy security. Many of us can remember the energy crises of the 1970s. We were held ransom by a monopolistic oil cartel and forced to endure shortages, gas lines, and high prices. In the early 1980s, just as America began to invest in alternative fuels, the oil-producing states of the world crashed prices to make new technology uncompetitive.

During most of the last 25 years, we have enjoyed low prices and plentiful supply, but we have paid a price. Today, we find America is addicted to oil.

Since September 11, we have seen the fragile state of our energy markets. Domestic disasters and terrorism can send energy prices spiraling out of control. Our energy resources are stretched to the limits, and small supply disruptions ripple through the entire economy. America needs a secure domestic source to ease our dependency on imported oil.

That is why today I am reintroducing my bill, the Coal-to-Liquid Fuel Promotion Act with the current Presiding Officer, Senator OBAMA of Illinois. I have worked with the coal and fuel industries, the Department of Defense, and environmental groups to identify the needs of the coal-to-liquid industry and the best way for the Government to support the coal-to-liquid development.

Coal has long been America's most abundant fuel resource and has driven our economic growth since the industrial revolution. In the coal-to-liquid process, coal is gasified, the gas is run through the FischerTropsch process, and the resulting fuel is refined into jet fuel and diesel fuel. The final product is cleaner than conventional fuels because nearly all of the sulfur and nitrogen is removed.

While this technology is just taking root in America, South Africa meets 30 percent of its fuel needs with coal. CTL technology lets America capitalize on a domestic resource that will fuel economic growth and produce the energy security required in today's world. Many of my colleagues may ask one question right now: If this technology is so great and could replace expensive imports from the Middle East, why hasn't it been done already? The answer is simple: costs and market uncertainty.

A typical size CTL plant costs more than $2 billion to construct. With complicated plans and environmental permits, a new plant could take 5 to 8 years to build. This is a challenge for even the biggest risk-takers on Wall Street. Raising the capital needed to develop a new technology is always difficult, but the multibillion dollar investment scale of a CTL plant has made it nearly impossible.

On top of this is the uncertainty of the price of oil. America has seen oil prices rise dramatically in the last few years. But investors are concerned that oil prices could drop to the low levels of the 1980s and make CTL plants uncompetitive again. I believe oil prices will stay above the price range that keeps CTL profitable, which is estimated to be between $40 and $50 per barrel. But even if oil prices were to drop that low in the next few decades, I believe CTL would more than pay for itself by insulating us from supply shocks and providing a secure domestic fuel supply for the military, businesses such as airlines and trucking, and the average American's car.

The Federal Government must act to help industry overcome these hurdles. This legislation will provide a combination of incentives to create a network of coal-to-liquid production in the United States.

The Coal-to-Liquid Fuel Promotion Act of 2007 has three parts. First, this bill addresses the need to pull together the investors and the billions of dollars required to build a CTL plant. It expands and enhances the Department of Energy's loan guarantee program included in the Energy Policy Act we passed in 2005. It expressly authorizes

DOE to administer loan guarantees for the Nation's first CTL plants. These plants must be large scale, which is a minimum production of 10,000 barrels a day of liquid fuel. This program is only for the first 10 commercial plants. By then, we should have proven the economics of this technology and no further incentives will be needed.

It also provides a new program of matching loans. The loans are capped at $20 million and must be matched dollar-for-dollar by non-Federal money. They must be repaid as soon as the plants are financed.

Second, this legislation would fundamentally alter the economics of CTL plants during and after construction. It expands the investment tax credits and expensing provisions enacted in the Energy Policy Act of 2005. It increases the 20-percent tax credit for CTL plants to a maximum of $200 million for each of the first 10 CTL plants. It also extends the expiring exploration of the fuel excise tax credits for CTL from 2009 to 2020. The current provisions will expire long before the first CTL plant is even operational. This extension will provide a meaningful timeframe for CTL plants to benefit from the same tax incentives we offer renewable and hydrogen fuels.

This bill also provides an incentive for CTL plants to capture carbon emissions. We can use CO_2 to produce oil in depleted wells or extract coalbed methane.

Third, this bill provides the Department of Defense the funding to purchase, test, and integrate CTL fuels into the military. In the last few months, the Air Force has successfully tested CTL fuels in B–52 bombers. These tests are proving to the DOD and to industry that CTL fuels are as safe and reliable as the fuels produced today.

This legislation also instructs the DOD to conduct a study on CTL fuel storage and its inclusion in the Strategic Petroleum Reserve.

It authorizes the construction of storage facilities for CTL fuel and allows the Strategic Petroleum Reserve to hold up to 20 percent of its stock in the form of CTL-finished fuels.

By combining the abilities of the Department of Energy and the Department of Defense with incentives in the Tax Code, I am confident this legislation will help Kentucky, and America, become the world leaders in coal-to-liquid fuel promotion. This coal-to-liquid fuel legislation made headlines during the summer of 2006 when gas prices were at a near record high. Yet when prices fell, the pressure to pass this legislation also decreased. We have been very lucky that a mild winter has held down demand. We will not always be this lucky.

No matter what energy prices are, America needs a domestic source of fuel. This year alone we will send $250 billion to foreign countries, mostly in the Middle East, just to buy oil. Imagine what we could have done here at home with trillions of dollars we have spent on oil in the last few decades.

There is no room for politics in energy security. In the 110th Congress, Senator OBAMA and I will work hard with all of our colleagues to pass this important legislation. I especially look forward to working with my new chairman in the Energy Committee, Senator BINGAMAN, and my ranking member, Senator DOMENICI, on this important bill.

I now send to the desk the Coal-to-Liquid Fuel Promotion Act of 2007 and the related Coal-to-Liquid Fuel Energy Act of 2007. I ask unanimous consent these two bills be printed with my remarks in the RECORD.

The PRESIDING OFFICER. without objection, the bills will be received and appropriately referred.

Mr. CONRAD. Mr. President, first I commend my colleague from Kentucky for his legislation. This is an area in which I have had a continuing interest as well. I salute him because one of the great challenges facing our Nation is to dramatically reduce our dependence on foreign energy. That is in our energy interest, it is in our economic interest, it is in our vital security interest. I commend my colleague from Kentucky for coming to the floor and offering his proposal on what we could do to make progress. I thank the Senator.

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. 154

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 ''Coal-to-Liquid Fuel Energy Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COAL-TO-LIQUID.—The term ''coal-to-liquid'' means—

(A) with respect to a process or technology, the use of a feedstock, the majority of which is the coal resources of the United States, using the class of reactions known as Fischer-Tropsch, to produce synthetic fuel suitable for transportation; and

(B) with respect to a facility, the portion of a facility related to producing the inputs to the Fischer-Tropsch process, the Fischer-Tropsch process, finished fuel production, or the capture, transportation, or sequestration of byproducts of the use of a feedstock that is primarily domestic coal at the Fischer-Tropsch facility, including carbon emissions.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 3. COAL-TO-LIQUID FUEL LOAN GUARANTEE PROGRAM.

(a) ELIGIBLE PROJECTS.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by adding at the end the following:

''(11) Large-scale coal-to-liquid facilities (as defined in section 2 of the Coal-to-Liquid Fuel Energy Act of 2007) that use a feedstock, the majority of which is the coal resources of the United States, to produce not less than 10,000 barrels a day of liquid transportation fuel.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514) is amended by adding at the end the following:

''(c) COAL-TO-LIQUID PROJECTS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees for projects involving large-scale coal-to-liquid facilities under section 1703(b)(11).

''(2) ALTERNATIVE FUNDING.—If no appropriations are made available under paragraph (1), an eligible applicant may elect to provide payment to the Secretary, to be delivered if and at the time the application is approved, in the amount of the estimated cost of the loan guarantee to the Federal Government, as determined by the Secretary.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—No loan guarantees shall be provided under this title for projects described in paragraph (1) after (as determined by the Secretary)—

''(i) the tenth such loan guarantee is issued under this title; or

''(ii) production capacity covered by such loan guarantees reaches 100,000 barrels per day of coal-to-liquid fuel.

''(B) INDIVIDUAL PROJECTS.—

''(i) IN GENERAL.—A loan guarantee may be provided under this title for any large-scale coal-to-liquid facility described in paragraph (1) that produces no more than 20,000 barrels of coal-to-liquid fuel per day.

''(ii) NON-FEDERAL FUNDING REQUIREMENT.—To be eligible for a loan guarantee under this title, a large-scale coal-to-liquid facility described in paragraph (1) that produces more than 20,000 barrels per day of coal-to-liquid fuel shall be eligible to receive a loan guarantee for the proportion of the cost of the facility that represents 20,000 barrels of coal-to-liquid fuel per day of production.

''(4) REQUIREMENTS.—

''(A) GUIDELINES.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish guidelines for the coal-to-liquids loan guarantee application process.

''(B) APPLICATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall begin to accept applications for coal-to-liquid loan guarantees under this subsection.

''(C) DEADLINE.—Not later than 1 year from the date of acceptance of an application under subparagraph (B), the Secretary shall evaluate the application and make final determinations under this subsection.

''(5) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the status of the program under this subsection not later than each of—

''(A) 180 days after the date of enactment of this subsection;

''(B) 1 year after the date of enactment of this subsection; and

''(C) the dates on which the Secretary approves the first and fifth applications for coal-to-liquid loan guarantees under this subsection.''.

SEC. 4. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ''eligible recipient'' means an individual, organization, or other entity that owns, operates, or plans to construct a coal-to-liquid facility that will produce at least 10,000 barrels per day of coal-to-liquid fuel.

(b) ESTABLISHMENT.—The Secretary shall establish a program under which the Secretary shall provide loans, in a total amount not to exceed $20,000,000, for use by eligible

recipients to pay the Federal share of the cost of obtaining any services necessary for the planning, permitting, and construction of a coal-to-liquid facility.

(c) APPLICATION.—To be eligible to receive a loan under subsection (b), the eligible recipient shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(d) NON-FEDERAL MATCH.—To be eligible to receive a loan under this section, an eligible recipient shall use non-Federal funds to provide a dollar-for-dollar match of the amount of the loan.

(e) REPAYMENT OF LOAN.—

(1) IN GENERAL.—To be eligible to receive a loan under this section, an eligible recipient shall agree to repay the original amount of the loan to the Secretary not later than 5 years after the date of the receipt of the loan.

(2) SOURCE OF FUNDS.—Repayment of a loan under paragraph (1) may be made from any financing or assistance received for the construction of a coal-to-liquid facility described in subsection (a), including a loan guarantee provided under section 1703(b)(11) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)(11)).

(f) REQUIREMENTS.—

(1) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidelines for the coal-to-liquids loan application process.

(2) APPLICATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin to accept applications for coal-to-liquid loans under this section.

(g) REPORTS TO CONGRESS.—Not later than each of 180 days and 1 year 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 Energy and Commerce of the House of Representatives a report describing the status of the program under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000, to remain available until expended.

SEC. 5. LOCATION OF COAL-TO-LIQUID MANUFACTURING FACILITIES.

The Secretary, in coordination with the head of any affected agency, shall promulgate such regulations as the Secretary determines to be necessary to support the development on Federal land (including land of the Department of Energy, military bases, and military installations closed or realigned under the defense base closure and realignment) of coal-to-liquid manufacturing facilities and associated infrastructure, including the capture, transportation, or sequestration of carbon dioxide.

SEC. 6. STRATEGIC PETROLEUM RESERVE.

(a) DEVELOPMENT, OPERATION, AND MAINTENANCE OF RESERVE.—Section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) is amended—

(1) by redesignating subsections (f), (g), (j), (k), and (l) as subsections (a), (b), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) (as redesignated by paragraph (1)) the following:

''(c) STUDY OF MAINTAINING COAL-TO-LIQUID PRODUCTS IN RESERVE.—Not later than 1 year after the date of enactment of the Coal-to-Liquid Fuel Energy Act of 2007, the Secretary and the Secretary of Defense shall—

''(1) conduct a study of the feasibility and suitability of maintaining coal-to-liquid products in the Reserve; and

''(2) submit to the Committee on Energy and Natural Resources and the Committee on Armed Services of the Senate and the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives a report describing the results of the study.

''(d) CONSTRUCTION OF STORAGE FACILITIES.—As soon as practicable after the date of enactment of the Coal-to-Liquid Fuel Energy Act of 2007, the Secretary may construct 1 or more storage facilities—

''(1) in the vicinity of pipeline infrastructure and at least 1 military base; but

(b) PETROLEUM PRODUCTS FOR STORAGE IN RESERVE.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting a semicolon at the end;

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

(C) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(4) coal-to-liquid products (as defined in section 2 of the Coal-to-Liquid Fuel Energy Act of 2007), as the Secretary determines to be appropriate, in a quantity not to exceed 20 percent of the total quantity of petroleum and petroleum products in the Reserve.'';

(2) in subsection (b), by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(3) by redesignating subsections (f) and (h) as subsections (d) and (e), respectively.

(c) CONFORMING AMENDMENTS.—Section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247) is amended—

(1) in subsection (b)—

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

(B) in paragraph (2) (as redesignated by subparagraph (A)), by striking ''section 160(f)'' and inserting ''section 160(e)''; and

(2) in subsection (d), in the matter preceding paragraph (1), by striking ''section 160(f)'' and inserting ''section 160(e)''.

SEC. 7. AUTHORIZATION TO CONDUCT RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION OF ASSURED DOMESTIC FUELS.

Of the amount authorized to be appropriated for the Air Force for research, development, testing, and evaluation, $10,000,000 may be made available for the Air Force Research Laboratory to continue support efforts to test, qualify, and procure synthetic fuels developed from coal for aviation jet use.

SEC. 8. COAL-TO-LIQUID LONG-TERM FUEL PROCUREMENT AND DEPARTMENT OF DEFENSE DEVELOPMENT.

Section 2398a of title 10, United States Code is amended—

(1) in subsection (b)—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) COAL-TO-LIQUID PRODUCTION FACILITIES.—

''(A) IN GENERAL.—The Secretary of Defense may enter into contracts or other agreements with private companies or other entities to develop and operate coal-to-liquid facilities (as defined in section 2 of the Coal-to-Liquid Fuel Energy Act of 2007) on or near military installations.

''(B) CONSIDERATIONS.—In entering into contracts and other agreements under subparagraph (A), the Secretary shall consider land availability, testing opportunities, and proximity to raw materials.'';

(2) in subsection (d)—

(A) by striking ''Subject to applicable provisions of law, any'' and inserting ''Any''; and

(B) by striking ''1 or more years'' and inserting ''up to 25 years''; and

(3) by adding at the end the following:

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

SEC. 9. REPORT ON EMISSIONS OF FISCHER-TROPSCH PRODUCTS USED AS TRANSPORTATION FUELS.

(a) IN GENERAL.—In cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Defense, the Administrator of the Federal Aviation Administration, and the Secretary of Health and Human Services, the Secretary shall—

(1) carry out a research and demonstration program to evaluate the emissions of the use of Fischer-Tropsch fuel for transportation, including diesel and jet fuel;

(2) evaluate the effect of using Fischer-Tropsch transportation fuel on land and air engine exhaust emissions; and

(3) in accordance with subsection (e), submit to Congress a report on the effect on air quality and public health of using Fischer-Tropsch fuel in the transportation sector.

(b) GUIDANCE AND TECHNICAL SUPPORT.—The Secretary shall issue any guidance or technical support documents necessary to facilitate the effective use of Fischer-Tropsch fuel and blends under this section.

(c) FACILITIES.—For the purpose of evaluating the emissions of Fischer-Tropsch transportation fuels, the Secretary shall—

(1) support the use and capital modification of existing facilities and the construction of new facilities at the research centers designated in section 417 of the Energy Policy Act of 2005 (42 U.S.C. 15977); and

(2) engage those research centers in the evaluation and preparation of the report required under subsection (a)(3).

(d) REQUIREMENTS.—The program described in subsection (a)(1) shall consider—

(1) the use of neat (100 percent) Fischer-Tropsch fuel and blends of Fischer-Tropsch fuels with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(2) the production costs associated with domestic production of those fuels and prices for consumers.

(e) REPORTS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(1) not later than 180 days after the date of enactment of this Act, an interim report on actions taken to carry out this section; and

(2) not later than 1 year after the date of enactment of this Act, a final report on actions taken to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

By Mr. BUNNING (for himself, Mr. OBAMA, Mr. LUGAR, Mr. PRYOR, Ms. MURKOWSKI, Mr. BOND, Mr. THOMAS, Mr. MARTINEZ, Mr. ENZI, Ms. LANDRIEU, and Mr. CRAIG):

S. 155. A bill to promote coal-to-liquid fuel activities; to the Committee on Finance.

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

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

S. 155

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 ''Coal-to-Liquid Fuel Promotion Act of 2007''.

TITLE I—COAL-TO-LIQUID FUEL ACTIVITIES

SEC. 101. DEFINITIONS.

In this title:

(1) COAL-TO-LIQUID.—The term ''coal-to-liquid'' means—

(A) with respect to a process or technology, the use of a feedstock, the majority of which is the coal resources of the United States, using the class of reactions known as Fischer-Tropsch, to produce synthetic fuel suitable for transportation; and

(B) with respect to a facility, the portion of a facility related to producing the inputs to the Fischer-Tropsch process, the Fischer-Tropsch process, finished fuel production, or the capture, transportation, or sequestration of byproducts of the use of a feedstock that is primarily domestic coal at the Fischer-Tropsch facility, including carbon emissions.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 102. COAL-TO-LIQUID FUEL LOAN GUARANTEE PROGRAM.

(a) ELIGIBLE PROJECTS.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by adding at the end the following:

''(11) Large-scale coal-to-liquid facilities (as defined in section 101 of the Coal-to-Liquid Fuel Promotion Act of 2007) that use a feedstock, the majority of which is the coal resources of the United States, to produce not less than 10,000 barrels a day of liquid transportation fuel.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514) is amended by adding at the end the following:

''(c) COAL-TO-LIQUID PROJECTS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees for projects involving large-scale coal-to-liquid facilities under section 1703(b)(11).

''(2) ALTERNATIVE FUNDING.—If no appropriations are made available under paragraph (1), an eligible applicant may elect to provide payment to the Secretary, to be delivered if and at the time the application is approved, in the amount of the estimated cost of the loan guarantee to the Federal Government, as determined by the Secretary.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—No loan guarantees shall be provided under this title for projects described in paragraph (1) after (as determined by the Secretary)—

''(i) the tenth such loan guarantee is issued under this title; or

''(ii) production capacity covered by such loan guarantees reaches 100,000 barrels per day of coal-to-liquid fuel.

''(B) INDIVIDUAL PROJECTS.—

''(i) IN GENERAL.—A loan guarantee may be provided under this title for any large-scale coal-to-liquid facility described in paragraph (1) that produces no more than 20,000 barrels of coal-to-liquid fuel per day.

''(ii) NON-FEDERAL FUNDING REQUIREMENT.—To be eligible for a loan guarantee under this title, a large-scale coal-to-liquid facility described in paragraph (1) that produces more than 20,000 barrels per day of coal-to-liquid fuel shall be eligible to receive a loan guarantee for the proportion of the cost of the facility that represents 20,000 barrels of coal-to-liquid fuel per day of production.

''(4) REQUIREMENTS.—

''(A) GUIDELINES.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish guidelines for the coal-to-liquids loan guarantee application process.

''(B) APPLICATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall begin to accept applications for coal-to-liquid loan guarantees under this subsection.

''(C) DEADLINE.—Not later than 1 year from the date of acceptance of an application under subparagraph (B), the Secretary shall evaluate the application and make final determinations under this subsection.

''(5) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the status of the program under this subsection not later than each of—

''(A) 180 days after the date of enactment of this subsection;

''(B) 1 year after the date of enactment of this subsection; and

''(C) the dates on which the Secretary approves the first and fifth applications for coal-to-liquid loan guarantees under this subsection.''.

SEC. 103. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ''eligible recipient'' means an individual, organization, or other entity that owns, operates, or plans to construct a coal-to-liquid facility that will produce at least 10,000 barrels per day of coal-to-liquid fuel.

(b) ESTABLISHMENT.—The Secretary shall establish a program under which the Secretary shall provide loans, in a total amount not to exceed $20,000,000, for use by eligible recipients to pay the Federal share of the cost of obtaining any services necessary for the planning, permitting, and construction of a coal-to-liquid facility.

(c) APPLICATION.—To be eligible to receive a loan under subsection (b), the eligible recipient shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(d) NON-FEDERAL MATCH.—To be eligible to receive a loan under this section, an eligible recipient shall use non-Federal funds to provide a dollar-for-dollar match of the amount of the loan.

(e) REPAYMENT OF LOAN.—

(1) IN GENERAL.—To be eligible to receive a loan under this section, an eligible recipient shall agree to repay the original amount of the loan to the Secretary not later than 5 years after the date of the receipt of the loan.

(2) SOURCE OF FUNDS.—Repayment of a loan under paragraph (1) may be made from any financing or assistance received for the construction of a coal-to-liquid facility described in subsection (a), including a loan guarantee provided under section 1703(b)(11) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)(11)).

(f) REQUIREMENTS.—

(1) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidelines for the coal-to-liquids loan application process.

(2) APPLICATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin to accept applications for coal-to-liquid loans under this section.

(g) REPORTS TO CONGRESS.—Not later than each of 180 days and 1 year 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 Energy and Commerce of the House of Representatives a report describing the status of the program under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000, to remain available until expended.

SEC. 104. LOCATION OF COAL-TO-LIQUID MANUFACTURING FACILITIES.

The Secretary, in coordination with the head of any affected agency, shall promulgate such regulations as the Secretary determines to be necessary to support the development on Federal land (including land of the Department of Energy, military bases, and military installations closed or realigned under the defense base closure and realignment) of coal-to-liquid manufacturing facilities and associated infrastructure, including the capture, transportation, or sequestration of carbon dioxide.

SEC. 105. STRATEGIC PETROLEUM RESERVE.

(a) DEVELOPMENT, OPERATION, AND MAINTENANCE OF RESERVE.—Section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) is amended—

(1) by redesignating subsections (f), (g), (j), (k), and (l) as subsections (a), (b), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) (as redesignated by paragraph (1)) the following:

''(c) STUDY OF MAINTAINING COAL-TO-LIQUID PRODUCTS IN RESERVE.—Not later than 1 year after the date of enactment of the Coal-to-Liquid Fuel Promotion Act of 2007, the Secretary and the Secretary of Defense shall—

''(1) conduct a study of the feasibility and suitability of maintaining coal-to-liquid products in the Reserve; and

''(2) submit to the Committee on Energy and Natural Resources and the Committee on Armed Services of the Senate and the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives a report describing the results of the study.

''(d) CONSTRUCTION OF STORAGE FACILITIES.—As soon as practicable after the date of enactment of the Coal-to-Liquid Fuel Promotion Act of 2007, the Secretary may construct 1 or more storage facilities in the vicinity of pipeline infrastructure and at least 1 military base.''.

(b) PETROLEUM PRODUCTS FOR STORAGE IN RESERVE.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting a semicolon at the end;

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

(C) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(4) coal-to-liquid products (as defined in section 101 of the Coal-to-Liquid Fuel Promotion Act of 2007), as the Secretary determines to be appropriate, in a quantity not to exceed 20 percent of the total quantity of petroleum and petroleum products in the Reserve.'';

(2) in subsection (b), by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(3) by redesignating subsections (f) and (h) as subsections (d) and (e), respectively.

(c) CONFORMING AMENDMENTS.—Section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247) is amended—

(1) in subsection (b)—

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

(B) in paragraph (2) (as redesignated by subparagraph (A)), by striking ''section 160(f)'' and inserting ''section 160(e)''; and

(2) in subsection (d), in the matter preceding paragraph (1), by striking ''section 160(f)'' and inserting ''section 160(e)''.

SEC. 106. AUTHORIZATION TO CONDUCT RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION OF ASSURED DOMESTIC FUELS.

Of the amount authorized to be appropriated for the Air Force for research, development, testing, and evaluation, $10,000,000

may be made available for the Air Force Research Laboratory to continue support efforts to test, qualify, and procure synthetic fuels developed from coal for aviation jet use.

SEC. 107. COAL-TO-LIQUID LONG-TERM FUEL PROCUREMENT AND DEPARTMENT OF DEFENSE DEVELOPMENT.

Section 2398a of title 10, United States Code is amended—

(1) in subsection (b)—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) COAL-TO-LIQUID PRODUCTION FACILITIES.—

''(A) IN GENERAL.—The Secretary of Defense may enter into contracts or other agreements with private companies or other entities to develop and operate coal-to-liquid facilities (as defined in section 101 of the Coal-to-Liquid Fuel Promotion Act of 2007) on or near military installations.

''(B) CONSIDERATIONS.—In entering into contracts and other agreements under subparagraph (A), the Secretary shall consider land availability, testing opportunities, and proximity to raw materials.'';

(2) in subsection (d)—

(A) by striking ''Subject to applicable provisions of law, any'' and inserting ''Any''; and

(B) by striking ''1 or more years'' and inserting ''up to 25 years''; and

(3) by adding at the end the following:

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

SEC. 108. REPORT ON EMISSIONS OF FISCHER-TROPSCH PRODUCTS USED AS TRANSPORTATION FUELS.

(a) IN GENERAL.—In cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Defense, the Administrator of the Federal Aviation Administration, and the Secretary of Health and Human Services, the Secretary shall—

(1) carry out a research and demonstration program to evaluate the emissions of the use of Fischer-Tropsch fuel for transportation, including diesel and jet fuel;

(2) evaluate the effect of using Fischer-Tropsch transportation fuel on land and air engine exhaust emissions; and

(3) in accordance with subsection (e), submit to Congress a report on the effect on air quality and public health of using Fischer-Tropsch fuel in the transportation sector.

(b) GUIDANCE AND TECHNICAL SUPPORT.—The Secretary shall issue any guidance or technical support documents necessary to facilitate the effective use of Fischer-Tropsch fuel and blends under this section.

(c) FACILITIES.—For the purpose of evaluating the emissions of Fischer-Tropsch transportation fuels, the Secretary shall—

(1) support the use and capital modification of existing facilities and the construction of new facilities at the research centers designated in section 417 of the Energy Policy Act of 2005 (42 U.S.C. 15977); and

(2) engage those research centers in the evaluation and preparation of the report required under subsection (a)(3).

(d) REQUIREMENTS.—The program described in subsection (a)(1) shall consider—

(1) the use of neat (100 percent) Fischer-Tropsch fuel and blends of Fischer-Tropsch fuels with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(2) the production costs associated with domestic production of those fuels and prices for consumers.

(e) REPORTS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(1) not later than 180 days after the date of enactment of this Act, an interim report on actions taken to carry out this section; and

(2) not later than 1 year after the date of enactment of this Act, a final report on actions taken to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 201. CREDIT FOR INVESTMENT IN COAL-TO-LIQUID FUELS PROJECTS.

(a) IN GENERAL.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the qualifying coal-to-liquid fuels project credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48B the following new section:

''SEC. 48C. QUALIFYING COAL-TO-LIQUID FUELS PROJECT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying coal-to-liquid fuels project credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of property placed in service by the taxpayer during such taxable year which is part of a qualifying coal-to-liquid fuels project—

''(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(2) APPLICABLE RULES.—For purposes of this section, rules similar to the rules of subsection (a)(4) and (b) of section 48 shall apply.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING COAL-TO-LIQUID FUELS PROJECT.—The term 'qualifying coal-to-liquid fuels project' means any domestic project which—

''(A) employs the class of reactions known as Fischer-Tropsch to produce at least 10,000 barrels per day of transportation grade liquid fuels from a feedstock that is primarily domestic coal (including any property which allows for the capture, transportation, or sequestration of by-products resulting from such process, including carbon emissions), and

''(B) any portion of the qualified investment in which is certified under the qualifying coal-to-liquid program as eligible for credit under this section in an amount (not to exceed $200,000,000) determined by the Secretary.

''(2) COAL.—The term 'coal' means any carbonized or semicarbonized matter, including peat.

''(d) QUALIFYING COAL-TO-LIQUID FUELS PROJECT PROGRAM.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish a qualifying coal-to-liquid fuels project program to consider and award certifications for qualified investment eligible for credits under this section to 10 qualifying coal-to-liquid fuels project sponsors under this section. The total qualified investment which may be awarded eligibility for credit under the program shall not exceed $2,000,000,000.

''(2) PERIOD OF ISSUANCE.—A certificate of eligibility under paragraph (1) may be issued only during the 10-fiscal year period beginning on October 1, 2007.

''(3) SELECTION CRITERIA.—The Secretary shall not make a competitive certification award for qualified investment for credit eligibility under this section unless the recipient has documented to the satisfaction of the Secretary that—

''(A) the proposal of the award recipient is financially viable,

''(B) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is spent efficiently and effectively,

''(C) the fuels identified with respect to the gasification technology for such project will comprise at least 90 percent of the fuels required by the project for the production of transportation grade liquid fuels,

''(D) the award recipient's project team is competent in the planning and construction of coal gasification facilities and familiar with operation of the Fischer-Tropsch process, with preference given to those recipients with experience which demonstrates successful and reliable operations of such process, and

''(E) the award recipient has met other criteria established and published by the Secretary.

''(e) DENIAL OF DOUBLE BENEFIT.—No deduction or other credit shall be allowed with respect to the basis of any property taken into account in determining the credit allowed under this section.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding after clause (iv) the following new clause:

''(v) the basis of any property which is part of a qualifying coal-to-liquid fuels project under section 48C.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48B the following new item:

''48C. Qualifying coal-to-liquid fuels project credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 202. TEMPORARY EXPENSING FOR EQUIPMENT USED IN COAL-TO-LIQUID FUELS PROCESS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 179D the following new section:

''SEC. 179E. ELECTION TO EXPENSE CERTAIN COAL-TO-LIQUID FUELS FACILITIES.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the cost of any qualified coal-to-liquid fuels process property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the expense is incurred.

''(b) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(c) QUALIFIED COAL-TO-LIQUID FUELS PROCESS PROPERTY.—The term 'qualified coal-to-liquid fuels process property' means any property located in the United States—

''(1) which employs the Fischer-Tropsch process to produce transportation grade liquid fuels from a feedstock that is primarily domestic coal (including any property which allows for the capture, transportation, or sequestration of by-products resulting from such process, including carbon emissions),

''(2) the original use of which commences with the taxpayer,

''(3) the construction of which—

''(A) except as provided in subparagraph (B), is subject to a binding construction contract entered into after the date of the enactment of this section and before January 1, 2011, but only if there was no written binding construction contract entered into on or before such date of enactment, or

''(B) in the case of self-constructed property, began after the date of the enactment of this section and before January 1, 2011, and

''(4) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2016.

''(d) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—If—

''(1) a taxpayer to which subsection (a) applies is an organization to which part I of subchapter T applies, and

''(2) one or more persons directly holding an ownership interest in the taxpayer are organizations to which part I of subchapter T apply,

the taxpayer may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person's ratable share of the total amount allocated, determined on the basis of the person's ownership interest in the taxpayer. The taxable income of the taxpayer shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

''(e) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, if a deduction is allowed under this section with respect to any qualified coal-to-liquid fuels process property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(f) APPLICATION WITH OTHER DEDUCTIONS AND CREDITS.—

''(1) OTHER DEDUCTIONS.—No deduction shall be allowed under any other provision of this chapter with respect to any expenditure with respect to which a deduction is allowed under subsection (a) to the taxpayer.

''(2) CREDITS.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a).

''(g) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the property of the taxpayer as the Secretary shall require.''.

(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 179E(e)(1).''.

(2) Section 1245(a) of such Code is amended by inserting ''179E,'' after ''179D,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 263(a)(1) of such Code is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(4) Section 312(k)(3)(B) of such Code is amended by striking ''or 179D'' each place it appears in the heading and text and inserting ''179D, or 179E''.

(5) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Election to expense certain coal-to-liquid fuels facilities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after the date of the enactment of this Act.

SEC. 203. EXTENSION OF ALTERNATIVE FUEL CREDIT FOR FUEL DERIVED FROM COAL THROUGH THE FISCHER-TROPSCH PROCESS.

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (4) of section 6426(d) of the Internal Revenue Code of 1986 is amended to read as follows:

''(4) TERMINATION.—This subsection shall not apply to—

''(A) any sale or use involving liquid fuel derived from a feedstock that is primarily domestic coal (including peat) through the Fischer-Tropsch process for any period after September 30, 2020,

''(B) any sale or use involving liquified hydrogen for any period after September 30, 2014, and

''(C) any other sale or use for any period after September 30, 2009.''.

(b) PAYMENTS.—

(1) IN GENERAL.—Paragraph (5) of section 6427(e) of the Internal Revenue Code of 1986 is amended by striking ''and'' and the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) any alternative fuel or alternative fuel mixture (as so defined) involving liquid fuel derived from coal (including peat) through the Fischer-Tropsch process sold or used after September 30, 2020.''.

(2) CONFORMING AMENDMENT.—Section 6427(e)(5)(C) of such Code is amended by striking ''subparagraph (D)'' and inserting ''subparagraphs (D) and (E)''.

SEC. 204. MODIFICATIONS TO ENHANCED OIL RECOVERY CREDIT.

(a) ENHANCED CREDIT FOR CARBON DIOXIDE INJECTIONS.—Section 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) ENHANCED CREDIT FOR PROJECTS USING QUALIFIED CARBON DIOXIDE.—

''(1) IN GENERAL.—For purposes of this section—

''(A) the term 'qualified project' includes a project described in paragraph (2), and

''(B) in the case of a project described in paragraph (2), subsection (a) shall be applied by substituting '50 percent' for '15 percent'.

''(2) PROJECTS DESCRIBED.—A project is described in this paragraph if it begins or is substantially expanded after December 31, 2007, and

''(A) uses qualified carbon dioxide in an enhanced oil, natural gas, or coalbed methane recovery method, which involves flooding or injection, or

''(B) enables the capture or sequestration of qualified carbon dioxide.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) ENHANCED OIL RECOVERY.—The term 'enhanced oil recovery' means recovery of oil by injecting or flooding with qualified carbon dioxide.

''(B) ENHANCED NATURAL GAS RECOVERY.—The term 'enhanced natural gas recovery' means recovery of natural gas by injecting or flooding with qualified carbon dioxide.

''(C) ENHANCED COALBED METHANE RECOVERY.—The term 'enhanced coalbed methane recovery' means recovery of coalbed methane by injecting or flooding with qualified carbon dioxide.

''(D) QUALIFIED CARBON DIOXIDE.—The term 'qualified carbon dioxide' means carbon dioxide which is produced from the gasification and subsequent refinement of a feedstock which is primarily domestic coal, at a facility which produces coal-to-liquid fuel.

''(E) CAPTURE OR SEQUESTRATION.—The term 'capture or sequestration' means any equipment or facility necessary to—

''(i) capture or separate qualified carbon dioxide from other emissions,

''(ii) transport qualified carbon dioxide, or

''(iii) process and use qualified carbon dioxide in a qualified project.

''(4) TERMINATION.—This subsection shall not apply to costs paid or incurred for any qualified project after December 31, 2020.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 43 of the Internal Revenue Code of 1986 is amended—

(A) by striking ''enhanced oil recovery credit'' in subsection (a) and inserting ''enhanced oil, natural gas, and coalbed methane recovery, and capture and sequestration credit'',

(B) by striking ''qualified enhanced oil recovery costs'' each place it appears and inserting ''qualified costs'',

(C) by striking ''qualified enhanced oil recovery project'' each place it appears and inserting ''qualified project'', and

(D) by striking the heading and inserting:

''SEC. 43. ENHANCED OIL, NATURAL GAS, AND COALBED METHANE RECOVERY, AND CAPTURE AND SEQUESTRATION CREDIT.''.

(2) The item in the table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code relating to section 43 is amended to read as follows:

''Sec. 43. Enhanced oil, natural gas, and coalbed methane recovery, and capture and sequestration credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years ending after December 31, 2007.

SEC. 205. ALLOWANCE OF ENHANCED OIL, NATURAL GAS, AND COALBED METHANE RECOVERY, AND CAPTURE AND SEQUESTRATION CREDIT AGAINST THE ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR ENHANCED OIL, NATURAL GAS, AND COALBED METHANE RECOVERY, AND CAPTURE AND SEQUESTRATION CREDIT.—In

the case of the enhanced oil, natural gas, and coalbed methane recovery, and capture and sequestration credit determined under section 43—

''(A) this section and section 39 shall be applied separately with respect to such credit, and

''(B) in applying paragraph (1) to such credit—

''(i) the tentative minimum tax shall be treated as being zero, and

''(ii) the limitation under paragraph (1) (as modified by clause (i)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the enhanced oil, natural gas, and coalbed methane recovery, and capture and sequestration credit and the specified credits).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(c)(2)(A)(ii)(II) of such Code is amended by inserting ''the enhanced oil, natural gas, and coalbed methane recovery, and capture and sequestration credit,'' after ''employee credit,''.

(2) Section 38(c)(3)(A)(ii)(II) of such Code is amended by inserting '', the enhanced oil, natural gas, coalbed methane recovery, capture and sequestration credit,'' after ''employee credit''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2007.

By Mr. REID (for Mr. WYDEN (for himself, Mr. MCCAIN, and Mr. SUNUNU)):

S. 156. A bill to make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, today I am reintroducing in this new Congress a bill to advance a cause for which I have been fighting for over 10 years now. The Permanent Internet Tax Freedom Act would extend the current Internet tax moratorium, so that the Internet can remain free from burdensome and discriminatory taxes.

Legislation to keep the Internet free from these taxes has passed the Senate 3 times since 1998 with sunsets that required consecutive extensions. A permanent moratorium on Internet taxation passed through both the Commerce and Finance Committees in the 109th Congress yet failed to get action on the Senate floor.

I come to the Floor again, bringing up Internet Taxation, because the moratorium on Internet Taxation is set to expire on November 1st of this year. In only 11 months, if Congress does not act, the moratorium on Internet Taxation that has allowed the Internet and e-commerce to flourish will cease to protect American consumers and American businesses.

I don't want those who use the Internet to end up like our ancestors: they were told the Spanish-American War telephone tax was ''temporary,'' and that the tax was just needed to pay for the war. That war ended two centuries ago, and Congress is just now getting around to getting rid of the tax!

The last time I checked, the Internet shows no sign of riding off into the sunset, or becoming obsolete. You can bet that once discriminatory taxes are slapped on Internet users, those discriminatory taxes won't be going away any time soon either.

If you want to figure out how much discriminatory taxes could be, just look at your phone bill. Taxes and government fees already add as much as 20 percent in surcharges to consumer's telephone bills.

If you take a gallon of milk to the checkout counter and pay tax on the purchase, the clerk can't turn around and charge you another tax if you're going to use the milk in your cereal and another tax if you're going to put milk in your coffee. But that's what will happen to the Internet if the ban is not made permanent. You'd still pay all the telephone taxes and all the franchise fees on cable, but on top of those you'd pay even more taxes for the same service when you sign on to the Internet!

Discriminatory and double taxation of the Internet has been banned for 8 years now. In all that time no one has ever come forward with evidence to show that the failure to impose discriminatory taxes has hurt them. No one has demonstrated why taxes that cannot be imposed in the offline world should be imposed on identical online transactions.

Western Civilization may not end if the Permanent Internet Freedom Act is not passed, but you have to ask how many times Congress has to revisit, relitigate and re-approve a law that has been this effective. It is time to make the Internet Tax moratorium permanent.

I want to thank my colleagues, Mr. MCCAIN from Arizona and Mr. SUNUNU from New Hampshire for introducing this legislation with me today. They both fought tirelessly alongside me and our former colleague, Mr. Allen from Virginia, to get the moratorium extended in 2004. I am pleased that they are now replacing Mr. Allen as my bipartisan partners on this important piece of legislation. It is my hope that the three of us, working with the rest of our colleagues, can get this all-important piece of legislation passed early this year so we do not have to worry about it as the November 1st deadline fast approaches.

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. 156

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 ''Permanent Internet Tax Freedom Act of 2007''.

SEC. 2. PERMANENT MORATORIUM ON INTERNET ACCESS TAXES AND MULTIPLE AND DISCRIMINATORY TAXES ON ELECTRONIC COMMERCE.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''taxes during the period beginning November 1, 2003, and ending November 1, 2007:'' and inserting ''taxes:''

Mr. MCCAIN. Mr. President, I am pleased to join with Senators WYDEN and SUNUNU in introducing the Permanent Internet Tax Freedom Act of 2007. This bill would ensure that consumers never have to pay a toll when they access the Information Highway. Whether consumers log onto the Internet using cable modem, DSL, dial-up or wireless services, under this bill, they will not be taxed by any State or local governments for their Internet usage.

Keeping Internet access affordable to all Americans is a worthy policy goal. The Internet has become a fixture and core component of modem American life that has created and continues to generate social and economic opportunities throughout the United States.

In 1998, Congress put in place a temporary ban on any State or local taxes on Internet access. Additionally, Congress placed a moratorium on multiple or discriminatory State and local taxes on e-commerce transactions to ensure the growth of online commerce. This moratorium was extended in 2004, but is set to expire November 1, 2007. Our legislation, the Permanent Internet Tax Freedom Act of 2007, would make the moratorium permanent.

Today, the U.S. ranks 12th in the world in per capita Internet access, lagging behind competitors South Korea, the United Kingdom and Canada. This is absolutely unacceptable for a country that leads the world in technical innovation, economic development, and international competitiveness. We certainly cannot afford to make Internet access more difficult to obtain if we want to become more internationally competitive.

There is little doubt that the development and growth of the Internet was aided by the tax moratorium. In 1998, the year the moratorium was first enacted, 36 percent of U.S. adults reported using the Internet. In 2006, that number grew to 73 percent, an all time high according to an April 2006 Pew Internet & American Life Project Report. However, the report also found that Americans in the lowest income households are considerably less likely to be online. Just 55 percent of adults living in households with less than $30,000 annual income go online, versus 73 percent of those whose income is between $30,000–$50,000. This ''digital divide'' needs to be closed immediately. Continuing Congress's policy of reducing the cost of Internet access, by preventing the service from being taxed, is one step we can take now to close the ''digital divide.''

As use of the Internet has grown, so has e-commerce. According to the most recent comScore Networks report, Americans spent over $100 billion on Internet purchases during 2006, a major milestone for retailers and the World Wide Web. This legislation would ensure that online transactions are not taxed by cities or States at a rate higher than other sales transactions. Again, the goal of this legislation is to make the Internet affordable to all

Americans and foster the growth of the Internet.

With respect to the question of whether it is wise to make Internet access tax free, Congress has a long history of giving tax incentives to commercial activities that we believe help our society. The Internet is a technology that is a source of and vehicle for significant economic benefits. The proponents of this legislation strongly believe the Internet clearly merits the tax incentives provided by this bill.

I recognize that there are some who wish to continue to make the Internet tax moratorium temporary. Their premise is that the Internet will continue to evolve and thus Internet access may develop into a service the States and localities would wish to tax. I believe that this moratorium should be permanent to continue encouraging those very Internet-related innovations. By making the moratorium permanent, businesses that invest in and provide Internet access will be able to operate in a predictable tax environment. This will result in continued investment in this very important social, political and economic medium.

Congress now has the opportunity to extend permanently the Internet tax moratorium and assure consumers that taxes will not inhibit the offering of affordable Internet access. By supporting this legislation, we can continue to promote Internet usage by Americans as well as encourage innovation relating to this technology. For these reasons, I ask my colleagues to support this pro-consumer, pro-innovation, and pro-technology bill.

By Ms. COLLINS (for herself and Ms. LANDRIEU):

S. 158. A bill to expand access to affordable health care and to strengthen the health care safety net and make health care services more available in rural and underserved areas; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Louisiana, Senator LANDRIEU, in introducing the Access to Affordable Health Care Act, a comprehensive plan that builds on the strengths of our current public programs and private health care system to make affordable health care available to millions more Americans.

One of my priorities in the Senate has been to expand access to affordable health care. There are still far too many Americans without health insurance or with woefully inadequate coverage. As many as 46 million Americans are uninsured, and millions more are underinsured.

Maine is in the midst of a growing health insurance crisis, with insurance premiums rising at alarming rates. Whether I am talking to a self-employed fisherman, a displaced worker, the owner of a struggling small business, or the human resource manager of a large company, the soaring costs of health insurance is a common concern.

These cost increases have been particularly burdensome for small businesses, the backbone of the Maine economy. Maine small business owners want to provide coverage for their employees, but they are caught in a cost squeeze. They know that if they pass on premium increases to their employees, more of them will decline coverage. Yet these small businesses simply cannot afford to absorb double-digit increases in their health insurance premiums year after year.

The problem of rising costs is even more acute for individuals and families who must purchase health insurance on their own. Monthly health insurance premiums in Maine often exceed a family's mortgage payment. Clearly, we must do more to make health insurance more available and affordable.

The Access to Affordable Health Care Act, which we are introducing today, is a seven-point plan that combines a variety of public and private approaches. The legislation's seven goals are: one, to expand access to affordable health care for small businesses; two, to make health insurance more affordable for individuals and families purchasing coverage on their own; three, to strengthen the health care safety net for those without coverage; four, to expand access to care in rural and underserved areas; five, to increase access to affordable long-term care; six to promote healthier lifestyles; and seven, to provide more equitable Medicare payments to Maine providers to reduce the Medicare shortfall, which has forced hospitals, physicians and other providers to shift costs onto other payers in the form of higher charges, which in turn drives up health care premiums.

Let me discuss each of these seven points in greater detail.

First, our legislation will help small employers cope with rising health care costs.

Since most Americans get their health insurance through the workplace, it is a common assumption that people without health insurance are unemployed. The fact is, however, that as many as 83 percent of Americans who do not have health insurance are in a family with a worker.

Uninsured working Americans are most often employees of small businesses. In fact, some 63 per cent of uninsured workers are employed by small firms. Smaller firms generally face higher costs for health insurance than larger firms, which makes them less likely to offer coverage. The Access to Affordable Health Care Act will help these employers cope with rising costs by creating new tax credits for small businesses to make health insurance more affordable. It will encourage those small businesses that do not offer health insurance to do so and will help employers that do offer insurance to continue coverage for their employees even in the face of rising costs.

Our legislation will also provide grants to provide start-up funding to States to help businesses to form group purchasing cooperatives. These cooperatives will enable small businesses to band together to purchase health insurance jointly. This will help to reduce their costs and improve the quality of their employee's health care.

The legislation would also authorize a Small Business Administration grant program for States, local governments and non-profit organizations to provide information about the benefits of health insurance to small employers, including tax benefits, increased productivity of employees, and decreased turnover. These grants would also be used to make employers aware of their current incentives under State and Federal laws. While costs are clearly a problem, many small employers are simply not aware of laws that have already been enacted by both States and the Federal government to make health insurance more affordable. For example, in one survey, 57 percent of small employers did not know that they could deduct 100 percent of their health insurance premiums as a business expense.

The legislation would also create a new program to encourage innovation by awarding demonstration grants in up to 10 States conducting innovative coverage expansions, such as alternative group purchasing or pooling arrangements, individual or small group market reforms, or subsidies to employers or individuals purchasing coverage. The States have long been laboratories for reform, and they should be encouraged in the development of innovative programs that can serve as models for the Nation.

The Access to Affordable Health Care Act will also expand access to affordable health care for individuals and families. One of the first bills that I sponsored when I came to the Senate was legislation to establish the State Child Health Insurance Program, which provides insurance for the children of low-income parents who cannot afford health insurance, yet make too much money to qualify for Medicaid. Since 1997, this program, which is known as SCHIP, has contributed to a one-third decline in the uninsured rate of low-income children. Today, over six million children—including approximately 14,500 in Maine—receive health care coverage through this remarkably effective health care program.

First, our legislation will shore up the looming shortfalls in SCHIP funding that 17 states—including Maine—will face in Fiscal Year 2007 to ensure that children currently enrolled in the program do not lose their coverage. Just prior to adjournment in December, the Congress approved legislation to partially address these shortfalls. That legislation, however, provides only about one-fifth of the funds needed. Our legislation will close that gap.

Our legislation also builds on the success of the SCHIP program and gives States a number of new tools to increase participation. The bill authorizes new grants for States and non-

profit organizations to conduct innovative outreach and enrollment efforts to ensure that all eligible children are covered. States would also have the option of covering the parents of the children who are enrolled in programs like MaineCare. States could also use funds provided through this program to help eligible working families pay their share of an employer-based health insurance plan. In short, the legislation will help ensure that the entire family receives the health care they need.

And finally, to help make health coverage more affordable for low and middle-income individuals and families who do not have employer-provided coverage and who are not eligible for the expanded programs, our legislation would provide an advanceable, refundable tax credit of up to $1,000 for individuals earning up to $30,000 and up to $3,000 for families earning up to $60,000. This could provide coverage for up to six million Americans who would otherwise be uninsured for one or more months, and will help many more working lower-income families who currently purchase private health insurance with little or no government help.

To strengthen our nation's health care safety net, the Access to Affordable Health Care Act calls for a doubling of funding over five years for the Consolidated Health Centers program, which includes community, migrant, public housing and homeless health centers.

These centers, which operate in underserved urban and rural communities, provide critical primary care services to millions of Americans, regardless of their ability to pay. About 20 percent of the patients treated in Maine's community health centers have no insurance coverage and many more have inadequate coverage, so these centers are a critical part of our nation's health care safety net.

The problem of access to affordable health care services is not limited to the uninsured, but is also shared by many Americans living in rural and underserved areas where there is a shortage of health care providers. The Access to Affordable Health Care Act therefore calls for increased funding for the National Health Service Corps, which supports doctors, dentists, and other clinicians who serve in rural and inner city areas.

The legislation will also give the program greater flexibility by allowing National Health Service Corps participants to fulfill their commitment on a part-time basis. Current law requires all National Health Service Corps participants to serve full-time. Many rural communities, however, simply do not have enough volume to support a full-time health care practitioner. Moreover, some sites may not need a particular type of provider on a full-time basis. Our bill therefore gives the program additional flexibility to meet community needs.

As the Senate co-chair of the bipartisan Congressional Task Force on Alzheimer's Disease, I am particularly sensitive to the long-term care needs of patients with chronic diseases like Alzheimer's and their families.

Long-term care is the major catastrophic health care expense faced by older Americans today, and these costs will only increase with the aging of the baby boomers. Most Americans mistakenly believe that Medicare or their private health insurance policies will cover the costs of long-term care should they develop a chronic illness or cognitive impairment like Alzheimer's Disease. Unfortunately, far too many do not discover that they do not have coverage until they are confronted with the difficult decision of placing a much-loved parent or spouse in long-term care and facing the shocking realization that they will have to cover the costs themselves.

The Access to Affordable Health Care Act will provide a tax credit for long-term care expenses of up to $3,000 to provide some help to those families struggling to provide long-term care to a loved one. It will also encourage more Americans to plan for their future long-term care needs by providing a tax deduction to help them purchase long-term care insurance.

Health insurance alone is not going to ensure good health. As noted author and physician Dr. Michael Crichton has observed, ''the future of medicine lies not in treating illness, but preventing it.'' Many of our most serious health problems are directly related to unhealthy behaviors—smoking, lack of regular exercise, and poor diet. These three major risk factors alone have made Maine the state with the fourth highest death rate due to four largely preventable diseases: cardiovascular disease, cancer, chronic lung disease and diabetes. These four chronic diseases are responsible for 70 percent of the health care problems in Maine.

Our bill therefore contains a number of provisions designed to promote healthy lifestyles. An ever-expanding body of evidence shows that investments in health promotion and prevention offer returns not only in reduced health care bills, but in longer life and increased productivity. The legislation will provide grants to States to assist small businesses wishing to establish ''worksite wellness'' programs for their employees. It would also authorize a grant program to support new and existing ''community partnerships,'' such as the Healthy Community Coalition in Maine's Franklin County, to promote healthy lifestyles among hospitals, employers, schools and community organizations. And, it would provide funds for States to establish or expand comprehensive school health education, including, for example, physical education programs that promote lifelong physical activity, healthy food service selections, and programs that promote a healthy and safe school environment.

And finally, the Access to Affordable Health Care Act would promote greater equity in Medicare payments and help to ensure that the Medicare system rewards rather than punishes states like Maine that deliver high-quality, cost-effective Medicare services to our elderly and disabled citizens.

The Medicare Modernization Act of 2003 and subsequent legislation did take some significant steps toward promoting greater fairness by increasing Medicare payments to rural hospitals and by modifying geographic adjustment factors that discriminated against physicians and other providers in rural areas. The legislation we are introducing today will build on those improvements by establishing State pilot programs that reward providers of high- quality, cost-efficient Medicare services.

The Access to Affordable Health Care Act outlines a blueprint for reform based on principles upon which I believe a bipartisan majority in Congress could agree. The plan takes significant strides toward the goal of universal health care coverage by bringing millions more Americans into the insurance system and by strengthening the health care safety net.

Ms. LANDRIEU. Mr. President, I am pleased to join with my colleague from Main, Senator COLLINS, in introducing the Access to Affordable Health Care Act. The latest available Census figures show that 46.6 million people in our country—including almost 19 percent of the people in my home State of Louisiana—are without health insurance.

This statistic has been referred to so often in the media and in this body that it is almost possible to hear it without realizing the full impact of such uncertainty on one's day-to-day life. 46.6 million people without health insurance means 36.3 million families struggling with the knowledge that they may be just one hospitalization away from bankruptcy. It means 8.3 million children who may not be able to access the care they need to prevent increasingly common and often debilitating chronic illnesses such as diabetes and asthma, adversely affecting them for the rest of their lives. It means 27.3 million Americans with jobs, who work everyday knowing that they still may not be able to provide for their families in their time of need.

Across the country, small business owners and families are struggling with the high cost of health care. This is particularly true in Louisiana and across the gulf coast, where recovery from the 2005 hurricanes has already placed heavy burdens on thousands of families trying to rebuild and businesses working to reopen. Since 2000, the number of employees nationwide receiving health insurance through their employers has actually decreased, reversing the progress we saw in the 1990s. Small businesses create two out of every three new jobs in America and account for nearly half of America's overall employment. Yet only 26 percent of businesses with fewer than 50 employees can offer health insurance

to their employees. The Access to Affordable Health Care Act gives the small businesses that are the backbone of this country the opportunity to help make their employees' lives just a little easier.

This legislation further provides for the expansion of the enormously successful SCHIP program, allowing States to cover increased numbers of pregnant women and poor, working adults. It allows for more community health centers and encourages health care providers to practice in the increasingly underserved rural areas of all States. It gives businesses the tools to not only insure their employees against illness but to encourage wellness, decreasing health care costs for everybody. It allows our government to reward States that find ways to improve health outcomes among Medicare patients, actively supporting the types of cost-efficient successes that improve the quality of life.

A country identified by its ingenuity and creativity has a moral responsibility to do more than we have to provide its citizens with the ability to keep their families safe and healthy. These comprehensive, real steps forward will open new doors of opportunity and access to affordable health care for millions of American families and business owners, and I am proud to have partnered with Senator COLLINS in this important pursuit. I encourage my colleagues to consider this legislation and to help provide our all our constituents with the peace of mind.

By Mr. KERRY (for himself, Ms. SNOWE, Ms. LANDRIEU, and Mr. VITTER):

S. 163. A bill to improve the disaster loan program at the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, 16 months after Hurricane Katrina struck the Gulf Coast, small business owners in New Orleans and across Louisiana are still struggling to keep their doors open and their employees working. In those 16 months, I have worked with Senators SNOWE, LANDRIEU, and VITTER to produce a comprehensive package to reform the SBA's Disaster Assistance program. The SBA's failed response in a time of unmatched need demonstrated to everyone that this program is broken and needs fixing.

Immediately after Hurricane Katrina hit, I introduced an amendment with Senator LANDRIEU to the fiscal year 2006 Commerce, Justice and Science appropriations bill to address the needs of Gulf Region small business and homeowners. The amendment was adapted with input from Chair SNOWE, and a subsequent bipartisan amendment passed the Senate with a vote of 96–0. Although the entire Senate supported the amendment, it was stripped out of the bill in conference.

On September 30, 2005, I again worked with Chair SNOWE and Senators LANDRIEU and VITTER to introduce a bipartisan proposal, the Small Business Hurricane Relief and Reconstruction Act of 2006 S. 1807. This proposal was opposed by the administration. In June, I introduced the Small Business Disaster Loan Reauthorization and Improvements Act of 2006, S. 3487 which once again attempted to comprehensively address the shortcomings of the SBA's Disaster Assistance program. Again, the administration opposed this effort. In August, the Small Business Committee unanimously reported S. 3778, the Small Business Reauthorization and Improvements Act of 2006, which again put forward a bipartisan, comprehensive fix for this program. Finally, in December, just prior to the adjournment of the 109th Congress, yet another attempt was made at reaching a bipartisan consensus with the introduction of S. 4097, the Small Business Disaster Response and Loan Improvements Act of 2006. The administration maintained its opposition to the fixes proposed in this bill.

Now, on the first day of this new Congress, I am introducing the Small Business Disaster Response and Loan Improvements Act of 2007. Once again, this bill enjoys bipartisan support by the chair and the ranking minority member of the Small Business Committee, as well as by the Democratic and Republican Senators of Louisiana, whose constituents continue to wait for their Government to respond appropriately. I am introducing this bill on the first day of the 110th Congress because as the incoming chair of the Small Business Committee, improving the Disaster Assistance program at the SBA is among my top priorities.

This bill includes directives for the SBA to create a private disaster loan program, to allow for lenders to issue disaster loans. To ensure that these loans are borrower-friendly, we provide authorization for appropriations so that the agency can subsidize the interest rates. In addition, the administrator is authorized to enter into agreements with private contractors in order to expedite loan application processing for direct disaster loans.

The bill also includes language directing SBA to create an expedited disaster assistance loan program to provide businesses with short-term loans so that they may keep their doors open until they receive alternative forms of assistance. The days immediately following a disaster are crucial for business owners—statistics show that once they close their doors, they likely will not open them again. These short-term loans should help prevent those doors from closing.

A presidential declaration of Catastrophic National Disaster will allow the administrator to offer economic injury disaster loans to adversely affected business owners beyond the geographic reach of the disaster area. In the event of a large-scale disaster, businesses located far from the physical reach of the disaster can be affected by the magnitude of a localized destruction. We saw this when the terrorist attacks of September 11, 2001 affected businesses from coast to coast, and we saw it again with the 2005 Gulf Coast hurricanes. Should another catastrophic disaster strike, the President should have the authority to provide businesses across the country with access to the same low-interest economic injury loans available to businesses within the declared disaster area.

Non-profit entities working to provide services to victims should be rewarded and given access to the capital they require to continue their services. To this end, the administrator is authorized to make disaster loans to nonprofit entities, including religious organizations.

Construction and rebuilding contracts being awarded are likely to be larger than the current $2 million threshold currently applied to the SBA Surety Bond Program, which helps small construction firms gain access to contracts. This bill increases the guarantee against loss for small business contracts up to $5 million and allows the administrator to increase that level to $10 million, if deemed necessary.

The bill also provides for Small Business Development Centers to offer business counseling in disaster areas, and to travel beyond traditional geographic boundaries to provide services during declared disasters. To encourage Small Business Development Centers located in disaster areas to keep their doors open, the maximum grant amount of $100,000 is waived.

So that Congress may remain better aware of the status of the administration's disaster loan program, this bill directs the administration to report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regularly on the fiscal status of the disaster loan program as well as the need for supplemental funding. The adiministration is also directed to report on the number of Federal contracts awarded to small businesses, minority-owned small businesses, women-owned businesses, and local businesses during a disaster declaration.

Finally, gas prices continue to fluctuate, and fuel-dependent small businesses are struggling with the cost of energy. This bill provides relief to small business owners during times of above average energy price increases, authorizing energy disaster loans through the Small Business Administration and the United States Department of Agriculture to companies that are dependent on fuel.

In the 16 months since Katrina struck, I have visited New Orleans three times. I have met with the lifeblood of that city—its small business owners—the shopowners on Bourbon Street and on Magazine Street who make that city unique. The people of New Orleans are resilient, and they remain hopeful; they are keeping their

businesses open despite tourism that has been slow to return and despite a government response that was painfully slow to arrive. Sixteen months is too long a time to wait to reform and improve a program that could have breathed relief into this city's economy during a time of desperation. As this new Congress begins, I call on my colleagues to support this legislation, a bipartisan labor of more than a year's worth of negotiations. The tools offered within this bill will go a long way toward heading off another Katrina-like response to any future catastrophic disaster.

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. 163

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 ''Small Business Disaster Response and Loan Improvements Act of 2007''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—PRIVATE DISASTER LOANS

Sec. 101. Private disaster loans.
Sec. 102. Technical and conforming amendments.

TITLE II—DISASTER RELIEF AND RECONSTRUCTION

Sec. 201. Definition of disaster area.
Sec. 202. Disaster loans to nonprofits.
Sec. 203. Disaster loan amounts.
Sec. 204. Small business development center portability grants.
Sec. 205. Assistance to out-of-State businesses.
Sec. 206. Outreach programs.
Sec. 207. Small business bonding threshold.
Sec. 208. Contracting priority for local small businesses.
Sec. 209. Termination of program.
Sec. 210. Increasing collateral requirements.

TITLE III—DISASTER RESPONSE

Sec. 301. Definitions.
Sec. 302. Business expedited disaster assistance loan program.
Sec. 303. Catastrophic national disasters.
Sec. 304. Public awareness of disaster declaration and application periods.
Sec. 305. Consistency between Administration regulations and standard operating procedures.
Sec. 306. Processing disaster loans.
Sec. 307. Development and implementation of major disaster response plan.
Sec. 308. Congressional oversight.

TITLE IV—ENERGY EMERGENCIES

Sec. 401. Findings.
Sec. 402. Small business energy emergency disaster loan program.
Sec. 403. Agricultural producer emergency loans.
Sec. 404. Guidelines and rulemaking.
Sec. 405. Reports.

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term ''small business concern owned and controlled by socially and economically disadvantaged individuals'' has the same meaning as in section 8 of the Small Business Act (15 U.S.C. 637).

TITLE I—PRIVATE DISASTER LOANS

SEC. 101. PRIVATE DISASTER LOANS.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

''(c) PRIVATE DISASTER LOANS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'disaster area' means a county, parish, or similar unit of general local government in which a disaster was declared under subsection (b);

''(B) the term 'eligible small business concern' means a business concern that is—

''(i) a small business concern, as defined in this Act; or

''(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958; and

''(C) the term 'qualified private lender' means any privately-owned bank or other lending institution that the Administrator determines meets the criteria established under paragraph (9).

''(2) AUTHORIZATION.—The Administrator may guarantee timely payment of principal and interest, as scheduled on any loan issued by a qualified private lender to an eligible small business concern located in a disaster area.

''(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (a) or (b).

''(4) ONLINE APPLICATIONS.—

''(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

''(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

''(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

''(5) MAXIMUM AMOUNTS.—

''(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

''(B) LOAN AMOUNTS.—The maximum amount of a loan guaranteed under this subsection shall be $3,000,000.

''(6) LOAN TERM.—The longest term of a loan for a loan guaranteed under this subsection shall be—

''(A) 15 years for any loan that is issued without collateral; and

''(B) 25 years for any loan that is issued with collateral.

''(7) FEES.—

''(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

''(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender and the Administrator.

''(8) DOCUMENTATION.—A qualified private lender may use its own loan documentation for a loan guaranteed by the Administrator, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan offered under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (9).

''(9) IMPLEMENTATION REGULATIONS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

''(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(10) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration under subsection (b).

''(B) AUTHORITY TO REDUCE INTEREST RATES.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator, to the extent available, to reduce the applicable rate of interest for a loan guaranteed under this subsection by not more than 3 percentage points.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared under section 7(b)(2) of the Small Business Act (631 U.S.C. 636(b)(2)) before, on, or after the date of enactment of this Act.

SEC. 102. TECHNICAL AND CONFORMING AMENDMENTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 4(c)—

(A) in paragraph (1), by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and

(B) in paragraph (2)—

(i) by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and

(ii) by striking ''7(e),''; and

(2) in section 7(b), in the undesignated matter following paragraph (3)—

(A) by striking ''That the provisions of paragraph (1) of subsection (c)'' and inserting ''That the provisions of paragraph (1) of subsection (d)''; and

(B) by striking ''Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c),'' and inserting ''Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)''.

TITLE II—DISASTER RELIEF AND RECONSTRUCTION

SEC. 201. DEFINITION OF DISASTER AREA.

In this title, the term ''disaster area'' means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration.

SEC. 202. DISASTER LOANS TO NONPROFITS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3) the following:

''(4) LOANS TO NONPROFITS.—In addition to any other loan authorized by this subsection, the Administrator may make such loans (either directly or in cooperation with banks or

other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to a nonprofit organization located or operating in an area affected by a natural or other disaster, as determined under paragraph (1) or (2), or providing services to persons who have evacuated from any such area.''.

SEC. 203. DISASTER LOAN AMOUNTS.

(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (4), as added by this title, the following:

''(5) INCREASED LOAN CAPS.—

''(A) AGGREGATE LOAN AMOUNTS.—Except as provided in clause (ii), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed $5,000,000.

''(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, waive the aggregate loan amount established under clause (i).''.

(b) DISASTER MITIGATION.—

(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting ''of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)'' after ''20 per centum''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act.

(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in the matter preceding paragraph (1), by striking ''the, Administration'' and inserting ''the Administration'';

(2) in paragraph (2)(A), by striking ''Disaster Relief and Emergency Assistance Act'' and inserting ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)''; and

(3) in the undesignated matter at the end—

(A) by striking '', (2), and (4)'' and inserting ''and (2)''; and

(B) by striking '', (2), or (4)'' and inserting ''(2)''.

SEC. 204. SMALL BUSINESS DEVELOPMENT CENTER PORTABILITY GRANTS.

Section 21(a)(4)(C)(viii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(viii)) is amended—

(1) in the first sentence, by striking ''as a result of a business or government facility down sizing or closing, which has resulted in the loss of jobs or small business instability'' and inserting ''due to events that have resulted or will result in, business or government facility downsizing or closing''; and

(2) by adding at the end ''At the discretion of the Administrator, the Administrator may make an award greater than $100,000 to a recipient to accommodate extraordinary occurrences having a catastrophic impact on the small business concerns in a community.''.

SEC. 205. ASSISTANCE TO OUT-OF-STATE BUSINESSES.

Section 21(b)(3) of the Small Business Act (15 U.S.C. 648(b)(3)) is amended—

(1) by striking ''At the discretion'' and inserting the following: ''SMALL BUSINESS DEVELOPMENT CENTERS.—

''(A) IN GENERAL.—At the discretion''; and

(2) by adding at the end the following:

''(B) DURING DISASTERS.—

''(i) IN GENERAL.—At the discretion of the Administrator, the Administrator may authorize a small business development center to provide such assistance to small business concerns located outside of the State, without regard to geographic proximity, if the small business concerns are located in a disaster area declared under section 7(b)(2)(A).

''(ii) CONTINUITY OF SERVICES.—A small business development center that provides counselors to an area described in clause (i) shall, to the maximum extent practicable, ensure continuity of services in any State in which such small business development center otherwise provides services.

''(iii) ACCESS TO DISASTER RECOVERY FACILITIES.—For purposes of providing disaster recovery assistance under this subparagraph, the Administrator shall, to the maximum extent practicable, permit small business development center personnel to use any site or facility designated by the Administrator for use to provide disaster recovery assistance.''.

SEC. 206. OUTREACH PROGRAMS.

(a) IN GENERAL.—Not later than 30 days after the date of the declaration of a disaster area, the Administrator may establish a contracting outreach and technical assistance program for small business concerns which have had a primary place of business in, or other significant presence in, such disaster area.

(b) ADMINISTRATOR ACTION.—The Administrator may fulfill the requirement of subsection (a) by acting through—

(1) the Administration;

(2) the Federal agency small business officials designated under section 15(k)(1) of the Small Business Act (15 U.S.C. 644(k)(1)); or

(3) any Federal, State, or local government entity, higher education institution, procurement technical assistance center, or private nonprofit organization that the Administrator may determine appropriate, upon conclusion of a memorandum of understanding or assistance agreement, as appropriate, with the Administrator.

SEC. 207. SMALL BUSINESS BONDING THRESHOLD.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed $5,000,000.

(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed $10,000,000.

SEC. 208. CONTRACTING PRIORITY FOR LOCAL SMALL BUSINESSES.

Section 15(d) of the Small Business Act (15 U.S.C. 644(d)) is amended—

(1) by striking ''(d) For purposes'' and inserting the following:

''(d) CONTRACTING PRIORITIES.—

''(1) IN GENERAL.—For purposes''; and

(2) by adding at the end the following:

''(2) DISASTER CONTRACTING PRIORITY IN GENERAL.—The Administrator shall designate any disaster area as an area of concentrated unemployment or underemployment, or a labor surplus area for purposes of paragraph (1).

''(3) LOCAL SMALL BUSINESSES.—

''(A) IN GENERAL.—The head of each executive agency shall give priority in the awarding of contracts and the placement of subcontracts for disaster relief to local small business concerns by using, as appropriate—

''(i) preferential factors in evaluations of contract bids and proposals;

''(ii) competitions restricted to local small business concerns, where there is a reasonable expectation of receiving competitive, reasonably priced bids or proposals from not fewer than 2 local small business concerns;

''(iii) requirements of preference for local small business concerns in subcontracting plans; and

''(iv) assessments of liquidated damages and other contractual penalties, including contract termination.

''(B) OTHER DISASTER ASSISTANCE.—Priority shall be given to local small business concerns in the awarding of contracts and the placement of subcontracts for disaster relief in any Federal procurement and any procurement by a State or local government made with Federal disaster assistance funds.

''(4) DEFINITIONS.—In this subsection—

''(A) the term 'declared disaster' means a disaster, as designated by the Administrator;

''(B) the term 'disaster area' means any State or area affected by a declared disaster, as determined by the Administrator;

''(C) the term 'executive agency' has the same meaning as in section 105 of title 5, United States Code; and

''(D) the term 'local small business concern' means a small business concern that—

''(i) on the date immediately preceding the date on which a declared disaster occurred—

''(I) had a principal office in the disaster area for such declared disaster; and

''(II) employed a majority of the workforce of such small business concern in the disaster area for such declared disaster; and

''(ii) is capable of performing a substantial proportion of any contract or subcontract for disaster relief within the disaster area for such declared disaster, as determined by the Administrator.''.

SEC. 209. TERMINATION OF PROGRAM.

Section 711(c) of the Small Business Competitive Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by inserting after ''January 1, 1989'' the following: '', and shall terminate on the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007''.

SEC. 210. INCREASING COLLATERAL REQUIREMENTS.

Section 7(d)(6) of the Small Business Act (15 U.S.C. 636), as so designated by section 101, is amended by striking ''$10,000 or less'' and inserting ''$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a catastrophic national disaster declared under subsection (b)(6))''.

TITLE III—DISASTER RESPONSE

SEC. 301. DEFINITIONS.

In this title—

(1) the term ''catastrophic national disaster'' has the meaning given the term in section 7(b)(6) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act;

(2) the term ''declared disaster'' means a major disaster or a catastrophic national disaster;

(3) the term ''disaster loan program of the Administration'' means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(4) the term ''disaster update period'' means the period beginning on the date on which the President declares a major disaster or a catastrophic national disaster and ending on the date on which such declaration terminates;

(5) the term ''major disaster'' has the meaning given the term in section 102 of the

Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); and

(6) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

SEC. 302. BUSINESS EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term ''immediate disaster assistance'' means assistance provided during the period beginning on the date on which a disaster declaration is made and ending on the date that an impacted small business concern is able to secure funding through insurance claims, Federal assistance programs, or other sources; and

(2) the term ''program'' means the expedited disaster assistance business loan program established under subsection (b); and

(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program to provide small business concerns with immediate disaster assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—

(1) appropriate personnel of the Administration (including District Office personnel of the Administration);

(2) appropriate technical assistance providers (including small business development centers);

(3) appropriate lenders and credit unions;

(4) the Committee on Small Business and Entrepreneurship of the Senate; and

(5) the Committee on Small Business of the House of Representatives.

(d) RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall promulgate rules establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form.

(2) CONTENTS.—The rules promulgated under paragraph (1) shall—

(A) identify whether appropriate uses of funds under the program may include—

(i) paying employees;

(ii) paying bills and other financial obligations;

(iii) making repairs;

(iv) purchasing inventory;

(v) restarting or operating a small business concern in the community in which it was conducting operations prior to the declared disaster, or to a neighboring area, county, or parish in the disaster area; or

(vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and

(B) set the terms and conditions of any loan made under the program, subject to paragraph (3).

(3) TERMS AND CONDITIONS.—A loan made by the Administration under this section—

(A) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;

(B) shall have an interest rate not to exceed 1 percentage point above the prime rate of interest that a private lender may charge;

(C) shall have no prepayment penalty;

(D) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act; and

(E) shall be subject to such additional terms as the Administrator determines necessary or appropriate.

(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 303. CATASTROPHIC NATIONAL DISASTERS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:

''(6) CATASTROPHIC NATIONAL DISASTERS.—

''(A) DEFINITION.—In this paragraph the term 'catastrophic national disaster' means a disaster, natural or other, that the President determines has caused significant adverse economic conditions outside of the geographic reach of the disaster.

''(B) AUTHORIZATION.—The Administrator may make such loans under this paragraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to small business concerns located anywhere in the United States that are economically adversely impacted as a result of a catastrophic national disaster.

''(C) LOAN TERMS.—A loan under this paragraph shall be made on the same terms as a loan under paragraph (2).''.

SEC. 304. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (6), as added by this Act, the following:

''(7) COORDINATION WITH FEMA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster (including a catastrophic national disaster) declared under this subsection or major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Administrator, in consultation with the Director of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) begin on the same date and end on the same date.

''(B) DEADLINE EXTENSIONS.—Notwithstanding any other provision of law—

''(i) not later than 10 days before the closing date of an application period for disaster relief under this Act for any disaster (including a catastrophic national disaster) declared under this subsection, the Administrator, in consultation with the Director of the Federal Emergency Management Agency, shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives as to whether the Administrator intends to extend such application period; and

''(ii) not later than 10 days before the closing date of an application period for disaster relief under the Robert T. Stafford Disaster Relief and Emergency Assistance Act for any major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) for which the President has declared a catastrophic national disaster under paragraph (6), the Director of the Federal Emergency Management Agency, in consultation with the Administrator, shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives as to whether the Director intends to extend such application period.

''(8) PUBLIC AWARENESS OF DISASTERS.—If a disaster (including a catastrophic national disaster) is declared under this subsection, the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

''(A) the date of such declaration;

''(B) cities and towns within the area of such declaration;

''(C) loan application deadlines related to such disaster;

''(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

''(E) links to relevant Federal and State disaster assistance websites;

''(F) information on eligibility criteria for Federal Emergency Management Agency disaster assistance applications, as well as for Administration loan programs, including where such applications can be found; and

''(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.''.

(b) COORDINATION OF AGENCIES AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator and the Director of the Federal Emergency Management Agency shall enter into a memorandum of understanding that ensures, to the maximum extent practicable, adequate lodging and transportation for employees of the Administration, contract employees, and volunteers during a major disaster, if such staff are needed to assist businesses, homeowners, or renters in recovery.

(c) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—

(1) encourages a proactive approach to the disaster relief efforts of the Administration;

(2) distinguishes between disaster services provided by the Administration and disaster services provided by the Federal Emergency Management Agency, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;

(3) describes the different disaster loan programs of the Administration, including how they are made available and what eligibility requirements exist for each loan program;

(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and

(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.

SEC. 305. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.

(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the

Administration for administering the disaster loan program.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administration shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).

SEC. 306. PROCESSING DISASTER LOANS.

(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:

''(9) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

''(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) or a catastrophic national disaster declared under paragraph (6), under which the Administrator shall pay the contractor a fee for each loan processed.

''(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) or a catastrophic national disaster declared under paragraph (6), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.''.

(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.

(c) REPORT ON LOAN APPROVAL RATE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) recommendations, if any, regarding—

(i) staffing levels during a major disaster;

(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;

(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);

(v) legislative changes, if any, needed to implement findings from the Administration's Accelerated Disaster Response Initiative; and

(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and

(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).

SEC. 307. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.

(a) IN GENERAL.—Not later than March 15, 2007, the Administrator shall—

(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the ''disaster response plan'') to apply to major disasters and catastrophic national disasters, consistent with this Act and the amendments made by this Act; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing the amendments to the disaster response plan.

(b) CONTENTS.—The amended report required under subsection (a)(2) shall include—

(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted on July 14, 2006;

(2) a description of how the Administrator plans to utilize and integrate District Office personnel of the Administration in the response to a major disaster, including information on the utilization of personnel for loan processing and loan disbursement;

(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;

(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;

(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;

(6) recommendations, if any, on how the Administrator can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;

(7) any surge plan for the system in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mailroom, customer service or call center operations, and a continuity of operations plan);

(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;

(9) the in-service and preservice training procedures for disaster response staff of the Administration;

(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;

(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(12) a plan for how the Administrator, in cooperation with the Director of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(c) EXERCISES.—Not later than May 31, 2007, the Administrator shall develop and execute simulation exercises to demonstrate the effectiveness of the amended disaster response plan required under this section.

SEC. 308. CONGRESSIONAL OVERSIGHT.

(a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—

(1) DEFINITION.—In this subsection the term ''applicable period'' means the period beginning on the date on which the President declares a major disaster and ending on the date that is 30 days after the later of the closing date for applications for physical disaster loans for such disaster and the closing date for applications for economic injury disaster loans for such disaster.

(2) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall provide to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for such disaster during the preceding month.

(3) CONTENTS.—Each report under paragraph (2) shall include—

(A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased, noting the source of any additional funding;

(E) an estimate of how long the available funding for such loans will last, based on the spending rate;

(F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (2);

(H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased, noting the source of any additional funding; and

(I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

(b) DAILY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—

(1) IN GENERAL.—Each day during a disaster update period, excluding Federal holidays and weekends, the Administration shall provide to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster or a catastrophic national disaster, as the case may be.

(2) CONTENTS.—Each report under paragraph (1) shall include—

(A) the number of Administration staff performing loan processing, field inspection, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;

(B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;

(C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;

(D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;

(E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;

(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;

(K) the daily dollar amount of loans dispersed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;

(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully dispersed, including dollar amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.

(c) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for such loan program.

(d) REPORT ON CONTRACTING.—

(1) IN GENERAL.—Not later than 6 months after the date on which the President declares a declared disaster, and every 6 months thereafter until the date that is 18 months after the date on which the declared disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of the declared disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the total number of contracts awarded as a result of the declared disaster;

(B) the total number of contracts awarded to small business concerns as a result of the declared disaster;

(C) the total number of contracts awarded to women and minority-owned businesses as a result of the declared disaster; and

(D) the total number of contracts awarded to local businesses as a result of the declared disaster.

TITLE IV—ENERGY EMERGENCIES

SEC. 401. FINDINGS.

Congress finds that—

(1) a significant number of small business concerns in the United States, nonfarm as well as agricultural producers, use heating oil, natural gas, propane, or kerosene to heat their facilities and for other purposes;

(2) a significant number of small business concerns in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small business concerns dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983 to 1984, 1988 to 1989, 1996 to 1997, 1999 to 2000, 2000 to 2001, and 2004 to 2005; and

(D) can be caused by a host of factors, including international conflicts, global or regional supply difficulties, weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to, and beyond the control of, those who own and operate small business concerns.

SEC. 402. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (9), as added by this Act, the following:

''(10) ENERGY EMERGENCIES.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'base price index' means the moving average of the closing unit price on the New York Mercantile Exchange for heating oil, natural gas, or propane for the 10 days, in each of the most recent 2 preceding years, which correspond to the trading days described in clause (ii);

''(ii) the term 'current price index' means the moving average of the closing unit price on the New York Mercantile Exchange, for the 10 most recent trading days, for contracts to purchase heating oil, natural gas, or propane during the subsequent calendar month, commonly known as the 'front month';

''(iii) the term 'heating fuel' means heating oil, natural gas, propane, or kerosene; and

''(iv) the term 'significant increase' means—

''(I) with respect to the price of heating oil, natural gas, or propane, any time the current price index exceeds the base price index by not less than 40 percent; and

''(II) with respect to the price of kerosene, any increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

''(B) AUTHORIZATION.—The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a significant increase in the price of heating fuel occurring on or after October 1, 2004.

''(C) INTEREST RATE.—Any loan or guarantee extended under this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

''(D) MAXIMUM AMOUNT.—No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $1,500,000, unless such borrower constitutes a major source of employment in its surrounding area, as determined by the Administrator, in which case the Administrator, in the discretion of the Administrator, may waive the $1,500,000 limitation.

''(E) DECLARATIONS.—For purposes of assistance under this paragraph—

''(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

''(ii) if no declaration has been made under clause (i), the Governor of a State in which a significant increase in the price of heating fuel has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not otherwise available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

''(F) USE OF FUNDS.—Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, or fuel cells.''.

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting '', significant increase in the price of heating fuel'' after ''civil disorders''; and

(2) by inserting ''other'' before ''economic''.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Administrator under section 404.

SEC. 403. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking ''operations have'' and inserting ''operations (i) have''; and

(B) by inserting before '': *Provided,*'' the following: '', or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after October 1, 2004, as the result of a significant increase

in energy costs or input costs from energy sources occurring on or after October 1, 2004, in connection with an energy emergency declared by the President or the Secretary'';

(2) in the third sentence, by inserting before the period at the end the following: ''or by an energy emergency declared by the President or the Secretary''; and

(3) in the fourth sentence—

(A) by inserting ''or energy emergency'' after ''natural disaster'' each place that term appears; and

(B) by inserting ''or declaration'' after ''emergency designation''.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) shall be available to carry out the amendments made by subsection (a) to meet the needs resulting from energy emergencies.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Secretary of Agriculture under section 404.

SEC. 404. GUIDELINES AND RULEMAKING.

(a) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator and the Secretary of Agriculture shall each issue such guidelines as the Administrator or the Secretary, as applicable, determines to be necessary to carry out this title and the amendments made by this title.

(b) RULEMAKING.—Not later than 30 days after the date of enactment of this Act, the Administrator, after consultation with the Secretary of Energy, shall promulgate regulations specifying the method for determining a significant increase in the price of kerosene under section 7(b)(10)(A)(iv)(II) of the Small Business Act, as added by this Act.

SEC. 405. REPORTS.

(a) SMALL BUSINESS ADMINISTRATION.—Not later than 12 months after the date on which the Administrator issues guidelines under section 404, and annually thereafter until the date that is 12 months after the end of the effective period of section 7(b)(10) of the Small Business Act, as added by this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the assistance made available under section 7(b)(10) of the Small Business Act, as added by this Act, including—

(1) the number of small business concerns that applied for a loan under such section and the number of those that received such loans;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that received such loans are located;

(4) the type of heating fuel or energy that caused the significant increase in the cost for the participating small business concerns; and

(5) recommendations for ways to improve the assistance provided under such section 7(b)(10), if any.

(b) DEPARTMENT OF AGRICULTURE.—Not later than 12 months after the date on which the Secretary of Agriculture issues guidelines under section 404, and annually thereafter until the date that is 12 months after the end of the effective period of the amendments made to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) by this title, the Secretary shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Small Business and the Committee on Agriculture of the House of Representatives, a report that—

(1) describes the effectiveness of the assistance made available under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); and

(2) contains recommendations for ways to improve the assistance provided under such section 321(a), if any.

By Mr. KENNEDY:

S. 164. A bill to modernize the education system of the United States; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, few things are more indispensable to the United States than good schools. Today more than ever, a quality education is the gateway to achieving the American dream and the best guarantee of equal opportunity for all our people, good citizenship, and an economy capable of mastering modern global challenges.

In 1965, as part of the War on Poverty, President Johnson signed into law the landmark Elementary and Secondary Education to strengthen America by allocating substantial Federal resources to public schools for the first time. In the bipartisan No Child Left Behind Act of 2002, we reauthorized this landmark legislation, and for the first time made a commitment that every child—black or white, Latino or Asian, native-born or an English language learner, disabled or non-disabled—would be part of an accountability plan that holds schools responsible for the progress of all students. It required every State to implement content and performance standards specifying what children should know and be able to do, and urged States to create high-quality assessments so that students' progress toward meeting those standards could be accurately measured. It expanded support for early reading and literacy skills and offered extra tutoring to students in struggling schools. It sought to improve the quality of instruction by requiring all schools to provide a highly-qualified teacher for every child.

We know these reforms can work. But good results are not possible without adequate investments. The No Child Left Behind Act recognized that to move forward with these dramatic changes, schools would need a continued infusion of Federal resources, because the cost was obviously too great for States and local governments to bear alone.

Today, because of budget cuts and poor implementation, we still have much to do to ensure that no child is left behind. President Bush has short-changed the promise made in the law by nearly $56 billion, leaving millions of children without the resources needed to reduce class sizes, improve teaching, and set higher standards for our schools. Now, more than ever, it's important to deliver the resources our schools deserve. Thousands of schools are on watchlists in their States and need Federal support and extra assistance to bridge the learning gaps of their students.

The No Child Left Behind Act is again scheduled for reauthorization this year, and we must work to ensure that its promise is fulfilled. Aside from additional funding, one of our priorities must be to ensure that the standards and assessments used to measure progress are fair and reliable. Accountability is only as good as the tests to measure progress, and many States use tests that need substantial improvement. Some use exams that are not aligned to the standards that students must meet. Others have manufactured artificially high test score gains by lowering standards and adjusting test scores in order to avoid unfavorable consequences under the law's accountability framework.

We need to shift our understanding of the Act away from the idea that it labels and penalizes schools, and toward a more productive framework that helps schools and States reach higher, not lower. We should use the well-regarded National Assessment of Educational Progress the ''Nation's report card'' as a benchmark for the rigor of State exams. States should also align their elementary and secondary school standards with their standards for college entrance and success, creating seamless systems that guide students from the beginning of their education to the achievement of a college degree.

The SUCCESS Act I am introducing today would assist States in these efforts. As the name suggests, it would provide Federal support for States Using Collaboration and Cooperation to Enhance Standards for Students. It would help ensure that public schools challenge all students to learn to high standards and provide needed help to schools with the greatest needs.

The legislation updates the Nation's report card the National Assessment of Educational Progress to ensure that it sets a national benchmark which is internationally competitive and is aligned with the demands of the 21st century global economy. It expands our ability to monitor science achievement. It requires the NAEP to measure student preparedness to enter college, the 21st century workforce, or the Armed Services. It also requires the Secretary of Education to examine the gaps in student performance on state-level assessments and NAEP assessments, and to assist States that wish to analyze how their standards and assessments compare to the benchmark.

The SUCCESS Act provides critical resources to States to create ''P–16'' Preparedness Councils that will engage members of the early childhood, K–12 and higher education communities, along with the business and military communities, and other stakeholders to align the standards with what is needed for success in college and the workforce. The councils would be charged with ensuring that State

standards and assessments meet international benchmarks to improve instruction and student achievement and prepare students to contribute in the global economy. It also provides funds to encourage collaboration among States in raising the bar for student achievement by providing grants to States working together to establish common standards and assessments that are rigorous, internationally competitive, and aligned with postsecondary demands.

I look forward to working with my colleagues on this and other important proposals as we move toward the reauthorization of the No Child Left Behind Act. In the coming weeks, our Committee on Health, Education, Labor and Pensions will hold a series of hearings and roundtable discussions to hear from experts and those dealing with the challenges of the current law on a daily basis. Our goal is to work on a bipartisan basis with all our colleagues in the Senate and in the House and with the Administration to develop a strong bipartisan bill that builds on the positive aspects of the law, addresses the concerns about its implementation, and encourages reforms that we know will work to help students succeed.

Teachers deserve the resources they need to help students achieve at higher levels. In many schools, the most valuable resource that teachers require is time. Yet the U.S. ranks 11th among industrialized nations in the number of days children attend school. Innovative approaches are needed to extend the school day and year in high-need schools. We should recruit Americorps volunteers to coordinate academically oriented extended-day programs for students and assist teachers during the school day.

We must also ensure that students in high poverty schools have access to good teachers. We should create incentives to attract the best teachers to the neediest schools, including increased salaries for teachers and principals with strong track records of success who work in hard-to-staff schools, and by creating ''career advancement systems'' in which highly effective teachers serve as instructional leaders for new or less successful teachers. To help teachers improve their teaching, we should invest more in training them to use the best data to improve instruction.

We should also help parents by replicating Boston's successful initiative to place parent-family outreach coordinators in every high-poverty school, and offer grants to school districts to support community programs that address children's social, emotional and other non-academic needs.

We must invest in these and other reforms to give schools the resources they need to close the achievement gap and ensure that all students can stay on track to graduate and succeed.

Experience shows that each year yields greater success when policymakers and educators commit in the long term to higher standards, better teacher training, stronger accountability, and extra help for students in need. The initial implementation of the No Child Left Behind Act has been flawed, but we can't abandon its vision of an America in which every child is important and deserves to be educated and enjoy the full benefits of our society.

That vision is as enduring as America itself. As John Adams wrote in the Massachusetts Constitution of 1780, the education of the people is ''necessary for the preservation of their rights and liberty.'' More than two hundred years later, we need to recapture that spirit, and make ''No Child Left Behind'' a reality, not merely a slogan.

I ask unanimous consent that 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. 164

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 ''States Using Collaboration and Coordination to Enhance Standards for Students Act of 2007'' or the ''SUCCESS Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Throughout our Nation's history, the skills and education of our workforce have been a major determinant of the standard of living of the people of the United States.

(2) According to the most recent National Assessment of Educational Progress, only 36 percent of the students in grade 4 and 30 percent of the students in grade 8 reach the proficient level in mathematics. In reading, only 31 percent of the students in grades 4 and 8 reach the proficient level. In science, only 29 percent of the students in grades 4 and 8 reach the proficient level.

(3) A State-by-State comparison of the 2005 National Assessment of Educational Progress average scale scores for 8th grade mathematics reveals that 31 States—more than ½ of the States in the Nation—scored more than 10 points (about 1 grade level) below the highest scoring State, Massachusetts.

(4) Student achievement in mathematics and science in elementary school and secondary school in the United States lags behind other nations, according to the Trends in International Mathematics and Science study and other studies, including the Programme for International Student Assessment, that recently ranked United States secondary school students 28th out of 40 first- and second-world nations, and tied with Latvia, in mathematics performance and problem solving.

(5) According to a report released in August, 2006, the Nation loses more than $3,700,000,000 a year in the costs of remedial education and in individuals' reduced earning potential because students are not learning the basic skills they need to succeed after high school.

SEC. 3. PURPOSES.

The purposes of this Act are the following:

(1) To ensure students receive an education competitive with other industrialized countries.

(2) To assist States in improving the rigor of standards and assessments.

(3) To provide for the establishment of prekindergarten through grade 16 student preparedness councils to better link early childhood education and school readiness with elementary school success, elementary student skills with success in secondary school, and secondary student skills and curricula, especially with respect to reading, mathematics, and science, with the demands of higher education, the 21st century workforce, and the Armed Forces, in order to ensure that greater number of students, especially low-income and minority students, complete secondary school with the coursework and skills necessary to enter—

(A) credit-bearing coursework in higher education without the need for remediation;

(B) high-paying employment in the 21st century workforce; or

(C) the Armed Forces.

(4) To establish a system that encourages local educational agencies to adopt a curriculum that meets State academic content standards and student academic achievement standards and prepares all students for success in elementary school, secondary school, and post-secondary endeavors in the 21st century.

SEC. 4. DEFINITIONS.

In this Act:

(1) IN GENERAL.—The terms ''elementary school'', ''limited English proficient'', ''local educational agency'', ''scientifically based research'', ''secondary school'', ''Secretary'', and ''State educational agency'' have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) 21ST CENTURY CURRICULUM.—The term ''21st century curriculum'' means a course of study identified by a State as preparing secondary school students for entrance into credit-bearing coursework in higher education without the need for remediation, employment in the 21st century workforce, or entrance into the Armed Forces. A State shall define the 21st century curriculum in terms of content as well as course names.

(3) ACADEMIC CONTENT STANDARDS; STUDENT ACADEMIC ACHIEVEMENT STANDARDS.—The terms ''academic content standards'' and ''student academic achievement standards'', when used with respect to a particular State, mean the academic content standards and student academic achievement standards adopted by a State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)).

(4) CRITICAL-NEED FOREIGN LANGUAGE.—The term ''critical-need foreign language'' means a language included on the list of critical-need foreign languages that the Secretary shall develop and update in consultation with the head official, or a designee of such head official, of the National Security Council, the Department of Homeland Security, the Department of Defense, the Department of State, the Federal Bureau of Investigation, the Department of Labor, and the Department of Commerce, and the Director of National Intelligence.

(5) END OF COURSE EXAMINATION.—The term ''end of course examination'' means an assessment of student learning given at the end of a particular course that is used to measure student learning of State academic content standards in the subject matter of the course.

(6) ENGINEERING AND TECHNOLOGY EDUCATION.—The term ''engineering and technology education'' means a curriculum and instruction that—

(A) uses technology as a knowledge base or as a way of teaching innovation using an engineering design process and context;

(B) develops an appreciation and fundamental understanding of technology through

design skills and the use of materials, tools, processes, and limited resources;

(C) is taught in conjunction with applied mathematics, science, language arts, fine arts, and social studies as a part of a comprehensive education;

(D) applies the use of tools and skills employed by a globalized skilled 21st century workforce that are necessary for communication, manufacturing, construction, energy systems, biomedical systems, transportation systems, and other related fields; and

(E) through the application of engineering principles and concepts, develops proficiency in abstract ideas and in problem-solving techniques that build a comprehensive education.

(7) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(8) PROFESSIONAL DEVELOPMENT.—The term ''professional development'' includes activities that—

(A) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;

(B) are an integral part of broad educational improvement plans across the school and across the local educational agency;

(C) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet the State academic content standards and student academic achievement standards and the 21st century curriculum demands;

(D) are high-quality, sustained, intensive, and classroom-focused, in order to have a positive and lasting effect on classroom instruction and the teacher's performance in the classroom;

(E) advance teacher understanding of effective instructional strategies that are based on scientifically based research and are directly aligned with the State academic content standards and State assessments;

(F) are designed to give teachers the knowledge and skills to provide instruction and appropriate language and academic support services to limited English proficient students and students with special needs, including the appropriate use of curricula and assessments;

(G) are, as a whole, regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development; and

(H) include instruction in the use of data and assessments to inform and instruct classroom practice.

(9) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(10) STATE ASSESSMENT.—The term ''State assessment'', when used with respect to a particular State, means the student academic assessments implemented by the State pursuant to section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(11) STUDENT PREPAREDNESS.—The term ''student preparedness'' means preparedness based on the knowledge and skills that—

(A) are prerequisites for entrance into—

(i) credit-bearing coursework in higher education without the need for remediation;

(ii) the 21st century workforce; and

(iii) the Armed Forces;

(B) can be measured and verified objectively using widely accepted professional assessment standards; and

(C) are consistent with widely accepted professional assessment standards and competitive with international levels of preparedness of students for postsecondary success.

SEC. 5. ALIGNING STATE STANDARDS WITH NATIONAL BENCHMARKS.

(a) REPORT ON RESULTS OF STATE ASSESSMENTS AND NATIONAL ASSESSMENT.—Not later than 90 days after each release of the results of the National Assessment of Educational Progress (as carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622(b)(2)) and section 1111(c)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(c)(2))) in reading or mathematics (or, beginning in 2009, science) in grades 4 and 8, the Secretary shall—

(1) prepare and submit to Congress the report described in subsection (b) on the results of the State assessments and the assessments of reading and mathematics, and, beginning in 2009, science, in grades 4 and 8, required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965; and

(2) identify States with significant discrepancies in performance between the 2 assessments, as described in subsection (b)(3).

(b) CONTENTS OF REPORT.—

(1) IN GENERAL.—The report described in this subsection shall include the following information for each subject area and grade described in subsection (a)(1) in each State:

(A) The percentage of students who performed at or above the basic level on the State assessment—

(i) for the most recent applicable year;

(ii) for the preceding year; and

(iii) for the previous year in which the assessment required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965 was given in such subject,

and the change in such percentages between those assessments.

(B) The percentage of students who performed at or above the proficient level on the State assessment—

(i) for the most recent applicable year;

(ii) for the preceding year; and

(iii) for the previous year in which the assessment required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965 was given in such subject,

and the change in such percentages between those assessments.

(C) The percentage of students who performed at or above the basic level on the assessment required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965—

(i) for the most recent applicable year; and

(ii) for the previous such assessment,

and the change in such percentages between those assessments.

(D) The percentage of students who performed at or above the proficient level on the assessment required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965—

(i) for the most recent applicable year; and

(ii) for the previous such assessment,

and the change in such percentages between those assessments.

(E) The difference between—

(i) the percentage of students who performed at or above the basic level for the most recent applicable year on the assessment required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965; and

(ii) the percentage of students who performed at or above the basic level on the State assessment for such year.

(F) The difference between—

(i) the percentage of students who performed at or above the proficient level for the most recent applicable year on the assessment required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965; and

(ii) the percentage of students who performed at or above the proficient level on the State assessment for such year.

(2) ANALYSIS.—In addition to the information described in paragraph (1), the Secretary shall include in the report—

(A) an analysis of how the achievement of students in grades 4, 8, and 12, and the preparedness of students in grade 12 (when such data on preparedness exists from assessments described in section 303 of the National Assessment of Educational Progress Authorization Act (as amended by this Act)), in the United States compares to the achievement and preparedness of students in other industrialized countries; and

(B) possible reasons for any deficiencies identified in the achievement or preparedness of United States students compared to students in other industrialized countries.

(3) RANKING.—The Secretary shall—

(A) using the information described in paragraph (1), rank the States according to the degree to which student performance on State assessments differs from performance on the assessments required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965; and

(B) identify those States with the most significant discrepancies in performance between the State assessments and the assessments required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965.

(c) REPORT ON STATE PROGRESS.—Beginning 5 years after the date of enactment of this Act, the Secretary shall include in the report described in subsection (a)(1) the following:

(1) Information about the progress made by States to decrease discrepancies in student performance on the State assessments and the assessments required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965.

(2) The differences that exist in States across subject areas and grades.

SEC. 6. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS CHANGES.

(a) NATIONAL ASSESSMENT GOVERNING BOARD.—Section 302 of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621) is amended—

(1) in subsection (a), by striking ''shall formulate'' and all that follows through the period at the end and inserting ''shall—

''(1) formulate policy guidelines for the National Assessment of Educational Progress (carried out under section 303); and

''(2) carry out, upon the request of a State, an alignment analysis (under section 304) comparing a State's academic content standards and student academic achievement standards adopted under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, assessment specifications, assessment questions, and performance standards with national benchmarks reflected in the assessments authorized under this Act.'';

(2) in subsection (b)(1), by adding at the end the following:

''(O) One representative of the Armed Forces with expertise in military personnel requirements and military preparedness, who shall serve as an ex-officio, nonvoting member.'';

(3) in subsection (c), by striking paragraph (4);

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (B), by inserting ''and grade 12 student preparedness levels'' after ''achievement levels'';

(ii) in subparagraph (D), by inserting ''members of the business and military communities,'' after ''parents,'';

(iii) in subparagraph (E), by inserting ''and'' after ''subject matter,'';

(iv) by redesignating subparagraphs (G), (H), (I), and (J) as subparagraphs (H), (I), (K), and (L), respectively;

(v) by inserting after subparagraph (F) the following:

''(G) consistent with section 303, measure grade 12 student preparedness;'';

(vi) by inserting after subparagraph (I) (as redesignated by clause (iv)) the following:

''(J) ensure the rigor of the National Assessment of Educational Progress framework and assessments, taking into consideration—

''(i) the knowledge and skills that are prerequisite to credit-bearing coursework in higher education without the need for remediation, the 21st century workforce, and the Armed Forces; and

''(ii) rigorous international content and performance standards, and how the achievement of students in grades 4, 8, and 12, and the preparedness of students in grade 12, in the United States compare to the achievement and the preparedness of students in other industrialized countries;'';

(vii) in subparagraph (K) (as redesignated by clause (iv)), by striking ''and'' after the semicolon;

(viii) in subparagraph (L) (as redesignated by clause (iv)), by striking the period at the end and inserting ''; and'';

(ix) by inserting after subparagraph (L) the following:

''(M) conduct an alignment analysis as described in section 304 for each State that requests such analysis.''; and

(x) in the flush matter at the end—

(I) by inserting ''for an assessment'' after ''data'';

(II) by inserting ''Assessment Board's'' after ''prior to the''; and

(III) by striking ''(J)'' and inserting ''(L)'';

(B) in paragraph (4), by inserting ''of Educational Progress'' after ''National Assessment'';

(C) in paragraph (5), in the paragraph heading, by inserting ''ADVICE'' after ''TECHNICAL''; and

(D) in paragraph (6), by inserting ''or grade 12 student preparedness levels'' after ''student achievement levels''; and

(5) in subsection (g)(1), by inserting ''of Educational Progress'' after ''National Assessment''.

(b) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—Section 303 of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by striking ''PURPOSE'' and inserting ''PURPOSES'';

(B) by striking paragraph (1) and inserting the following:

''(1) PURPOSES.—The purposes of this section are—

''(A) to provide, in a timely manner, a fair and accurate measurement of student achievement and grade 12 student preparedness in reading, mathematics, science, and other subject matter as specified in this section; and

''(B) to report trends in student achievement and grade 12 student preparedness in reading, mathematics, science, and other subject matter as specified in this section.'';

(C) in paragraph (2)—

(i) in subparagraph (B), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(ii) by striking subparagraph (C) and inserting the following:

''(C) conduct a national assessment and collect and report assessment data, including achievement and student preparedness data trends, in a valid and reliable manner on student academic achievement and student preparedness in public and private schools in reading, mathematics, and science at least once every 2 years in grade 12;'';

(iii) in subparagraph (D)—

(I) by striking ''subparagraph (B) are implemented and the requirements described in subparagraph (C) are met,'' and inserting ''subparagraphs (B) and (C) are implemented,''; and

(II) by striking ''science,'';

(iv) in subparagraph (E)—

(I) by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''; and

(II) by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(v) in subparagraph (H), by striking ''achievement data'' and inserting ''student achievement data and grade 12 student preparedness data'';

(D) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (i), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(II) in clause (ii)—

(aa) by inserting ''and grade 12 student preparedness'' after ''achievement''; and

(bb) by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''; and

(III) in clause (iv), by striking ''an evaluation'' and inserting ''a review''; and

(ii) in subparagraph (C)(ii), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(E) in paragraph (4)(B), by striking '', require, or influence'' and inserting ''or require''; and

(F) in paragraph (5)(B), by striking ''academic achievement'' and inserting ''academic achievement or grade 12 student preparedness'';

(2) in subsection (c)(3)(A), by striking ''academic achievement'' and inserting ''academic achievement or grade 12 preparedness'';

(3) in subsection (d)(3)—

(A) in subparagraph (A), by striking ''reading and mathematics in grades 4 and 8'' and inserting ''reading, mathematics, and science in grades 4 and 8''; and

(B) in subparagraph (B), by striking ''reading and mathematics assessments in grades 4 and 8'' and inserting ''reading, mathematics, and science assessments in grades 4 and 8'';

(4) in subsection (e)—

(A) in the subsection heading, by inserting ''AND GRADE 12 STUDENT PREPAREDNESS LEVELS'' after ''LEVELS'';

(B) in paragraph (1)—

(i) by striking the paragraph heading and inserting ''DEVELOPMENT.—''; and

(ii) by inserting '', and develop grade 12 student preparedness levels'' after ''subsection (b)(2)(F)'';

(C) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

''(A) STUDENT ACHIEVEMENT AND GRADE 12 PREPAREDNESS LEVELS.—

''(i) STUDENT ACHIEVEMENT LEVELS.—The student achievement levels described in paragraph (1) shall be determined by—

''(I) identifying the knowledge and skills that—

''(aa) are prerequisite to credit-bearing coursework in higher education without the need for remediation in English, mathematics, or science, participation in the 21st century workforce, and the Armed Forces or, in the case of grade 4 and grade 8 students, are prerequisite to grade 12 preparedness;

''(bb) are competitive with rigorous international content and performance standards; and

''(cc) can be measured and verified objectively using widely accepted professional assessment standards; and

''(II) developing student achievement levels that are—

''(aa) based on the knowledge and skills identified in subclause (I);

''(bb) based on the appropriate level of subject matter knowledge for the grade levels to be assessed, or the age of the students, as the case may be; and

''(cc) consistent with relevant widely accepted professional assessment standards.

''(ii) GRADE 12 STUDENT PREPAREDNESS LEVELS.—The grade 12 student preparedness levels described in paragraph (1) shall be determined by—

''(I) identifying the knowledge and skills that—

''(aa) are prerequisite to credit-bearing coursework in higher education without the need for remediation in English, mathematics, or science, participation in the 21st century workforce, and the Armed Forces;

''(bb) are competitive with rigorous international content and performance standards; and

''(cc) can be measured and verified objectively using widely accepted professional assessment standards; and

''(II) developing grade 12 student preparedness levels that are—

''(aa) based on the knowledge and skills identified in subclause (I); and

''(bb) consistent with widely accepted professional assessment standards.''; and

(ii) in subparagraph (C), by striking ''achievement levels'' and inserting ''student achievement levels and grade 12 student preparedness levels'';

(D) in paragraph (3)—

(i) by striking ''After determining that such levels'' and inserting ''After determining that the student achievement levels and grade 12 student preparedness levels''; and

(ii) by striking ''an evaluation'' and inserting ''a review''; and

(E) in paragraph (4), by inserting ''or grade 12 student preparedness levels'' after ''achievement levels''; and

(5) in subsection (f)(1)—

(A) in subparagraph (A), by inserting ''and grade 12 student preparedness levels'' after ''student achievement levels''; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting ''or grade 12 student preparedness'' after ''achievement'';

(ii) in clause (ii), by inserting ''and grade 12 student preparedness levels'' after ''achievement levels'';

(iii) by striking clause (iii) and inserting the following:

''(iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in student achievement or grade 12 student preparedness in a valid and reliable manner in the subject areas being assessed;'';

(iv) in clause (iv), by striking ''and'' after the semicolon;

(v) in clause (v), by striking ''and mathematical knowledge.'' and inserting ''and mathematical knowledge and scientific knowledge; and''; and

(vi) by adding at the end the following:

''(vi) whether the appropriate authorized assessments are measuring, consistent with this section, the preparedness of students in grade 12 in the United States for entry into—

''(I) credit-bearing coursework in higher education without the need for remediation in English, mathematics, or science;

''(II) the 21st century workforce; and

''(III) the Armed Forces.''.

(c) NATIONAL BENCHMARKS.—The National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621 et seq.) is amended—

(1) by redesignating sections 304 and 305 as sections 305 and 306, respectively; and

(2) by inserting after section 303 the following:

''SEC. 304. NATIONAL BENCHMARKS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to encourage the coordination of, and consistency between—

''(A) a State's academic content standards and student academic achievement standards adopted under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, assessment specifications, and assessment questions; and

''(B) national benchmarks, as reflected in the National Assessment of Educational Progress;

''(2) to assist States in increasing the rigor of their State academic content standards, student academic achievement standards, assessment specifications, and assessment questions, to ensure that such standards, specifications, and questions are competitive with rigorous national and international benchmarks; and

''(3) to improve the instruction and academic achievement of students, beginning in the early grades, to ensure that secondary school graduates are well-prepared to enter—

''(A) credit-bearing coursework in higher education without the need for remediation;

''(B) the 21st century workforce; or

''(C) the Armed Forces.

''(b) ALIGNMENT ANALYSIS.—

''(1) IN GENERAL.—When the chief State school officer of a State identifies a need for, and requests the Assessment Board to conduct, an alignment analysis for the State in reading, mathematics, or science in grades 4 and 8, the Assessment Board shall perform an alignment analysis of the State's academic content standards and student academic achievement standards adopted under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)), assessment specifications, and assessment questions, for the identified subject in grades 4 and 8. Such analysis shall begin not later than 180 days after the alignment analysis is requested.

''(2) ASSESSMENT BOARD RESPONSIBILITIES.—As part of the alignment analysis, the Assessment Board shall—

''(A) identify the differences between the State's academic content standards and student academic achievement standards, assessment specifications, and assessment questions for the subject identified by the State, and national benchmarks reflected in the National Assessment of Educational Progress in such subject in grades 4 and 8;

''(B) at the State's request, recommend steps for, and policy questions such State should consider regarding, the alignment of the State's academic content standards and student academic achievement standards in the identified subject, with national benchmarks reflected in the National Assessment of Educational Progress in such subject in grades 4 and 8; and

''(C) at the State's request, and in conjunction with a State prekindergarten through grade 16 student preparedness council established under section 7 of the States Using Collaboration and Coordination to Enhance Standards for Students Act of 2007, assist in the development of a plan described in section 7(e)(1)(C) of such Act.

''(3) CONTRACT.—At the discretion of the Assessment Board, the Assessment Board may enter into a contract with an entity that possesses the technical expertise to conduct the analysis described in this subsection.

''(4) STATE PANEL.—The chief State school officer of a State participating in an alignment analysis described in this subsection shall appoint a panel of not less than 6 individuals to partner with the Assessment Board in conducting the alignment analysis. Such panel—

''(A) shall include—

''(i) local and State curriculum experts;

''(ii) relevant content and pedagogy experts, including representatives of entities with widely accepted national educational standards and assessments; and

''(iii) not less than 1 entity that possesses the technical expertise to assist the State in implementing standards-based reform, which may be the same entity with which the Assessment Board contracts to conduct the analysis under paragraph (3); and

''(B) may include other State and local representatives and representatives of organizations with relevant expertise.''.

(d) DEFINITION OF SECRETARY.—Section 305 of the National Assessment of Educational Progress Authorization Act (as redesignated by subsection (c)(1)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Education.''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 306(a) of the National Assessment of Educational Progress Authorization Act (as redesignated by subsection (c)(1)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) for fiscal year 2008—

''(A) $7,500,000 to carry out section 302;

''(B) $200,000,000 to carry out section 303; and

''(C) $10,000,000 to carry out section 304; and''; and

(2) in paragraph (2)—

(A) by striking ''5 succeeding'' and inserting ''4 succeeding''; and

(B) by striking ''and 303, as amended by section 401 of this Act'' and inserting '', 303, and 304''.

(f) CONFORMING CHANGES AND AMENDMENTS.—

(1) CONFORMING CHANGES TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) STATE PLANS.—Section 1111(c)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(c)(2)) is amended by striking ''and mathematics'' and inserting '', mathematics, and science''.

(B) LOCAL EDUCATIONAL AGENCY PLANS.—Section 1112(b)(1)(F) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(b)(1)(F)) is amended by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''.

(2) CONFORMING AMENDMENT.—Section 113(a)(1) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9513(a)(1)) is amended by striking ''section 302(e)(1)(J)'' and inserting ''section 302(e)(1)(L)''.

SEC. 7. PREKINDERGARTEN THROUGH GRADE 16 STUDENT PREPAREDNESS COUNCIL GRANTS.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From amounts appropriated under subsection (g) for a fiscal year, the Secretary is authorized to award, on a competitive basis, grants to States for the purpose of allowing the States to establish State prekindergarten through grade 16 student preparedness councils (referred to in this section as ''councils'') that—

(A) convene stakeholders within the State and create a forum for identifying and deliberating on educational issues that cut across prekindergarten through grade 12 education and higher education, and transcend any single system of education's ability to address;

(B) develop and implement a plan for improving the rigor of a State's academic content standards, student academic achievement standards, assessment specifications, and assessment questions as necessary, to ensure such standards and assessments meet national and international benchmarks as reflected in the assessments required under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622(b)(2)) or as defined by the council as necessary for success in credit-bearing coursework in higher education without the need for remediation, the 21st century workforce, or the Armed Forces;

(C) inform the design and implementation of integrated prekindergarten through grade 16 data systems, which—

(i) will allow the State to track the progress of individual students from prekindergarten through grade 12 and into higher education; and

(ii) shall be capable of being linked with appropriate databases on service in the Armed Forces and participation in the 21st century workforce; and

(D) develop challenging—

(i) school readiness standards;

(ii) curricula for elementary schools and middle schools; and

(iii) 21st century curricula for secondary schools.

(2) DURATION.—The Secretary shall award grants under this section for a period of not more than 5 years.

(3) EXISTING STATE COUNCIL.—A State with an existing State council may qualify for the purposes of a grant under this section if—

(A) such council—

(i) has the authority to carry out this section; and

(ii) includes the members required under subsection (b); or

(B) the State amends the membership or responsibilities of the existing council to meet the requirements of subparagraph (A).

(b) COMPOSITION.—

(1) REQUIRED MEMBERS.—The members of a council described in subsection (a) shall include—

(A) the Governor of the State or the designee of the Governor;

(B) the chief executive officer of the State public institution of higher education system, if such a position exists;

(C) the chief executive officer of the State higher education coordinating board;

(D) the chief State school officer;

(E) not less than 1 representative each from—

(i) the business community; and

(ii) the Armed Forces;

(F) a public elementary school teacher employed in the State; and

(G) a public secondary school teacher employed in the State.

(2) OPTIONAL MEMBERS.—The council described in subsection (a) may also include—

(A) a representative from—

(i) a private institution of higher education;

(ii) the Chamber of Commerce for the State;

(iii) a civic organization;

(iv) a civil rights organization;

(v) a community organization; or

(vi) an organization with expertise in world cultures;

(B) the State official responsible for economic development, if such a position exists; or

(C) a dean or similar representative for a school of education at an institution of higher education or a similar teacher certification or licensure program.

(c) TIMELINE.—A State receiving a grant under this section shall establish a council (or use or amend an existing council in accordance with subsection (a)(3)) not later than 60 days after the receipt of the grant.

(d) APPLICATION.—

(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) demonstrate that the opinions of the larger education, business, and military community, including parents, students, teachers, teacher educators, principals, school administrators, and business leaders, will be represented during the determination of the State academic content standards and student academic achievement standards, assessment specifications, assessment questions, and the development of curricula, if applicable;

(B) include a comprehensive plan to provide high-quality professional development for teachers, paraprofessionals, principals, and school administrators;

(C) explain how the State will provide assistance to local educational agencies in implementing rigorous State standards through substantive curricula, including scientifically based remediation and acceleration opportunities for students; and

(D) explain how the State and the council will leverage additional State, local, and other funds to pursue curricular alignment and student success.

(e) USE OF FUNDS.—

(1) REQUIRED ACTIVITIES.—A State receiving a grant under this section shall use the grant funds to establish a council that shall carry out the following:

(A) Design and implement an integrated prekindergarten through grade 16 longitudinal data system for the State, if such system does not exist, that will allow the State to track the progress of students from prekindergarten, through grade 12, and into higher education, the 21st century workforce, and the Armed Forces. The data system shall—

(i) include—

(I) a unique statewide student identifier for each student;

(II) student-level enrollment, demographic, and program participation information, including race or ethnicity, gender, and income status;

(III) the ability to match individual students' test records from year to year to measure academic growth;

(IV) information on untested students;

(V) a teacher identifier system with the ability to match teachers to students;

(VI) student-level transcript information, including information on courses completed and grades earned;

(VII) student-level college preparedness examination scores;

(VIII) student-level graduation and dropout data;

(IX) the ability to match student records between the prekindergarten through grade 12 and the postsecondary systems;

(X) a State data audit system assessing data quality, validity, and reliability;

(XI) rates of student attendance at institutions of higher education;

(XII) rates of student enrollment and retention in the Armed Forces; and

(XIII) student nonmilitary postsecondary employment information;

(ii) to the extent possible, coordinate with other relevant State databases, such as criminal justice or social services data systems;

(iii) allow the State to analyze correlations between course-taking patterns in prekindergarten through grade 12 and outcomes after secondary school graduation, including—

(I) entry into higher education;

(II) the need for, and cost of, remediation in higher education;

(III) graduation from higher education;

(IV) entry into the 21st century workforce;

(V) entry into the Armed Forces; and

(VI) to the extent possible through linkages with appropriate databases on service in the Armed Forces and participation in the 21st century workforce, persistence in the Armed Forces and continued participation in the 21st century workforce; and

(iv) ensure that the use of any available data does not allow for the public identification of the individual student's personally identifiable information, and that all data shall be collected and maintained in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g; commonly referred to as the Family Educational Rights and Privacy Act of 1974).

(B) If an integrated prekindergarten through grade 16 longitudinal data system exists or is currently being built, ensure that it complies with the requirements described in subparagraph (A).

(C) Develop and implement a plan to increase the rigor of standards or assessments in reading, mathematics, or science in order to better align such standards or assessments with national benchmarks reflected in the National Assessment of Educational Progress in grades 4 and 8 (in accordance with the results of the alignment analysis conducted under section 304 of the National Assessment of Educational Progress Authorization Act), and in other grades to ensure the alignment of kindergarten through grade 12 standards or assessments with the revisions made in grades 4 and 8, or to align such standards or assessments with the demands of higher education, the 21st century workforce, or the Armed Forces or other national and international benchmarks identified by the council. Such plan may include—

(i) an articulation of the steps necessary—

(I) for revising the State academic content standards and student academic achievement standards, assessment specifications, and assessment questions for the identified subject; and

(II) to better align the standards and the assessment specifications and questions described in subclause (I) with—

(aa) national benchmarks as reflected in the National Assessment of Educational Progress required under section 303 of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622) for the identified subject; or

(bb) the demands of higher education, the 21st century workforce, or the Armed Forces or other national or international benchmarks identified by the council;

(ii) an articulation of the steps necessary and the process the State will undertake to revise standards or assessments, or both, in the identified subject;

(iii) a description of the partners the State will work with to revise standards or assessments, or both; and

(iv) a description of the activities the State will undertake to implement the revised standards or assessments, or both, at the State educational agency level and the local educational agency level, which activities may include—

(I) preservice and in-service teacher, paraprofessional, principal, and school administrator training;

(II) statewide meetings to provide professional development opportunities for teachers and administrators;

(III) development of curricula and instructional methods and materials;

(IV) the redesign of existing assessments, or the development or purchase of new high-quality assessments, with a focus on ensuring that such assessments are rigorous, measure significant depth of knowledge, use multiple measures and formats (such as student portfolios), and are sensitive to inquiry-based, project-based, or differentiated instruction; and

(V) other activities necessary for the effective implementation of the new State standards or assessments, or both.

(D) Analyze the State's level of prekindergarten through grade 16 curricular alignment and the success of the State's education system in preparing students for higher education, the 21st century workforce, and the Armed Forces by—

(i) using the data produced by a data system described in subparagraph (A) or (B), or other information as appropriate; and

(ii) exploring a possible agreement between the State educational agency and the higher education system in the State on a common assessment or assessments that—

(I) shall follow established guidelines to guarantee reliability and validity;

(II) shall provide adequate accommodations for students who are limited English proficient and students with disabilities; and

(III) may be a placement examination, end of course examination, college, workforce, or Armed Forces preparedness examination, or admissions examination, that measures secondary students' preparedness to succeed in postsecondary, credit-bearing courses.

(E) If the State has an officially designated college preparatory curriculum at the time the State applies for a grant under this section—

(i) describe the extent to which students who completed the college preparatory curriculum are more or less successful than other students, including students who did not complete a college preparatory curriculum, in entering and graduating from a program of study at an institution of higher education or entering the 21st century workforce or the Armed Forces;

(ii) examine the extent to which the expectations of the college preparatory curriculum are aligned with the entry standards of the State's institutions of higher education, including whether such curriculum enables secondary school students to enter credit-bearing coursework in higher education without the need for remediation; and

(iii) examine the extent to which the curriculum allows graduates to attain the skills necessary to enter the 21st century workforce or the Armed Forces.

(F) If the State has not designated a college preparatory curriculum at the time the State applied for a grant under this section, or if the curriculum described in subparagraph (E) does not result in a higher number of students enrolling in and graduating from institutions of higher education or entering the 21st century workforce or the Armed Forces, or is not aligned with the entry standards described in subparagraph (E)(ii), develop a 21st century curriculum that—

(i) may be adopted by the local educational agencies in the State for use in secondary schools;

(ii) enables secondary school students to enter credit-bearing coursework in higher education without the need for remediation;

(iii) allows graduates to attain the skills necessary to enter the 21st century workforce or the Armed Forces;

(iv) reflects the input of teachers, principals, school administrators, and college faculty; and

(v) focuses on providing rigorous core courses that reflect the State academic content standards and student academic achievement standards.

(G) Develop and make available specific opportunities for extensive professional development for teachers, paraprofessionals, principals, and school administrators, to improve instruction and support mechanisms for students using a curriculum described in subparagraph (E) or (F).

(H) Develop a plan to provide remediation and additional learning opportunities for students below grade level to ensure that all students will have the opportunity to meet the curricular standards of a curriculum described in subparagraph (E) or (F).

(I) Use data gathered by the council to improve instructional methods, better tailor student support services, and serve as the basis for all school reform initiatives.

(J) Implement activities designed to ensure the enrollment of all students in rigorous coursework, which may include—

(i) specifying the courses and performance levels required for acceptance into public institutions of higher education;

(ii) collaborating with institutions of higher education or other State educational agencies to develop assessments aligned to State academic content standards and a curriculum described in subparagraph (E) or (F), which assessments may be used as measures of student achievement in secondary school as well as for entrance or placement at institutions of higher education;

(iii) creating ties between elementary schools and secondary schools, and institutions of higher education, to offer—

(I) accelerated learning opportunities, particularly with respect to mathematics, science, engineering, technology, and critical-need foreign languages to secondary school students, which may include—

(aa) granting postsecondary credit for secondary school courses;

(bb) providing early enrollment opportunities in postsecondary education for secondary students enrolled in postsecondary-level coursework;

(cc) creating dual enrollment programs;

(dd) creating satellite secondary school campuses on the campuses of institutions of higher education; and

(ee) providing opportunities for higher education faculty who are highly qualified, as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), to teach credit-bearing postsecondary courses in secondary schools; and

(II) professional development activities for teachers, which may include—

(aa) mentoring opportunities; and

(bb) summer institutes;

(iv) expanding or creating higher education awareness programs for middle school and secondary school students;

(v) expanding opportunities for students to enroll in highly rigorous postsecondary preparatory courses, such as Advanced Placement and International Baccalaureate courses; and

(vi) developing a high-quality professional development curriculum to provide professional development opportunities for paraprofessionals, teachers, principals, and administrators.

(2) PLANNING AND IMPLEMENTATION.—A State receiving a grant under this section may use grant funds received for the first fiscal year to form the council and plan the activities described in paragraph (1). Grant funds received for subsequent fiscal years shall be used for the implementation of the activities described in such paragraph.

(f) REPORTS AND PUBLICATION.—

(1) REPORTS.—

(A) INITIAL REPORT.—Not later than 9 months after a State receives a grant under this section, the State shall submit a report to the Secretary that includes—

(i) an analysis of alignment and articulation across the State's systems of public education for prekindergarten through grade 16, including data that indicates the percent of students who—

(I) graduate from secondary school with a regular diploma in the standard number of years;

(II) complete a curriculum described in subparagraph (E) or (F) of subsection (e)(1);

(III) matriculate into an institution of higher education (disaggregated by 2-year and 4-year degree-granting programs);

(IV) are secondary school graduates who need remediation in reading, writing, mathematics, or science before pursuing credit-bearing post-secondary courses in English, mathematics, or science;

(V) persist in an institution of higher education into the second year; and

(VI) graduate from an institution of higher education within 150 percent of the expected time for degree completion (within 3 years for a 2-year degree program and within 6 years for a baccalaureate degree);

(ii) an analysis of the strengths and weaknesses of the State—

(I) in transitioning students from the prekindergarten through grade 12 education system into higher education, the 21st century workforce, and the Armed Forces; and

(II) in transitioning students from the prekindergarten through grade 12 education system into mathematics, science, engineering, technology, and critical-need foreign language degree programs at institutions of higher education;

(iii) an analysis of the quality and rigor of the State's curriculum described in subparagraph (E) or (F) of subsection (e)(1), and the accessibility of the curriculum to all students in prekindergarten through grade 12;

(iv) an analysis of the strengths and weaknesses of the State in recruiting, retaining, and supporting qualified teachers, including—

(I) whether the State needs to recruit additional teachers at the secondary level for specific subjects (such as mathematics, science, engineering and technology education, and critical-need foreign languages), particular schools, or local educational agencies; and

(II) recommendations on how to set and achieve goals in this pursuit; and

(v) a detailed action plan that describes how the council will accomplish the goals and tasks required by the grant under this section, including a timeline for accomplishing all activities under the grant.

(B) ANNUAL REPORTS.—Not later than 1 year following the submission of the initial report described in subparagraph (A), and annually thereafter for the duration of the grant, a State receiving a grant under this section shall prepare and submit to the Secretary a report that describes the State's progress in accomplishing the goals and tasks required by the grant, including progress on each item described in subparagraph (A). The final annual report under this subparagraph shall be submitted 1 year after the expiration of the grant.

(2) PUBLICATION.—A State submitting a report in accordance with this subsection shall publish and widely disseminate the report to the public, including posting the report on the Internet.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 8. COLLABORATIVE STANDARDS AND ASSESSMENTS GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term ''eligible State'' means a State that demonstrates that it has analyzed and, where applicable, revised the State standards and assessments, through participation in a prekindergarten through grade 16 student preparedness council described in section 7 or through other State action, to ensure the standards and assessments—

(A) are aligned with the demands of the 21st century; and

(B) prepare students for entry into—

(i) credit-bearing coursework in higher education without the need for remediation;

(ii) the 21st century workforce; and

(iii) the Armed Forces

(2) ELIGIBLE CONSORTIUM.—

(A) IN GENERAL.—The term ''eligible consortium'' means a consortium of 2 or more eligible States that agrees to allow the Secretary, under subsection (e), to make available any assessment developed by the consortium under this section to a State that so requests, including a State that is not a member of the consortium.

(B) ADDITIONAL MEMBERS.—An eligible consortium may include, in addition to 2 or more eligible States, an entity with the technical expertise to carry out a grant under this section.

(b) PROGRAM AUTHORIZED.—From amounts authorized under subsection (f), the Secretary shall award grants, on a competitive basis, to eligible consortia to enable the eligible consortia to develop common standards and assessments that—

(1) are highly rigorous, internationally competitive, and aligned with the demands of higher education, the 21st century workforce, and the Armed Forces; and

(2) in the case of assessments, set rigorous performance standards comparable to rigorous national and international benchmarks.

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

(d) REPORT.—Not later than 90 days after the end of the grant period, an eligible consortium receiving a grant under this section shall prepare and submit a report to the Secretary describing the grant activities.

(e) AVAILABILITY OF ASSESSMENTS.—The Secretary shall—

(1) make available, to a State that so requests and at no charge to the State, any rigorous, high-quality assessment developed by an eligible consortium under this section; and

(2) notify potential eligible States, at reasonable intervals, of all assessments currently under development by eligible consortia under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $75,000,000 for fiscal year 2008 and such sums as are necessary for each of the 4 succeeding fiscal years.

By Mr. McCAIN (for himself, Mr. DEMINT, Mr. SMITH, and Mr. SUNUNU):

S. 166. A bill to restrict any State from imposing a new discriminatory tax on cell phone services; to the Committee on Finance.

Mr. McCAIN. Mr. President, I am pleased to be joined by Senator DEMINT

in introducing the Cell Phone Tax Moratorium Act of 2007. This bill would put a stop to new discriminatory taxes on cell phone services for a period of 3 years.

The average general sales tax in the U.S. today is around six percent, but the average State and local taxes and fees on cell phone service comes in at about 17 percent. Consumers are left paying a hefty portion of their monthly cell phone bill to the Government for what many believe is their most important communications device.

The National Conference of State Legislatures and the National Governors' Association have issued policy positions calling for states to eliminate excessive and discriminatory taxes on communications services. State and local governments have been working with the telecommunications industry to find a solution to these excessive taxes, but no agreement has been reached. During the three year moratorium, it is my hope that State and local governments—in cooperation with industry—will work to eliminate discriminatory taxes and fees on wireless services.

Excessive taxes dampen innovation, and are regressive, hitting the most vulnerable customers the hardest. Although more then 72 percent of all Americans own a cell phone, 26 percent said they could not live without it because it is their only communications source, according to a recent Pew Internet and Life Project report. Cell phone only owners are often those who find it difficult to afford a wired and a wireless phone. Additionally, according to the same report, 74 percent of the Americans say they have used their cell phone in an emergency and gained valuable assistance.

Some State and local governments cannot move beyond the idea that wireless services are some kind of luxury item that can be taxed at a higher rate. These services may have been a luxury item many years ago, but due to deregulation wireless services are more affordable than ever and even necessary for personal or business reasons. This is why it is perplexing that some states burden cell phone subscribers with taxes and fees that can be as high as 24 percent of a consumer's total bill.

Tax rates as high as this are generally associated with cigarettes and alcohol and known as ''sin taxes'' designed to reduce consumption. I cannot imagine it is the intention of states and localities to reduce consumption of wireless services.

Mindful of the revenue requirements of States and localities, this bill does not eliminate existing discriminatory taxes. Nor does the bill prohibit states and localities from imposing new taxes on wireless services that are not discriminatory. The bill simply puts a stop to the creation of new discriminatory taxes on cell phone services.

Last year I introduced similar legislative language during a mark-up in the Senate Commerce Committee. The amendment passed with a vote 21–1. I am hopeful that this bill will once again be supported by the Commerce Committee and that it will be approved by the full Senate. I ask my colleagues to join me in ending the discriminatory sales taxes on this very popular communications service.

By Mrs. BOXER:

S. 167. A bill to amend the Clean Air Act to require the Secretary of Energy to provide grants to eligible entities to carry out research, development, and demonstration projects of cellulosic ethanol and construct infrastructure that enables retail gas stations to dispense cellulosic ethanol for vehicle fuel to reduce the consumption of petroleum-based fuel; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I rise today to introduce the Cellulosic Ethanol Development and Implementation Act of 2007.

As a Nation, we should be striving for greater energy independence and for more environmentally friendly sources of fuel for our automobiles. Cellulosic ethanol is fuel ethanol made from glucose, a sugar derived from the cellolose in biomass. It is chemically identical to ethanol made from food crops like corn and sugar cane. Cellulosic ethanol is more difficult to make, because cellulose is a tough structural material that gives plants their strength.

However, making ethanol from cellulose lets us tap into a much larger source of sugars, and, therefore, potentially make much larger amounts of fuel ethanol, tens of billions of gallons or more. An additional benefit is that cellulosic ethanol made from biomass is likely to produce smaller amounts of greenhouse gases than corn ethanol, and far less greenhouse gases than gasoline it will replace. With continued technology improvements, it should be cheaper than gasoline. Because it is locally made, it reduces the need for oil imports.

An April 2005 study by the Department of Energy and Agriculture indicates that the country currently has a supply of biomass sufficient to displace 30 percent of the country's present petroleum use.

I am introducing this bill because I believe we should be doing more to harness our Nation's cellulosic ethanol potential. I have been a strong proponent of using alternative transportation fuels and efficiency measures to reduce oil dependence. Last Congress, we took a good first step in the development of cellulosic ethanol. The Energy Policy Act of 2005, known as EPAct 05, requires that at least one-third of the Nation's ethanol be produced from cellulose by 2013.

In addition, EPAct 05 also created a new ethanol section of the Clean Air Act (Section 212). In that section, one subsection, section 212(e), includes language I authored to establish a new cellulosic production conversion assistance grant program. That program, housed at the Department of Energy, provides financial assistance to encourage the building of new cellulosic facilities in the U.S. The program was authorized to receive $250 million in fiscal year 2006 and $400 million in fiscal year 2007.

Though Congress has taken the steps I've just described, I believe we can and should do more, and the bill I introduce today does just that.

It would add two new cellulosic ethanol programs to the Clean Air Act. The first is a new competitive grant program for cellulosic motor vehicle fuel research and demonstration projects. Funded at $1 billion over 6 years, universities, Federal and State research labs, private industry, nonprofit groups, or partnerships between any of these groups, would be able to compete for funds.

My bill would also create a new pilot program for the installation of ethanol fuel pumps at gas stations or any other needed infrastructure required to dispense ethanol fuel, such as a storage tank, for example. Funded at $1 billion over 6 years, the same entities that would participate in the research section of the bill would also be able to compete for funds under this program. Successful applicants would have to provide 20 percent of the grant in matching funds.

Finally, my bill also extends the authorization for the original cellulosic grant program that is currently authorized in EPAct 05. The authorization expires at the end of this year, and the bill I introduce today would extend it at $400 million per year thru 2010. This extension will ensure the program continues.

As Chair of the Environment and Public Works Committee, I believe that our Nation's energy policy must focus on conservation, improvements in energy efficiency, and the development of clean, renewable energy technology. I continue to support measures to accomplish these goals, including the promotion of cellulosic ethanol. I believe this bill is an important next step in achieving these objectives. I ask content that a copy 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. 167

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 ''Cellulosic Ethanol Development and Implementation Act of 2007''.

SEC. 2. CELLULOSIC ETHANOL FUEL DEVELOPMENT AND IMPLEMENTATION PROGRAM.

Section 212 of the Clean Air Act (42 U.S.C. 7546) is amended by adding at the end the following:

''(f) CELLULOSIC ETHANOL FUEL GRANT PROGRAM.—

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

''(A) an institution of higher education;

''(B) a National Laboratory;

''(C) a Federal research agency;

''(D) a State research agency;

''(E) a private sector entity;

''(F) a nonprofit organization; or

''(G) a consortium of 2 or more entities described in subparagraphs (A) through (F).

''(2) ESTABLISHMENT.—The Secretary shall establish a program to provide grants to eligible entities for use in carrying out research, development, and demonstration projects relating to the use of cellulosic ethanol fuel for motor vehicles.

''(3) APPLICATION.—An eligible entity that seeks to receive a grant under this subsection shall submit to the grant review committee described in paragraph (4) an application for the grant at such time, in such form, and containing such information as the grant review committee may require.

''(4) GRANT REVIEW COMMITTEE.—Applications for grants under this subsection shall be reviewed, and approved or disapproved, by a grant review committee composed of an equal number of representatives of—

''(A) the Department of Energy, to be appointed by the Secretary;

''(B) the Department of Agriculture, to be appointed by the Secretary of Agriculture;

''(C) the Environmental Protection Agency, to be appointed by the Administrator; and

''(D) experts that are not full-time employees of the Federal Government, to be appointed by the President.

''(5) PRIORITY.—In awarding grants under this subsection, the grant review committee shall give priority to eligible entitles that propose to carry out—

''(A) projects that use alternative or renewable energy sources in the production of cellulosic ethanol fuel; and

''(B) demonstration projects.

''(6) MATCHING FUNDS.—As a condition of receiving a grant under this subsection, an eligible entity shall provide matching funds in the amount of 20 percent of the total amount of the grant.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,000,000,000 for the period of fiscal years 2007 through 2013.

''(g) INFRASTRUCTURE PILOT PROGRAM FOR CELLULOSIC ETHANOL FUEL.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program to provide grants to eligible entities (as described in subsection (d)(2) or defined in subsection (f)) for use in installing infrastructure (such as pumps) that would enable retail gas stations to sell and dispense ethanol fuel.

''(2) APPLICATION.—An eligible entity that seeks to receive a grant under this subsection shall submit to the Secretary an application for the grant at such time, in such form, and containing such information as the Secretary may require.

''(3) MATCHING FUNDS.—As a condition of receiving a grant under this subsection, an eligible entity shall provide matching funds in the amount of 20 percent of the total amount of the grant.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,000,000,000 for the period of fiscal years 2007 through 2013.''.

SEC. 3. CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.

Section 212(e) of the Clean Air Act (42 U.S.C. 7546(e)) is amended by striking paragraph (3) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $400,000,000 for each of fiscal years 2007 through 2010.''.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 168. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Pikes Peak Region of Colorado; to the Committee on Veterans' Affairs.

Mr. ALLARD. Mr. President, I am reintroducing legislation to establish a National Veteran's Cemetery in the Pikes Peak Region of Colorado in order to meet the needs of veterans in southern Colorado. This legislation is similar to what I have introduced and supported in the past, and seeks to fill a void for many veterans and their families. Colorado's fifth Congressional District contains the third highest concentration of military retirees in the nation. Recent estimates show that there are as many as 175,000 veterans in the area, when including all of southern Colorado. This legislation will allow thousands of eligible southern Colorado military personnel, both active duty and retired as well as the many veterans living in the area, to have a chance to find their final resting place in the region so many of them have come to love and appreciate.

This legislation has been influenced by the growing military retiree and veterans populations in the Pikes Peak region as well as community leaders and local Veterans Service Organizations who have repeatedly brought this issue to my attention over the last several years. It is important to note the passion and perseverance of those that have supported a National Veterans Cemetery and have worked tirelessly on the issue. This legislation is truly citizen-generated and is a testament to the dedication of veterans in the community.

By Mr. ALLARD (for himself and Mr. LEVIN):

S. 169. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, the National Trails System Willing Seller Act will pave the way for the completion of our Nation's most outstanding national trails. The legislation will amend the National Trails System Act of 1968 to make clear that the Federal Government may purchase land to complete several national trails from willing sellers. The legislation specifically names nine trails that are spread across the nation. The Continental Divide trail, stretching from Mexico through Colorado to the Canadian border, is among the trails that await completion.

I was successful in gaining Senate passage of this legislation in the 108th Congress and am hopeful that both the House and Senate will act on the bill this year.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 171. A bill to designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, as the ''Mickey Mantle Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, I rise today along with my colleague, TOM COBURN, to proudly introduce legislation to designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, OK as the ''Mickey Mantle Post Office.''

Mickey Mantle emulates the Oklahoma spirit of hard work, charity, and sportsmanship. He is a shining example of how commitment and dedication can lead to great success. I seek to name the post office in Commerce, Oklahoma, in Mickey Mantle's honor. He is still known to Commerce by the nicknames ''Commerce Comet'' or ''Commerce Kid''.

At age 4, Mickey Mantle moved with his family to Commerce where he grew up, having been born in Spavinaw, OK. By his father who was an amateur player and fervent fan, Mickey Mantle was named in honor of Mickey Cochrane, the Hall of Fame catcher from the Detroit Tigers.

Signing with the New York Yankees in 1949, Mantle made his Major League Debut in 1951. He played his entire Major League career with the Yankees. He was a twenty-time All Star and named American League MVP three times. Mantle was a part of 12 pennant winners and 7 World Championship clubs. Some of Mantle's records still hold today. He holds the record for most World Series home runs 18, runs batted in 40, runs 42, walks 43, extra-base hits 26, and total bases 123.

Mantle announced his retirement on March 1, 1969. In actually retired on Mickey Mantle Day, June 8, 1969. In addition to the retirement of his uniform number 7, Mantle was given a plaque that would hang on the center field wall at Yankee Stadium, near the monuments to Babe Ruth, Lou Gehrig and Miller Huggins. In 1974, as soon as he was eligible, he was inducted into the Baseball Hall of Fame demonstrating his importance to baseball and community.

Sadly, Mickey Mantle's father died of cancer at the age of 39, just as his son was starting his career. Mantle said one of the great heartaches of his life was that he never told his father he loved him.

After a bout with liver cancer himself, Mickey Mantle was given a few precious extra weeks of life due to a liver transplant. The baseball great was overwhelmed by the selfless gift of a liver from a stranger; therefore, Mickey became determined to give something back at the end of his life. Thus, in 1995, the year he died, the Mickey Mantle Foundation was established to promote organ and tissue donation, and Mickey Mantle will be remembered for something more than his heroic baseball career.

I encourage my colleagues to join me in support of this legislation as we commemorate an outstanding athlete so that future generations will be as inspired by his example of sportsmanship and charity as we have been.

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

S. 173. A bill to amend title XVIII of the Social Security Act to establish Medicare Health Savings Accounts; to the Committee on Finance.

Mr. INHOFE. Mr. President, I introduce a bill to establish Medicare Health Savings Account, HSAs. This bill will make HSAs available under Medicare in lieu of Medicare Medical Savings Account, MSAs. I have long been dedicated to quality health care and believe that seniors should have the ability to make their own decisions regarding their health care, so they can receive the health care they need and deserve. As a senior myself, I appreciate how imperative it is that we seniors be provided with a wide array of choices.

My desire to see my fellow Oklahomans and all Americans receive the best possible health care is evidenced by my involvement in various health-related issues. I have always been a champion of rural health care providers. In 1997, I was one of the few Republicans to vote against the Balanced Budget Act because of its lack of support for rural hospitals. At that time, I made a commitment to not allow our rural hospitals to be closed and am pleased we finally addressed that important issue in the Medicare Modernization Act of 2003 by providing great benefits for rural health care providers as well as a voluntary prescription drug benefit to seniors. In 2003, I also co-sponsored the Health Care Access and Rural Equity Act, to protect and preserve access of Medicare beneficiaries to health care in rural regions.

In order to assist my State and other States suffering from large reduction in their Federal Medical Assistance Percentage, FMAP for Medicaid, I introduced a bill in the 109th Congress to apply a State's FMAP from fiscal year 2005 to fiscal years 2006 through 2014. The purpose of this legislation is to prevent drastic reductions in FMAP while revision of the formula itself is considered.

I am a strong advocate of medical liability reform and have consistently been an original cosponsor of the Medical Care Access Protection Act and the Healthy Mothers and Healthy Babies Access to Care Act. These bills protect patients' access to quality and affordable health care by reducing the effects of excessive liability costs. I am committed to this vital reform that would alleviate the burden placed on physicians and patients by excessive medical malpractice lawsuits.

I have also worked with officials from the Centers for Medicare and Medicaid Services, CMS to expand access to life-saving Implantable Cardiac Defibrillators and many other numerous regulations that would affect my rural State such as the 250 yard-rule for Critical Access Hospitals.

As a supporter of safety and medical research, I have co-sponsored legislation to increase the supply of pancreatic islet cells for research and a bill to take the abortion pill RU–486 off the market in the United States.

In response to the shortages of flu vaccines experienced in years past, I introduced the Flu Vaccine Incentive Act to help prevent any future shortages in flu vaccines in both the 108th and 109th Congresses. My bill removed suffocating price controls from government purchasing of the flu vaccine while encouraging more companies to enter the market. Also, my bill freed American companies to enter the flu vaccine industry by giving them an investment tax credit towards the construction of flu vaccine production facilities.

As a result of my sister's death from cancer and a treatment we learned about not accessible in the United States that might have saved her life, Senator SAM BROWNBACK and I introduced the Access, Compassion, Care and Ethics for Seriously-ill Patients Act, ACCESS, in the 109th Congress. This bill offered a three-tiered approval system for treatments showing efficacy during clinical trials, for use by the seriously ill patient population. Seriously ill patients, who have exhausted all alternatives and are seeking new treatment options, would be offered access to these treatments with the consent of their physician. I was pleased to learn that the Food and Drug Administration has announced a proposal to offer expanded access to drugs to terminally ill patients.

My resolution to designate April 8, 2006, as ''National Cushing's Syndrome Awareness Day'' was passed by unanimous consent in the 109th Congress. The intent of this resolution is to raise awareness of Cushing's Syndrome, a debilitating disorder that affects an estimated 10 to 15 people per million. It is an endocrine or hormonal disorder caused by prolonged exposure of the body's tissue to high levels of the hormone cortisol.

It was brought to my attention thanks to a staffer with Celiac Disease and an Oklahoma Celiac Support Group that there is a great need to raise awareness of celiac disease; therefore, I worked to get my resolution passed by unanimous consent to designate September 13, 2006 as National Celiac Disease Awareness Day. Celiac disease is an autoimmune disorder and a malabsorption disease that affects an estimated 2.2 million Americans. Celiac disease is, essentially, intolerance to gluten, a protein found in wheat, rye, oats and barley, as well as some medicines and vitamins.

Additionally, I have consistently cosponsored yearly resolutions designating a day in October as ''National Mammography Day'' and a week in August as ''National Health Center Week'' to raise awareness regarding both these issues and have supported passage and enactment of numerous health-care-related bills, such as the Rural Health Care Capital Access Act of 2006, which extends the exemption respecting required patient days for critical access hospitals under the federal hospital mortgage insurance program.

As the Federal Government invests in improving hospitals and healthcare initiatives, I have fought hard to ensure that Oklahoma gets its fair share. Specifically, over the past 3 years, I have helped to secure $5.2 million in funding for the Oklahoma Medical Research Foundation, the Oklahoma State Department of Health planning initiative for a rural telemedicine system, the INTEGRIS Healthcare System, the University of Oklahoma Health Sciences Center, the Oklahoma Center for the Advancement of Science and Technology, St. Anthony's Heart Hospital, the Hillcrest Healthcare System, and the Morton Health Center.

As a long supporter of HSAs, I believe all people should have access to them since they provide great flexibility in the health market and allow individuals to have control over their own health care. Medicare MSAs have existed since January 1, 1997, revised in December of 2003, but they have not worked. No insurer whatsoever has yet offered any Medicare MSA under the current law. To fix this problem, my legislation creates a new HSA program under Medicare that incorporates a high deductible health plan and an HSA account while dissolving the existing Medicare MSA.

In tandem with my efforts, the Centers for Medicare and Medicaid Service, CMS, are launching an HSA demonstration project that would test allowing health insurance companies to offer Medicare beneficiaries products similar to HSA. This activity points to the Administration's support of HSAs and desire to see all seniors receive the best possible coverage.

As the July 13, 2006 edition of The Hill, explains, ''no legislation is pending that would integrate HSAs into the Medicare program . . .'' Thus, my legislation is necessary because real Medicare HSA reform is needed in order for seniors to have true flexibility and freedom of choice in their health care.

Under my bill, beneficiaries who choose the HSA option will receive an annual amount that is equal to 95 percent of the annual Medicare Advantage, MA, capitation rate with respect to the individual's MA payment area. These funds provided through the Medicare HSA program can only be used by the beneficiary for the following purposes: as a contribution into an HSA or for payment of high deductible health plan premiums. However, the individual also has the opportunity to deposit personal funds in to the Medicare HSA.

My bill also guarantees that seniors be notified of the amount they will receive 90 days before receipt to ensure they have time to determine the best and most appropriate HSA to accommodate needs. The bill also allows the Secretary of Health and Human Services to deal with fraud appropriately and requires providers to accept payment by individuals enrolled in a Medicare HSA just as they would with an individual enrolled in traditional Medicare.

Please join me in supporting this important legislation to give our seniors more choices regarding their health care.

By Mr. INHOFE:

S. 174. A bill to amend the Head Start Act to require parental consent for nonemergency intrusive physical examinations; to the Committee on Health, Education, Labor, and Pensions.

Mr. INHOFE. Mr. President, I introduce legislation requiring parental consent for intrusive physical exams administered under the Head Start program.

Young children attending Head Start programs should not be subjected to these intrusive physical exams without the prior knowledge or consent of their parents. While the Department of Health and Human Services has administered general exam guidelines to agencies, the U.S. Code is not clear about prohibiting them without parental consent. To clarify the Code, my bill will not allow any non-emergency intrusive exam by a Head Start agency without parental consent. This would not include exams such as hearing, vision or scoliosis screenings.

This issue was brought to my attention by some of my constituents from Tulsa, OK, who felt their rights were violated when their children were subjected to genital exams and blood tests without their consent. I am pleased to see that the Rutherford Institute has taken an interest in this crucial issue and are representing my constituents.

As a father and grandfather, I believe it is vital for parents to be informed about what is happening to their children in the classroom. I hope that my colleagues will join me in support of this important bill.

By Mrs. HUTCHISON (for herself, Mr. CORNYN, Mr. ALEXANDER, Mr. ENSIGN, Mr. ENZI, Mr. MARTINEZ, Mr. THUNE, and Mr. STEVENS):

S. 180. A bill to provide a permanent deduction for State and local general sales taxes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to permanently correct an injustice in the tax code that has harmed citizens in many States of this great Nation.

State and local governments have various alternatives for raising revenue.

Some levy income taxes, some use sales taxes, and others use a combination of the two. The citizens who pay State and local income taxes have been able to offset some of their federal income taxes by receiving a deduction for those State and local income taxes. Before 1986, taxpayers also had the ability to deduct their sales taxes.

The philosophy behind these deductions is simple: people should not have to pay taxes on their taxes. The money that people must give to one level of Government should not also be taxed by another level of Government.

Unfortunately, citizens of some States were treated differently after 1986 when the deduction for State and local sales taxes was eliminated. This discriminated against those living in States, such as my home State of Texas, with no income taxes. It is important to remember the lack of an income tax does not mean citizens in these States do not pay State taxes; revenues are simply collected differently.

It is unfair to give citizens from some States a deduction for the revenue they provide their State and local governments, while not doing the same for citizens from other States. Federal tax law should not treat people differently on the basis of State residence and differing tax collection methods, and it should not provide an incentive for States to establish income taxes over sales taxes.

This discrepancy had a significant impact on Texas. According to the Texas Comptroller, the sales tax deduction saves a family of four $310 a year, or a total of about $1 billion each year for the State's residents who itemize deductions. The ability of taxpayers to deduct their sales taxes will lead to the creation of more than 16,500 new jobs and the addition of $920 million in State economic activity.

Recognizing the inequity in the tax code, Congress reinstated the sales tax deduction in 2004 and authorized it for two years. Last year, we extended the sales tax deduction for an additional two years. As a result of our efforts, the 55 million of us in the eight States with a sales tax but no income tax are no longer discriminated against in the tax code. Unfortunately, the deduction is only in effect through 2007, and we must act to prevent the inequity from returning.

The legislation I am offering today will fix this problem for good by making the State and local sales tax deduction permanent. This will permanently end the discrimination suffered by my fellow Texans and citizens of other States who do not have the option of an income tax deduction.

This legislation is about reestablishing equity to the tax code and defending the important principle of eliminating taxes on taxes. Last year, the Senate voted 75–25 to instruct conferees to make this deduction permanent. I hope my fellow Senators will once again support this effort and pass this legislation.

By Mrs. HUTCHISON (for herself, Mr. CORNYN, Mr. BUNNING, Mr. ENSIGN, Mr. HAGEL, Mr. MARTINEZ, Mr. VITTER, Mr. CHAMBLISS, Mr. STEVENS, and Mr. BROWNBACK):

S. 181. A bill to provide permanent tax relief from the marriage penalty; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to provide permanent tax relief from the marriage penalty—the most egregious, anti-family provision that has been in the tax code. One of my highest priorities in the United States Senate has been to relieve American taxpayers of this punitive burden.

We have made important strides to eliminate this unfair tax and provide marriage penalty relief by raising the standard deduction and enlarging the 15 percent tax bracket for married joint filers to twice that of single filers. Before these provisions were changed, 44 million married couples, including 2.4 million Texas families, paid an average penalty of $1,480.

Enacting marriage penalty relief was a giant step for tax fairness, but it may be fleeting. Even as married couples use the money they now save to put food on the table and clothes on their children, a tax increase looms in the future. Since the 2001 tax relief bill was restricted, the marriage penalty provisions will only be in effect through 2010. In 2011, marriage will again be a taxable event and 43 percent of married couples will again pay more in taxes unless we act decisively. Given the challenges many families face in making ends meet, we must make sure we do not backtrack on this important reform.

The benefits of marriage are well established, yet, without marriage penalty relief, the tax code provides a significant disincentive for people to walk down the aisle. Marriage is a fundamental institution in our society and should not be discouraged by the IRS. Children living in a married household are far less likely to live in poverty or to suffer from child abuse. Research indicates these children are also less likely to be depressed or have developmental problems. Scourges such as adolescent drug use are less common in married families, and married mothers are less likely to be victims of domestic violence.

We should celebrate marriage, not penalize it. The bill I am offering would make marriage penalty relief permanent, because marriage should not be a taxable event. I call on the Senate to finish the job we started and make marriage penalty relief permanent today.

By Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. FEINGOLD, Mr. LEAHY, Ms. SNOWE, Mr. KENNEDY, and Mr. DURBIN):

S. 182. A bill to authorize the Attorney General to make grants to improve

the ability of State and local governments to prevent the abduction of children by family members, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senators HUTCHISON, FEINGOLD, LEAHY, SNOWE, KENNEDY and DURBIN in reintroducing the ''Family Abduction Prevention Act,'' a bill to help the thousands of children who are abducted by a family member each year.

We introduced this legislation last Congress, and it passed the Senate by unanimous consent, but unfortunately, the bill was never taken up by the House. This is important and needed legislation.

Family abductions are the most common form of abduction, yet they receive little attention, and law enforcement agencies too often don't treat them as the serious crimes that they are—too often dismissing the seriousness of these cases as family disputes.

The Family Abduction Prevention Act of 2007 would provide grants to States for the costs associated with family abduction prevention. Specifically, it would assist States with costs associated with the extradition of individuals suspected of committing the crime of family abduction, costs borne by State and local law enforcement agencies to investigate cases of missing children, training for local and State law enforcement agencies in responding to family abductions, outreach and media campaigns to educate parents on the dangers of family abductions, and assistance to public schools to help with costs associated with ''flagging'' school records.

Each year, over 200,000 children—78 percent of all abductions in the United States—are kidnapped by a family member, usually a non-custodial parent.

More than half of the abducting parents have a history of domestic violence, substance abuse, or a criminal record.

Unfortunately, many State and local law enforcement agencies frequently treat these abductions as personal, family disputes. Approximately 70 percent of law enforcement agencies lack written guidelines on responding to family abduction and many are not informed about the Federal laws available to help in the search and recovery of an abducted child.

Too often law enforcement assumes that a child is not in grave danger if the abductor is a family member. Unfortunately, this is not always true, and this assumption can endanger a child's life. Research has shown that the most common motive in family abduction cases is revenge against the other parent—not love for the child.

The effects of family abduction on children are often traumatic. Abducted children suffer from severe separation anxiety. To break emotional ties with the left-behind parent, some abductors will coach a child into falsely disclosing abuse by the other parent to perpetuate their control during or after the abduction. And in many cases, the child is told that the other parent is dead or did not really love them.

For example, on Takeroot.org, a website devoted to the victims of family abductions, a young lady named Kelly told the story of how her parents were going through a bitter divorce and custody battle when she was nine, and her brother was six. Her dad picked them up for a regular visit, but then just kept on driving.

Kelly says, ''If I close my eyes, I can still see my mother waving goodbye as we watched her from the rear window of our father's truck. . . . Little did we know that it would be close to a year before we would see her again.''

Days later, Kelly started asking her father why they were continuing to drive—and why they were sleeping in the truck. After a while, her father finally broke his silence and screamed at her that her mother had given him the children because she didn't love them and that they would just have to learn to deal with it.

For the next eleven months, they lived like fugitives on the run, often dirty and hungry, ''with very little money and even less love,'' according to Kelly. ''We left in the middle of the night, never saying goodbye to friends we may have made or people we met. I still see those people in my mind's eye. I miss them. . . . Mostly, I miss the child I was, the child I lost.''

The harm caused by these abductions cannot easily be put into words. In many family abduction cases, children are given new identities at an age when they are still developing a sense of who they are. In extreme cases, the child's gender is masked to further avoid detection.

Abducting parents also often deprive their children of education and much-needed medical attention to avoid the risk of being tracked via school or medical records.

As the child adapts to a fugitive's lifestyle, deception becomes an integral part of their life. The child is taught to fear those that one would normally trust, such as police, doctors, teachers and counselors. Even after recovery, the child often has a difficult time growing into adulthood.

In some cases, the abducting parent leaves the child with strangers, or locations where their health, safety, and other basic needs may be extremely compromised.

For example, in Lafayette, CA, two girls abducted by their mother ended up under the control of a convicted child molester. When Kelli Nunez absconded with her daughters, 6-year-old Anna and 4-year-old Emily, in violation of court custody orders, she drove her daughters cross-country, and then returned by plane to San Francisco, where she handed the children to someone holding a coded sign at the airport.

The person holding the sign belonged to a helpful-sounding organization called the California Family Law Center—but the organization was actually led by Florencio Maning, a convicted child molester. For six months, Maning orchestrated the concealment of the Nunez girls with help from other people.

Luckily, police were able to track down the girls, and they were successfully reunited with their father. That success may have been due to the fact that California has been the Nation's leader in fighting family abduction.

In my State, we have a system that places the responsibility for the investigation and resolution of family abduction cases with the County District Attorney's Office. Each California County District Attorney's Office has an investigative unit that is focused on family abduction cases. These investigators only handle family abduction cases and become experts in the process.

However, most States lack the training and resources to effectively recover children who are kidnapped by a family member. According to a study conducted by Plass, Finkelhor and Hotaling, 62 percent of parents surveyed said they were ''somewhat'' or ''very'' dissatisfied with police handling of their family abduction cases.

The ''Family Abduction Prevention Act of 2007'' would be an important first step in addressing this serious issue.

I urge my colleagues to pass this important legislation, just as you did in the 109th Congress.

By Mr. STEVENS:

S. 183. A bill to require the establishment of a corporate average fuel economy standard for passenger automobiles of 40 miles per gallon 2017, and for other purpose; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, the bill that I introduce today features language that would remove the legal ambiguity that for years has inhibited the Secretary of Transportation from raising fuel economy standards for passenger cars, and the measure would mandate that a fuel economy standard for passenger cars be set at 40 miles per gallon by model year 2017. By providing authority to increase standards for passenger cars, and requiring a specific fuel economy standard target, this bill would provide consumers with fuel savings at the pump, limit the Nation's dependence on foreign oil, and significantly reduce greenhouse gas emissions.

The bill would remove from the current Corporate Average Fuel Economy (CAFE) statute the requirement that the Secretary of Transportation submit to Congress any proposal to increase or decrease fuel economy standards. This requirement has been deemed unconstitutional by the U.S. Supreme Court. This legal hurdle, coupled with years of Federal funding legislation precluding the Secretary from reviewing CAFE, has prevented increases in fuel economy in the domestic passenger vehicle fleet.

The Secretary recently completed a dramatic reform of the fuel economy standards for the light-truck fleet, and he might have made similar reforms to the passenger fleet but for the statutory ambiguity of the current CAFE statute. I applaud the Secretary for his recent CAFE increases for light trucks, and I commend the administration for its seven light truck CAFE increases in the last six years. But the time has come for the Secretary to increase fuel economy standards for passenger cars as well.

In 2000, the National Academy of Sciences (NAS) issued a report that concluded that the benefits resulting from CAFE since its implementation in 1978 clearly warrant Government intervention to ensure fuel economy levels beyond what may result from market forces alone. The NAS panel found that CAFE has led to marked improvements in reducing greenhouse gas emissions, fuel consumption, and dependence on foreign oil.

Mr. President, the United States imports almost 11 million barrels of crude oil every day, compared with only five million produced here at home. And over two million imported barrels hail from the Persian Gulf region. The terrorist attacks waged on this country on September 11, 2001, and the ongoing turmoil in the Middle East has brought into focus the need to reduce our dependence on all foreign oil. The savings achieved by increasing fuel economy standards for the entire U.S. passenger vehicle fleet is essential if we are to increase our energy independence and national security.

This bill also would require the Secretary of Commerce to create a national registry system that, for the first time, would enable the automobile industry to trade fuel economy credits with other industries that generate greenhouse gas emissions. Participation in the registry would be voluntary, and any entity conducting business in the United States would be eligible to utilize the services of the registry. Therefore, automobile manufacturers would be able to contribute or purchase emissions credits with other industries that generate greenhouse gases in order to achieve compliance with CAFE and emissions standards.

Mr. President, any change to fuel economy standards requires the careful balance of many factors, including national security, consumer preference, domestic employment, as well as the need for powerful and durable vehicles in rural America, including my home State of Alaska. The amendment would provide the Secretary the authority to balance these considerations, and to make the appropriate and necessary fuel economy increases. I urge my colleagues to support this legislation.

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

S. 183

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 ''Improved Passenger Automobile Fuel Economy Act of 2007''.

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

Sec. 1. Short title; table of contents.

TITLE I—40 MPG STANDARD BY 2017

Sec. 101. Cafe standards for passenger automobiles.
Sec. 102. Fuel economy standard credits.
Sec. 103. Authorization of appropriations.
Sec. 104. Effective date.

TITLE II—MARKET—BASED INITIATIVES FOR GREENHOUSE GAS REDUCTION

Sec. 201. Market-based initiatives.
Sec. 202. Implementing panel.
Sec. 203. Definitions.

TITLE I—40 MPG STANDARD BY 2017

SEC. 101. CAFE STANDARDS FOR PASSENGER AUTOMOBILES.

(a) AVERAGE FUEL ECONOMY STANDARDS FOR AUTOMOBILES.—Section 32902 of title 49, United States Code, is amended—

(1) by striking subsections (b) and (c) and inserting the following:

''(b) PASSENGER AUTOMOBILES.—

''(1) IN GENERAL.—At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for passenger automobiles manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year. The Secretary may prescribe separate standards for different classes of passenger automobiles.

''(2) MINIMUM STANDARD.—Except as provided in paragraph (3), in prescribing a standard under paragraph (1), the Secretary shall ensure that no manufacturer's standard for a particular model year is less than the greater of—

''(A) the standard in effect on the date of enactment of the Improved Passenger Automobile Fuel Economy Act of 2007; or

''(B) a standard established in accordance with the requirement of section 104(c)(2) of that Act.

''(3) 40 MILES PER GALLON STANDARD FOR MODEL YEAR 2017.—The Secretary shall prescribe an average fuel economy standard for passenger automobiles manufactured by a manufacturer in model year 2017 of 40 miles per gallon. If the Secretary determines that more than 1 manufacturer is not reasonably expected to achieve that standard, the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce of that determination.

''(c) FLEXIBILITY OF AUTHORITY.—

''(1) IN GENERAL.—The authority of the Secretary to prescribe by regulation average fuel economy standards for automobiles under this section includes the authority to prescribe standards based on one or more vehicle attributes that relate to fuel economy, and to express the standards in the form of a mathematical function. The Secretary may issue a regulation prescribing standards for one or more model years.

''(2) REQUIRED LEAD-TIME.—When the Secretary prescribes an amendment to a standard under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the amendment at least 18 months before the beginning of the model year to which the amendment applies.

''(3) NO ACROSS-THE-BOARD INCREASES.—When the Secretary prescribes a standard, or prescribes an amendment under this section that changes a standard, the standard may not be expressed as a uniform percentage increase from the fuel-economy performance of automobile classes or categories already achieved in a model year by a manufacturer.'';

(2) by inserting ''motor vehicle safety, emissions,'' in subsection (f) after ''economy,'';

(3) by striking ''energy.'' in subsection (f) and inserting ''energy and reduce its dependence on oil for transportation.'';

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

''(j) NOTICE OF FINAL RULE.—Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and the Administrator of the Environmental Protection Agency and provide them a reasonable time to comment on the standard or exemption.''; and

(5) by adding at the end thereof the following:

''(k) COSTS–BENEFITS.—The Secretary of Transportation may not prescribe an average fuel economy standard under this section that imposes marginal costs that exceed marginal benefits, as determined at the time any change in the standard is promulgated.''.

(b) EXEMPTION CRITERIA.—The first sentence of section 32904(b)(6)(B) of title 49, United States Code, is amended—

(1) by striking ''exemption would result in reduced'' and inserting ''manufacturer requesting the exemption will transfer'';

(2) by striking ''in the United States'' and inserting ''from the United States''; and

(3) by inserting ''because of the grant of the exemption'' after ''manufacturing''.

(c) CONFORMING AMENDMENTS.—

(1) Section 32902 of title 49, United States Code, is amended—

(A) by striking ''or (c)'' in subsection (d)(1);

(B) by striking ''(c),'' in subsection (e)(2);

(C) by striking ''subsection (a) or (d)'' each place it appears in subsection (g)(1) and inserting ''subsection (a), (b), or (d)'';

(D) by striking ''(1) The'' in subsection (g)(1) and inserting ''The'';

(E) by striking subsection (g)(2); and

(F) by striking ''(c),'' in subsection (h) and inserting ''(b),''.

(2) Section 32903 of such title is amended by striking ''section 32902(b)–(d)'' each place it appears and inserting ''subsection (b) or (d) of section 32902''.

(3) Section 32904(a)(1)(B) of such title is amended by striking ''section 32902(b)–(d)'' and inserting ''subsection (b) or (d) of section 32902''.

(4) The first sentence of section 32909(b) of such title is amended to read ''The petition must be filed not later than 59 days after the regulation is prescribed.''.

(5) Section 32917(b)(1)(B) of such title is amended by striking ''or (c)''.

SEC. 102. FUEL ECONOMY STANDARD CREDITS.

(a) IN GENERAL.—Section 32903 of title 49, United States Code, is amended by striking the second sentence of subsection (a) and inserting ''The credits—

''(1) may be applied to any of the 3 model years immediately following the model year for which the credits are earned; or

''(2) transferred to the registry established under section 201 of the Improved Passenger Automobile Fuel Economy Act of 2007.''.

(b) GREENHOUSE GAS CREDITS APPLIED TO CAFE STANDARDS.—Section 32903 of title 49, United States Code, is amended by adding at the end the following:

''(g) GREENHOUSE GAS CREDITS.—

''(1) IN GENERAL.—A manufacturer may apply credits purchased through the registry

established by section 201 of the Improved Passenger Automobile Fuel Economy Act of 2007 toward any model year after model year 2010 under subsection (d), subsection (e), or both.

''(2) LIMITATION.—A manufacturer may not use credits purchased through the registry to offset more than 10 percent of the fuel economy standard applicable to any model year.''.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this title and chapter 329 of title 49, United States Code, as amended by this title.

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title, and the amendments made by this title, take effect on the date of enactment of this Act.

(b) TRANSITION FOR PASSENGER AUTOMOBILE STANDARD.—Notwithstanding subsection (a), and except as provided in subsection (c)(2), until the effective date of a standard for passenger automobiles that is issued under the authority of section 32902(b) of title 49, United States Code, as amended by this Act, the standard or standards in place for passenger automobiles under the authority of section 32902 of that title, as that section was in effect on the day before the date of enactment of this Act, shall remain in effect.

(c) RULEMAKING.—

(1) INITIATION OF RULEMAKING UNDER AMENDED LAW.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking for passenger automobiles under section 32902(b) of title 49, United States Code, as amended by this Act.

(2) AMENDMENT OF EXISTING STANDARD.—Until the Secretary issues a final rule pursuant to the rulemaking initiated in accordance with paragraph (1), the Secretary shall amend the average fuel economy standard prescribed pursuant to section 32092(b) of title 49, United States Code, with respect to passenger automobiles in model years to which the standard adopted by such final rule does not apply.

TITLE II—MARKET-BASED INITIATIVES FOR GREENHOUSE GAS REDUCTION

SEC. 201. MARKET-BASED INITIATIVES.

(a) ESTABLISHMENT OF REGISTRY FOR VOLUNTARY TRADING SYSTEMS.—The Secretary of Commerce shall establish a national registry system for greenhouse gas trading among industry under which emission reductions from the applicable baseline are assigned unique identifying numerical codes by the registry. Participation in the registry is voluntary. Any entity conducting business in the United States may register its emission results, including emissions generated outside of the United States, on an entity-wide basis with the registry, and may utilize the services of the registry.

(b) PURPOSES.—The purposes of the national registry are—

(1) to encourage voluntary actions to reduce greenhouse gas emissions and increase energy efficiency, including increasing the fuel economy of passenger automobiles and light trucks and reducing the reliance by United States markets on petroleum produced outside the United States used to provide vehicular fuel;

(2) to enable participating entities to record voluntary greenhouse gas emissions reductions; in a consistent format that is supported by third party verification;

(3) to encourage participants involved in existing partnerships to be able to trade emissions reductions among partnerships;

(4) to further recognize, publicize, and promote registrants making voluntary and mandatory reductions;

(5) to recruit more participants in the program; and

(6) to help various entities in the nation establish emissions baselines.

(c) FUNCTIONS.—The national registry shall carry out the following functions:

(1) REFERRALS.—Provide referrals to approved providers for advice on—

(A) designing programs to establish emissions baselines and to monitor and track greenhouse gas emissions; and

(B) establishing emissions reduction goals based on international best practices for specific industries and economic sectors.

(2) UNIFORM REPORTING FORMAT.—Adopt a uniform format for reporting emissions baselines and reductions established through—

(A) the Director of the National Institute of Standards and Technology for greenhouse gas baselines and reductions generally; and

(B) the Secretary of Transportation for credits under section 32903 of title 49, United States Code.

(3) RECORD MAINTENANCE.—Maintain a record of all emission baselines and reductions verified by qualified independent auditors.

(4) ENCOURAGE PARTICIPATION.—Encourage organizations from various sectors to monitor emissions, establish baselines and reduction targets, and implement efficiency improvement and renewable energy programs to achieve those targets.

(5) PUBLIC AWARENESS.—Recognize, publicize, and promote participants that—

(A) commit to monitor their emissions and set reduction targets;

(B) establish emission baselines; and

(C) report on the amount of progress made on their annual emissions.

(d) TRANSFER OF REDUCTIONS.—The registry shall—

(1) allow for the transfer of ownership of any reductions realized in accordance with the program; and

(2) require that the registry be notified of any such transfer within 30 days after the transfer is effected.

(e) FUTURE CONSIDERATIONS.—Any reductions achieved under this program shall be credited against any future mandatory greenhouse gas reductions required by the government. Final approval of the amount and value of credits shall be determined by the agency responsible for the implementation of the mandatory greenhouse gas emission reduction program, except that credits under section 32903 of title 49, United States Code, shall be determined by the Secretary of Transportation. The Secretary of Commerce shall by rule establish an appeals process, that may incorporate an arbitration option, for resolving any dispute arising out of such a determination made by that agency.

(f) CAFE STANDARDS CREDITS.—The Secretary of Transportation shall work with the Secretary of Commerce and the implementing panel established by section 202 to determine the equivalency of credits earned under section 32903 of title 49, United States Code, for inclusion in the registry. The Secretary shall by rule establish an appeals process, that may incorporate an arbitration option, for resolving any dispute arising out of such a determination.

SEC. 202. IMPLEMENTING PANEL.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an implementing panel.

(b) COMPOSITION.—The panel shall consist of—

(1) the Secretary of Commerce or the Secretary's designee, who shall serve as Chairperson;

(2) the Secretary of Transportation or the Secretary's designee; and

(3) 1 expert in the field of greenhouse gas emissions reduction, certification, or trading from each of the following agencies—

(A) the Department of Energy;

(B) the Environmental Protection Agency;

(C) the Department of Agriculture;

(D) the National Aeronautics and Space Administration;

(E) the Department of Commerce; and

(F) the Department of Transportation.

(c) EXPERTS AND CONSULTANTS.—Any member of the panel may secure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, for greenhouse gas reduction, certification, and trading experts in the private and non-profit sectors and may also utilize any grant, contract, cooperative agreement, or other arrangement authorized by law to carry out its activities under this subsection.

(d) DUTIES.—The panel shall—

(1) implement and oversee the implementation of this section;

(2) promulgate—

(A) standards for certification of registries and operation of certified registries; and

(B) standards for measurement, verification, and recording of greenhouse gas emissions and greenhouse gas emission reductions by certified registries;

(3) maintain, and make available to the public, a list of certified registries; and

(4) issue rulemakings on standards for measuring, verifying, and recording greenhouse gas emissions and greenhouse gas emission reductions proposed to the panel by certified registries, through a standard process of issuing a proposed rule, taking public comment for no less than 30 days, then finalizing regulations to implement this act, which will provide for recognizing new forms of acceptable greenhouse gas reduction certification procedures.

(e) CERTIFICATION AND OPERATION STANDARDS.—The standards promulgated by the panel shall include—

(1) standards for ensuring that certified registries do not have any conflicts of interest, including standards that prohibit a certified registry from—

(A) owning greenhouse gas emission reductions recorded in any certified registry; or

(B) receiving compensation in the form of a commission where sources receive money for the total number of tons certified;

(2) standards for authorizing certified registries to enter into agreements with for-profit persons engaged in trading of greenhouse gas emission reductions, subject to paragraph (1); and

(3) such other standards for certification of registries and operation of certified registries as the panel determines to be appropriate.

(f) MEASUREMENT, VERIFICATION, AND RECORDING STANDARDS.—The standards promulgated by the panel shall provide for, in the case of certified registries—

(1) ensuring that certified registries accurately measure, verify, and record greenhouse gas emissions and greenhouse gas emission reductions, taking into account—

(A) boundary issues such as leakage and shifted utilization; and

(B) such other factors as the panel determines to be appropriate;

(2) ensuring that—

(A) certified registries do not double-count greenhouse gas emission reductions; and

(B) if greenhouse gas emission reductions are recorded in more than 1 certified registry, such double-recording is clearly indicated;

(3) determining the ownership of greenhouse gas emission reductions and recording and tracking the transfer of greenhouse gas emission reductions among entities (such as

through assignment of serial numbers to greenhouse gas emission reductions);

(4) measuring the results of the use of carbon sequestration and carbon recapture technologies;

(5) measuring greenhouse gas emission reductions resulting from improvements in—

(A) power plants;

(B) automobiles (including types of passenger automobiles and light trucks, as defined in section 32901(a)(16) and (17) respectively, produced in the same model year);

(C) carbon re-capture, storage and sequestration, including organic sequestration and manufactured emissions injection, and or storage.

(D) other sources;

(6) measuring prevented greenhouse gas emissions through the rulemaking process and based on the latest scientific data, sampling, expert analysis related to measurement and projections for prevented greenhouse gas emissions in tons including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestation activities which adequately address the issues of permanence, leakage and verification; and

(7) such other measurement, verification, and recording standards as the panel determines to be appropriate.

(g) CERTIFICATION OF REGISTRIES.—Except as provided in subsection (h), a registrant that desires to be a certified registry shall submit to the panel an application that—

(1) demonstrates that the registrant meets each of the certification standards established by the panel under subsections (d) and (e); and

(2) meets such other requirements as the panel may establish.

(h) AUTOMOBILE INDUSTRY.—The Secretary of Transportation is deemed to be the certified registrant for credits earned under section 32903 of title 49, United States Code.

(i) ANNUAL REPORT.—Within 1 year after the date after the date of enactment of this Act and biennially thereafter, the panel shall report to the Congress on the status of the program established under this section. The report shall include an assessment of the level of participation in the program and amount of progress being made on emission reduction targets.

SEC. 203. DEFINITIONS.

In this title:

(1) GREENHOUSE GAS.—The term ''greenhouse gas'' includes—

(A) carbon dioxide;

(B) methane;

(C) hydro fluorocarbons;

(D) perfluorocarbons;

(E) nitrous oxide; and

(F) sulfur hexafluoride.

(2) BASELINE.—The term ''baseline'' means—

(A) the greenhouse gas emissions, determined on an entity-wide basis for the participant's most recent previous 3-year annual average of greenhouse gas emissions prior to the date of enactment of this Act; or

(B) if data is unavailable for that 3-year period, the greenhouse gas emissions as of September 30, 2004, (or as close to that date as such emission levels can reasonably be determined). In promulgating regulations under this title, the panel shall take into account greenhouse gas emission reductions or offsetting actions taken by any entity before the date on which the registry is established.

(3) CERTIFIED REGISTRY.—The term ''certified registry'' means a registry that has been certified by the panel as meeting the standards promulgated under section 202(e) and (f) and, for the automobile industry, the Secretary of Transportation.

(4) GREENHOUSE GAS EMISSIONS.—The term ''greenhouse gas emissions'' means the quantity of greenhouse gases emitted by a source during a period, measured in tons of greenhouse gases.

(5) GREENHOUSE GAS EMISSION REDUCTION.—The term ''greenhouse gas emission reduction'' means a quantity equal to the difference between—

(A) the greenhouse gas emissions of a source during a period; and

(B) the greenhouse gas emissions of the source during a baseline period of the same duration as determined by registries and entities defined as owners of emission sources.

(6) KYOTO PROTOCOL.—The term ''Kyoto protocol'' means the Kyoto Protocol to the United Nations Framework Convention on Climate Change (including the Montreal Protocol to the Convention on Substances that Deplete the Ozone Layer).

(7) PANEL.—The term ''panel'' means the implementing panel established by section 202(a).

(8) REGISTRANT.—The term ''registrant'' means a private person that operates a database recording quantified and verified greenhouse gas emissions and emissions reductions of sources owned by other entities.

(9) SOURCE.—The term ''source'' means a source of greenhouse gas emissions.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. LAUTENBERG, Ms. SNOWE, Mr. ROCKEFELLER, Mr. KERRY, Mr. LIEBERMAN. Mrs. BOXER, Mr. PRYOR, Mr. CARPER, Mr. BIDEN, Mr. BAUCUS, Mrs. CLINTON, and Mr. SCHUMER):

S. 184. A bill to provide improved rail and surface transportation security; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, last year we made significant improvements to the Nation's transportation security system by enacting the SAFE Port Act, which strengthened the security of our Nation's ports and maritime vessels. Yet, during the conference on this important bill, the Congress failed to seize the opportunity to enact comprehensive transportation security legislation that would have provided real homeland security for our entire transportation system. The Senate-passed version of the SAFE Port Act contained essential provisions that would have strengthened security in all of the surface modes of transportation, including passenger and freight rail, public transit, trucking, intercity bus and pipelines. But jurisdictional infighting and a lack of political will kept the leadership of the House of Representatives from agreeing to, or even attempting to consider, these provisions in conference.

Given the urgent need for surface transportation security improvements, Cochairman STEVENS and I are introducing the Surface Transportation and Rail Security Act of 2007, or STARS Act, to once again offer the Congress an opportunity to enact a comprehensive transportation security bill. We have all seen the possible consequences of an attack on critical surface transportation systems in Madrid and London. We have all heard about possible threats and foiled plots aimed at our rail tunnels and stations here at home. The time has come for us to address these vulnerabilities and risks in a comprehensive and coordinated way that ensures that in the rush to protect one mode of transportation we don't shift vulnerability towards other, less secure, transportation modes.

The STARS Act combines the rail, truck, bus, pipeline and hazardous materials security provisions that were included in the Senate-passed SAFE Port Act into a stand-alone bill, which the Commerce Committee will soon consider. These provisions were endorsed unanimously by the Senate during consideration of the SAFE Port Act, and the House of Representatives overwhelmingly voted to instruct its conferees to include these provisions in the Conference Report—advice the House leadership declined to accept. Additionally, the rail security portion of this package has already passed the Senate twice in prior Congresses and has been endorsed by railroads and rail labor alike. This kind of support demonstrates both the necessity of these improvements and the distinct possibility that we can finally enact these provisions into law this Congress.

The legislation that we introduce today reflects the Commerce Committee's substantial expertise over the issues of transportation security. The time has come to advance these improvements, and protect the vital surface transportation assets that grant us the quality of life and economic health that we all cherish. Our legislation presents an opportunity to make immediate progress on transportation security, and it is my sincere hope that my colleagues will join me in supporting consideration and passage of this measure as soon as possible.

I ask unanimous consent that 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. 184

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 ''Surface Transportation and Rail Security Act of 2007''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—IMPROVED RAIL SECURITY

Sec. 101. Rail transportation security risk assessment.
Sec. 102. Systemwide amtrak security upgrades.
Sec. 103. Fire and life-safety improvements.
Sec. 104. Freight and passenger rail security upgrades.
Sec. 105. Rail security research and development.
Sec. 106. Oversight and grant procedures.
Sec. 107. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 108. Northern border rail passenger report.
Sec. 109. Rail worker security training program.

Sec. 110. Whistleblower protection program.
Sec. 111. High hazard material security threat mitigation plans.
Sec. 112. Memorandum of agreement.
Sec. 113. Rail security enhancements.
Sec. 114. Public awareness.
Sec. 115. Railroad high hazard material tracking.
Sec. 116. Authorization of appropriations.
TITLE II—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY
Sec. 201. Hazardous materials highway routing.
Sec. 202. Motor carrier high hazard material tracking.
Sec. 203. Hazardous materials security inspections and enforcement.
Sec. 204. Truck security assessment.
Sec. 205. National public sector response system.
Sec. 206. Over-the-road bus security assistance.
Sec. 207. Pipeline security and incident recovery plan.
Sec. 208. Pipeline security inspections and enforcement.
Sec. 209. Technical corrections.
Sec. 210. Certain personnel limitations not to apply.

TITLE I—IMPROVED RAIL SECURITY

SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY AND RISK ASSESSMENT.—The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities describe in subsection (b) and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies;

(B) identification and evaluation of critical assets and infrastructures;

(C) identification of vulnerabilities and risks to those assets and infrastructures;

(D) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad;

(E) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment; and

(F) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions.

(2) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(3) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2008.

SEC. 102. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL.—Subject to subsection (c) the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units;

(7) to expand emergency preparedness efforts; and

(8) for employee security training.

(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary of Homeland Security. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 101, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act,, there shall be made available to the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(1) $63,500,000 for fiscal year 2008;

(2) $30,000,000 for fiscal year 2009; and

(3) $30,000,000 for fiscal year 2010.

Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 103. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 116(b) of this Act, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2008;

(B) $100,000,000 for fiscal year 2009;

(C) $100,000,000 for fiscal year 2010; and

(D) $100,000,000 for fiscal year 2011.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2008;

(B) $10,000,000 for fiscal year 2009;

(C) $10,000,000 for fiscal year 2010; and

(D) $10,000,000 for fiscal year 2011.

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2008;

(B) $8,000,000 for fiscal year 2009;

(C) $8,000,000 for fiscal year 2010; and

(D) $8,000,000 for fiscal year 2011.

(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 116(b) of this Act, there shall be made available to the Secretary of Transportation for fiscal year 2008 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

SEC. 104. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security vulnerabilities and risks identified under section 101, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 101, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk and vulnerability as determined under section 101, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 102(b) of this Act.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 101 the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $45,000,000 to Amtrak; or

(2) in excess of $80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act,, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $100,000,000 for fiscal year 2008;

(2) $100,000,000 for fiscal year 2009; and

(3) $100,000,000 for fiscal year 2010

Amounts made available pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

SEC. 105. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary of Homeland Security, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 104(g) of this Act); and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects that address vulnerabilities and risks identified under section 101.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary of Homeland Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section 104(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as

amended by section 116 of this Act,, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $33,000,000 for fiscal year 2008;

(2) $33,000,000 for fiscal year 2009; and

(3) $33,000,000 for fiscal year 2010.

Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 106. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Homeland Security may use up to 0.5 percent of amounts made available for capital projects under this Act to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts to audit and review the safety, procurement, management, and financial compliance of a recipient of amounts under this title.

(c) PROCEDURES FOR GRANT AWARD.—The Secretary shall, within 90 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code.

SEC. 107. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Surface Transportation and Rail Security Act of 2007, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) FUNDING.—Out of funds appropriated pursuant to section 116(b) of the Surface Transportation and Rail Security Act of 2007, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2007 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. 108. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security; and

(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

SEC. 109. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall include elements, as appropriate to passenger and freight rail service, that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(7) Situational training exercises regarding various threat conditions.

(8) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 90 days after the Secretary of Homeland Security issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's

comments within 30 days after receiving them.

(d) TRAINING.—Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.

(f) FRONT-LINE WORKERS DEFINED.—In this section, the term ''front-line workers'' means security personnel, dispatchers, train operators, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.

(g) OTHER EMPLOYEES.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

SEC. 110. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

''§ 20118. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this subtitle, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

''20118. Whistleblower protection for rail security matters.''.

SEC. 111. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 104(g) of this Act to develop a high hazard material security threat mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.

(b) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards—

(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

(c) COMPLETION AND REVIEW OF PLANS.—

(1) PLANS REQUIRED.—Each rail carrier shall—

(A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act;

(B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary; and

(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.

(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

(d) DEFINITIONS.—In this section:

(1) The term ''high-consequence target'' means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in—

(A) catastrophic loss of life; and

(B) significantly damaged national security and defense capabilities; or

(C) national economic harm.

(2) The term ''catastrophic impact zone'' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

(3) The term ''rail carrier'' has the meaning given that term by section 10102(5) of title 49, United States Code.

SEC. 112. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Similar to the public transportation security annex between the two departments signed on September 8, 2005, within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 113. RAIL SECURITY ENHANCEMENTS.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Under''; and

(2) by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 114. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland

Security shall implement the plan developed under this section.

SEC. 115. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—

(1) IN GENERAL.—In conjunction with the research and development program established under section 105 and consistent with the results of research relating to wireless tracking technologies, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 104(g) of this Act) with wireless terrestrial or satellite communications technology that provides—

(A) car position location and tracking capabilities;

(B) notification of rail car depressurization, breach, or unsafe temperature; and

(C) notification of hazardous material release.

(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

(b) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2008, 2009, and 2010.

SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, is amended by adding at the end thereof the following:

''(u) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for rail security—

''(1) $228,000,000 for fiscal year 2008;

''(2) $183,000,000 for fiscal year 2009; and

''(3) $183,000,000 for fiscal year 2010.''.

(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out this title and sections 20118 and 24316 of title 49, United States Code, as added by this Act—

(1) $121,500,000 for fiscal year 2007;

(2) $118,000,000 for fiscal year 2008;

(3) $118,000,000 for fiscal year 2009; and

(4) $195,000,000 for fiscal year 2011.

TITLE II—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

SEC. 201. HAZARDOUS MATERIALS HIGHWAY ROUTING.

(a) ROUTE PLAN GUIDANCE.—Within one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall—

(1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a Geographic Information System-based approach to characterize routes in the National Hazardous Materials Route Registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security vulnerabilities associated with hazardous material routes;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security vulnerabilities when designating highway routes for hazardous materials consistent with the 13 safety-based non-radioactive materials routing criteria and radioactive materials routing criteria in Subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous material and assess specific security vulnerabilities associated with each route and explore alternative mitigation measures; and

(7) transmit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure a report on the actions taken to fulfill paragraphs (1) through (6) of this subsection and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

(b) ROUTE PLANS.—

(1) ASSESSMENT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title, taking into account the various segments of the trucking industry, including tank truck, truckload and less than truckload carriers.

(2) REPORT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the assessment.

(c) REQUIREMENT.—The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance the security and safety of the nation without imposing unreasonable costs or burdens upon motor carriers.

SEC. 202. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS—

(1) IN GENERAL.—Consistent with the findings of the Transportation Security Administration's Hazmat Truck Security Pilot Program and within 6 months after the date of enactment of this Act, the Secretary of Homeland Security, through the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to encourage the equipping of motor carriers transporting high hazard materials in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless communications technology that provides—

(A) continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency message.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(C) evaluate—

(i) any new information related to the cost and benefits of deploying and utilizing truck tracking technology for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of truck tracking technology to resist tampering and disabling;

(iii) the capability of truck tracking technology to collect, display, and store information regarding the movements of shipments of high hazard materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials; and

(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities and alert emergency response resources to locate and recover security sensitive material in the event of loss or theft of such material.

(b) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2008, 2009, and 2010.

SEC. 203. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act. In establishing the program, the Secretary shall ensure that—

(1) the program does not subject carriers to unnecessarily duplicative reviews of their security plans by the 2 departments; and

(2) a common set of standards is used to review the security plans.

(b) CIVIL PENALTY.—The failure, by a shipper, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Secretary of such failure to comply, is punishable by a civil penalty imposed by the Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the shipper, carrier, or other person received notice of the failure shall constitute a separate failure.

(c) COMPLIANCE REVIEW.—In reviewing the compliance of hazardous materials shippers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Secretary shall utilize risk assessment methodologies to prioritize review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations.

(d) TRANSPORTATION COSTS STUDY.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Homeland Security, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous materials are reflected in the rates paid by shippers of such commodities as compared to the costs and rates respectively for the transportation of non-hazardous materials.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $2,000,000 for fiscal year 2008;

(2) $2,000,000 for fiscal year 2009; and

(3) $2,000,000 for fiscal year 2010.

SEC. 204. TRUCK SECURITY ASSESSMENT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Finance, the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Homeland Security, and the House of Representatives Committe on Ways and Means, a report on security issues related to the trucking industry that includes—

(1) an assessment of actions already taken to address identified security issues by both public and private entities;

(2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;

(3) an assessment of ongoing research and the need for additional research on truck security; and

(4) an assessment of industry best practices to enhance security.

SEC. 205. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.

(a) DEVELOPMENT.—The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall consider the development of a national public sector response system to receive security alerts, emergency messages, and other information used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In considering the development of this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, private for-profit and nonprofit emergency response organizations, and commercial motor vehicle and hazardous material safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response center developed for the Transportation Security Administration hazardous material truck security pilot program and hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.

(b) CAPABILITY.—The national public sector response system to be considered shall be able to receive, as appropriate—

(1) negative driver verification alerts;

(2) out-of-route alerts;

(3) driver panic or emergency alerts; and

(4) tampering or release alerts.

(c) CHARACTERISTICS.—The national public sector response system to be considered shall—

(1) be an exception-based system;

(2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and

(3) provide users the ability to create rules for alert notification messages.

(d) CARRIER PARTICIPATION.—The Secretary of Homeland Security shall coordinate with motor carriers and railroads transporting high hazard materials, entities acting on their behalf who receive communication alerts from motor carriers or railroads, or other Federal agencies that receive security and emergency related notification regarding high hazard materials in transit to facilitate the provisions of the information listed in subsection (b) to the national public sector response system to the extent possible if the system is established.

(e) DATA PRIVACY.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers, railroads, and employees.

(f) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on whether to establish a national public sector response system and the estimated total public and private sector costs to establish and annually operate such a system, together with any recommendations for generating private sector participation and investment in the development and operation of such a system.

(g) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $1,000,000 for fiscal year 2008;

(2) $1,000,000 for fiscal year 2009; and

(3) $1,000,000 for fiscal year 2010.

SEC. 206. OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration for making grants to private operators of over-the-road buses or over-the-road bus terminal operators for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing and upgrading an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this section shall be 80 percent.

(c) DUE CONSIDERATION.—In making grants under this section, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security threat to bus passengers and the ability of the funded project to reduce, or respond to, that threat.

(d) GRANT REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(e) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(A) a plan for making security improvements described in subsection (a) and the Secretary has approved the plan; and

(B) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(f) OVER-THE-ROAD BUS DEFINED.—In this section, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

(g) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a preliminary report in accordance with the requirements of this section.

(2) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(F) an assessment of industry best practices to enhance security.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

(h) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $12,000,000 for fiscal year 2008;

(2) $25,000,000 for fiscal year 2009; and

(3) $25,000,000 for fiscal year 2010.

Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 207. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed on August 9, 2006, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include—

(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 208—

(A) at high or severe security threat levels of alert; and

(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary of Homeland Security shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the private and public sector costs to implement any recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 208. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.

(b) REVIEW AND INSPECTION.—Within 9 months after the date of enactment of this Act the Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September, 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department of Homeland Security or the Department of Transportation, as determined by the Secretary in consultation with the Secretary of Transportation.

(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), the Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets.

(d) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit to pipeline operators and the Secretary of Transportation security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary of Homeland Security determines that regulations are appropriate, the Secretary shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $2,000,000 for fiscal year 2008; and

(2) $2,000,000 for fiscal year 2009.

SEC. 209. TECHNICAL CORRECTIONS.

(a) HAZMAT LICENSES.—Section 5103a of title 49, United States Code, is amended—

(1) by inserting ''of Homeland Security'' after ''Secretary'' each place it appears in subsections (a)(1), (d)(1)(b), and (e); and

(2) by redesignating subsection (h) as subsection (i) and inserting the following after subsection (g):

''(h) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS.—Upon application, a State shall issue to an individual a license to operate a motor vehicle transporting in commerce a hazardous material without the security assessment required by this section, provided the individual meets all other applicable requirements for such a license, if the Secretary of Homeland Security has previously determined, under section 70105 of title 46, United States Code, that the individual does not pose a security risk.''.

SEC. 210. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

Mr. LAUTENBERG. Mr. President, over five years since 9/11, much of our Nation's transportation systems remain vulnerable to terror attack. There are many reasons for the lack of action by the Federal Government, but we can no longer simply look the other way. Last year, the Congress had an opportunity to make significant strides to improve the security of our freight and passenger rail systems, highways, public transit systems, trucking and intercity bus operations, and pipeline systems. The Senate passed my amendments and amendments by other Senators to the SAFE Ports Act to address the security of these important modes of transportation. In fact, the House of Representatives overwhelmingly voted to instruct its conferees to include these provisions in the final conference report of the SAFE Ports Act.

Unfortunately, House Republican leaders stripped them out of the final version of the bill behind closed doors, instead enacting a ban on internet gambling. The actions by the House Republican leaders further delayed real progress in securing our homeland from terror. I believe the Federal Government must take a leadership role in securing our country from terrorism. States cannot on their own be left responsible for securing these interstate modes of transportation.

That is why I am proud to be an author of the Surface Transportation and Rail Security Act of 2007. I have worked with my committee co-chairmen—Senator INOUYE and Senator STEVENS—to ensure this bill gets quickly considered. Its provisions are not new to anyone. They were considered, and agreed to, merely four months ago by the Senate. I am hopeful that they will again be quickly considered and adopted.

This bill specifically requires accountability from the Department of Homeland Security, by ensuring that our rail systems have been analyzed for security risk. It authorizes necessary funding for making these security improvements and specifically includes $400 million for tunnel security improvements in the New Jersey/New

York region. I will seek further Federal funding for improving security of the New Jersey/New York region's tunnels and bridges in additional legislation to be introduced this month, by working with my colleagues on the appropriate committees in the Senate.

Last month, the Bush Administration proposed certain improvements to our nation's rail systems, but these proposals fell far short of what is needed to secure our country. For instance, the Administration proposal fails to take specific actions to improve the security of railroad stations, bridges, and tunnels. More people use Amtrak's Penn Station in New York City than use all three major New Jersey-New York region airports, Newark Liberty International, JFK, and LaGuardia airports, every day. This bill takes a much more comprehensive approach, by authorizing the funding needed to make these important security improvements.

Our Nation's freight rail systems move some 12 billion tons of cargo, but we are not doing enough to protect those systems. Some of this cargo includes hazardous chemicals and other dangerous materials which travel within feet of our schools, hospitals, neighborhoods, and snake right through the middle of our cities. The potential for disaster looms large, as the misuse of these shipments can produce an effect that a weapon of mass destruction would on our communities. Clearly much more thought needs to be put into how we move this dangerous cargo, and the Federal Government must be involved. The Bush Administration must agree with this assessment, as their proposal would strictly forbid states or communities from acting on their own to protect their residents from these risks.

I look forward to working with my colleagues to ensure that this important legislation gets considered and enacted soon. We cannot afford to delay any further these vital security improvements to our country.

Mr. SPECTER (for himself and Mr. LEAHY):

S. 185. A bill to restore habeas corpus for those detained by the United States; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I will introduce legislation denominated the Habeas Corpus Restoration Act. Last year, in the Military Commissions Act, the constitutional right of habeas corpus was attempted to be abrogated. I fought to pass an amendment to strike that provision of the Act which was voted 51 to 48. I say ''attempted to be abrogated'' because, in my legal judgment, that provision in the Act is unconstitutional.

It is hard to see how there can be legislation to eliminate the constitutional right to habeas corpus when the Constitution is explicit that habeas corpus may not be suspended except in time of invasion or rebellion, and we do not have either of those circumstances present, as was conceded by the advocates of the legislation last year to take away the right of habeas corpus.

We have had Supreme Court decisions which have made it plain that habeas corpus is available to noncitizens and that habeas corpus applies to territory controlled by the United States, specifically, including Guantanamo. More recently, however, we had a decision in the U.S. District Court for the District of Columbia applying the habeas corpus jurisdiction stripping provision of the Military Commissions Act, but I believe we will see the appellate courts strike down this legislative provision.

The contention that the gravamen or the substance of habeas corpus is provided by the statutory review to the Circuit Court of the District of Columbia is fallacious on its face. All the statute does is allow for a review of the regularity of proceedings. In my prepared statement, I cite an example of litigation before a federal district court, where a person charged with consorting with al-Qaida asked: ''What was the name of the person? He asked: What was the name of the person I'm supposed to have consorted with? And the Presiding Officer said: I don't know, which, according to the opinion, brought uproarious laughter from the audience. Here a man is charged with consorting with al-Qaida, and they cannot even tell him the name of the person he is alleged to have consorted with.

The hearing before the Judiciary Committee, which I chaired, contained expansive, detailed evidence about the proceedings under the review provisions in Guantanamo, which are grossly, totally insufficient.

The New York Times had an extensive article on this subject, starting on the front page, last Sunday, and continuing on a full page on the back page about what is happening at Guantanamo. It is hard to see how in America, or in a jurisdiction controlled by the United States, these proceedings could substitute for even rudimentary due process of law.

As I might add, the Habeas Corpus Restoration Act was introduced in the 109th Congress. I offered the bill on behalf of myself and Senator LEAHY. Consequently, we had this bill listed in the 109th Congress as a Specter-Leahy bill, and with Senator LEAHY's consent, it is denominated as the Specter-Leahy bill again in the 110th Congress.

Mr. President, I ask unanimous consent that my prepared text be printed in the Record.

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

HABEAS CORPUS RESTORATION ACT OF 2007

Mr. SPECTER. Mr. President, I seek recognition today to introduce the ''Habeas Corpus Restoration Act of 2007.'' Last September, during debate on the Military Commissions Act, I introduced an amendment to strike section 7 of the Act and thereby preserve the constitutional right of habeas corpus for the approximately 450 individuals detained at Guantanamo Bay. Because my amendment was not agreed to, by a narrow vote of 48–51, the right to the writ of habeas corpus was denied to those detainees. The privilege of the writ of habeas corpus has therefore been suspended.

On December 5, with my colleague Senator Leahy, I introduced the ''Habeas Corpus Restoration Act of 2006'' to restore the writ of habeas corpus and bring this country back into compliance with the United States Constitution. After all, the United States Constitution is unambiguous in Article 1, Section 9, Clause 2, where it states: ''The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.'' Today, along with Senator Leahy, I am reintroducing this important legislation.

The Habeas Corpus Restoration Act is very simple: It strikes the federal habeas corpus limitations imposed by the Military Commissions Act and the Detainee Treatment Act. In so doing, the bill affords aliens detained by the United States within its territorial jurisdiction, including those detained at the Guantanamo Bay Naval Base, the right to challenge their detention and military commission trial procedures by an application for writ of habeas corpus. It will ensure that the constitutional right of habeas corpus is afforded to all individuals detained by the United States government.

The Framers explicitly intended to extend habeas protections to all, absent a case of rebellion, invasion, or the interest of public safety. This principle was ratified by the Supreme Court in the case of Hamdi v. Rumsfeld, where Justice O'Connor stated ''[a]ll agree that absent suspension, the writ of habeas corpus remains available to every individual detained within the United States.''

This protection extends to those detained in Guantanamo since it is a facility exclusively under the control of the United States. In Rasul v. Bush, the Supreme Court held that habeas corpus rights apply even to aliens held at Guantanamo Bay. One does not need to be a United States citizen to be afforded basic constitutional habeas corpus rights and the U.S. Constitution draws no distinction between American citizens and aliens held in U.S. custody.

Although some argue that Combatant Status Review Tribunals, commonly referred to as ''CSRTs,'' are an adequate and effective means to challenge detention in accordance with the Supreme Court's decision in Swain v. Pressley, I couldn't disagree more. In my view, CSRTs are a sham. We have learned a great deal about the cursory review provided by these tribunals at Guantanamo Bay. They operate with very little information. Somebody is picked up on the battlefield. There is no record preserved as to what that individual did. If there was a weapon involved, it was collected and mixed in with many other weapons. There is no chain of custody or even a record of what was seized. In sum, CSRTs are nothing more than a one-sided interrogation by the military tribunal members. These proceedings simply do not comport with basic fairness because the individuals detained do not have the right to know what evidence there is against them. As Justice O'Connor wrote in her plurality opinion in the Hamdi case, ''[a]n interrogation by one's captor, however effective an intelligence-gathering tool, hardly constitutes a constitutionally adequate factfinding before a neutral decisionmaker.'' It is essential that we provide an adequate means to evaluate the legality of an individual's continued detention.

Typically, the CSRT will advise the detainee that the evidence against them is

classified and restrict access. The U.S. District Court in the In re Guantanamo case criticized the manner in which the CSRT required detainees to answer allegations based on information that cannot be disclosed. In a comical scene during the hearing, a detainee advised the tribunal that he could not answer an allegation that he had associated with a known al Qaida operative because the tribunal would not provide the name of the alleged operative. Since the tribunal would not even provide the name of the operative, the detainee could not answer even the most basic of allegations. While laughter filled the courtroom at the time when the detainee could not answer this simple allegation, we should not forget the seriousness of this process and the manner in which we are treating detainees of the United States.

The Military Commission Act's habeas corpus provisions were debated at a Senate Judiciary Committee hearing held on September 25, 2006. At the hearing, I heard from a distinguished and varied panel of witnesses, including the attorney who represented Hamdan before the Supreme Court. Perhaps most compelling during the hearing was the testimony of the former U.S. Attorney for the Northern District of Illinois, Thomas Sullivan, who has been to Guantanamo on many occasions and has represented many detainees. Mr. Sullivan was especially compelling when he made reference to a number of individual cases where the proceedings before the CSRT were completely insufficient. He cited hearings where individuals were summoned before the tribunal, but did not speak the language, did not have an attorney, did not have access to the information which was presented against them, and continued to be detained. These individuals either did not know what their charges were, or those charges of which they were aware were vague and illusory. For example, in the case of Abdul Hadi al Siba'i, Mr. Sullivan described how his client had been returned to Saudi Arabia after several months of detainment and without a trial or any notice, compensation, or apology. One can only suspect that the United States government understood that the continued detainment of this particular individual was wrong and would expose weaknesses at trial.

The failure to afford habeas review rights to detainees has concerned Kenneth Starr, former Solicitor General and U.S. Court of Appeals Judge for the District of Columbia. In a letter directed to me as Judiciary Chairman, Mr. Starr expressed his concern ''about the limitations on writ of habeas corpus contained in the comprehensive military commissions bill.''

If Justice O'Connor feels that detainees have the right to habeas review, but we are denying them this avenue of review, how are detainees supposed to rebut facts that they are not allowed to confront? This is why federal courts should be open to hear habeas petitions of these detainees. The Supreme Court is clear, and we should apply this precedent to the current situation involving detainees at Guantanamo Bay.

On the recent 5–year anniversary of 9/11, President Bush repeated his commitment to bring terrorists to justice. However, statistics tell us that most of the terrorists at Guantanamo will never see the inside of a courtroom. Hundreds will be held indefinitely. Of the over 400 detainees who remain at Guantanamo, the Pentagon says another 110 have been labeled as ''ready to release.'' But the real number we need to look at is the remaining 325 or so detainees. How many will face trial? Media reports citing Pentagon sources suggest that only approximately 70 detainees will face trial.

This leaves approximately 250 detainees—more than half of those still at Guantanamo—who will be held indefinitely simply because the United States considers them to be too dangerous or in possession of sensitive intelligence information. These detainees will have no ability to challenge their confinement. My bill will ensure these individuals held in U.S. custody will be afforded the basic constitutional right to petition for habeas corpus review.

The short history of the Military Commissions Act underscores the need for this legislation. The day after the Act became law, the Justice Department filed notices in each of the 181 Guantanamo habeas cases pending before the United States District Court for the District of Columbia, highlighting the jurisdiction-stripping and retroactivity provisions of the Act. In at least one noteworthy case, the District Court has already agreed that it now lacks authority to hear such a habeas petition.

On December 13, 2006, Judge James Robertson dismissed the habeas petition of Salim Ahmed Hamdan—of Hamdan v. Rumsfeld fame—for lack of subject matter jurisdiction. While I disagree with Judge Robertson's conclusion that Hamdan has ''no constitutional entitlement to habeas'' because he was detained in Guantanamo rather than inside the United States, this conclusion demonstrates the lack of judicial recourse available to such detainees. Of course, the Military Commissions Act is not strictly limited to those held in Guantanamo. In another case, on November 13, 2006, the Department of Justice filed a motion with the U.S. Court of Appeals for the Fourth Circuit to dismiss the habeas petition of alleged enemy combatant Ali Saleh Kahlah al-Marri. Unlike Hamdan and other Guantanamo detainees, al-Marri has been detained inside the United States. While we could simply wait for the Supreme Court to rule on the constitutionality of denying habeas rights to such detainees, I believe the United States Congress has an obligation to act now and reverse this wrong.

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

S. 185

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 ''Habeas Corpus Restoration Act of 2007''.

SEC. 2. RESTORATION OF HABEAS CORPUS FOR THOSE DETAINED BY THE UNITED STATES.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by striking subsection (e).

(b) TITLE 10.—Section 950j of title 10, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) LIMITED REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter or in section 2241 of title 28 or any other habeas corpus provision, and notwithstanding any other provision of law, no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.''.

SEC. 3. EFFECTIVE DATE AND APPLICABILITY.

The amendments made by this Act shall—

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

(2) apply to any case that is pending on or after the date of enactment of this Act.

Mr. LEAHY. Mr. President, on the first day of this new Congress, I join Senator SPECTER to reintroduce a bill to restore the Great Writ of habeas corpus, a cornerstone of American liberty since the founding of this Nation. The Habeas Corpus Restoration Act of 2007 bill continues our efforts to amend last year's Military Commissions Act, to right a wrong and to restore a basic protection to American law. This is an issue on which we continue to work together and urge Senators on both sides of the aisle to join with us.

As Justice Scalia wrote in the Hamdi case: ''The very core of liberty secured by our Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive.'' The remedy that secures that most basic of freedoms is habeas corpus. It provides a check against arbitrary detentions and constitutional violations. It guarantees an opportunity to go to court, with the aid of a lawyer, to prove one's innocence. This fundamental protection was rolled back in an unprecedented and unnecessary way in the run up to last fall's election by passage of the Military Commissions Act.

The Military Commissions Act eliminated that right, permanently, for any non-citizen determined to be an enemy combatant, or even ''awaiting'' such a determination. That includes the approximately 12 million lawful permanent residents in the United States today, people who work and pay taxes in America and are lawful residents. This new law means that any of these people can be detained, forever, without any ability to challenge their detention Federal court—or anywhere else—simply on the Government's sayso that they are awaiting determination whether they are enemy combatants.

I deeply regret that Senator SPECTER and I were unsuccessful in our efforts to stop this injustice when the President and the Republican leadership insisted on rushing the Military Commissions Act through Congress in the weeks before the recent elections. We proposed an amendment that would have removed the habeas-stripping provision from the Military Commissions Act. We fell just three votes short in those political charged days. It is my hope that the new Senate and new Congress will reconsider this matter, restore this fundamental protection and revitalize our tradition of checks and balances.

Giving Government such raw, unfettered power as this law does should concern every American. Last fall I spelled out a nightmare scenario about a hard-working legal permanent resident who makes an innocent donation to, among other charities, a Muslim charity that the Government secretly suspects might be a source of funding for critics of the United States Government. I suggested that, on the basis of

this donation and perhaps a report of ''suspicious behavior'' from an overzealous neighbor, the permanent resident could be brought in for questioning, denied a lawyer, confined, and even tortured. Such a person would have no recourse in the courts for years, for decades, forever.

Many people viewed this kind of nightmare scenario as fanciful, just the rhetoric of a politician. It was not. It is all spelled out clearly in the language of the law that this body passed. In November, the scenario I spelled out was confirmed by the Department of Justice itself in a legal brief submitted in federal court in Virginia. The Justice Department, in a brief to dismiss a detainee's habeas case, said that the Military Commissions Act allows the Government to detain any non-citizen designated an enemy combatant without giving that person any ability to challenge his detention in court. This is true, the Justice Department said, even for someone arrested and imprisoned in the United States. The Washington Post wrote that the brief ''raises the possibility that any of the millions of immigrants living in the United States could be subject to indefinite detention if they are accused of ties to terrorist groups.''

In fact, the situation is even more stark than The Washington Post story suggested. The Justice Department's brief says that the Government can detain any non-citizen declared to be an enemy combatant. But the law this Congress passed says the Government need not even make that declaration: They can hold people indefinitely who are awaiting determination whether or not they are enemy combatants.

It gets worse. Republican leaders in the Senate followed the White House's lead and greatly expanded the definition of ''enemy combatants'' in the dark of night in the final days before the bill's passage, so that enemy combatants need not be soldiers on any battlefield. They can be people who donate small amounts of money, or people that any group of decision-makers selected by the President decides to call enemy combatants. The possibilities are chilling.

The Administration has made it clear that they intend to use every expansive definition and unchecked power given to them by the new law. November's Justice Department brief made clear that any of our legal immigrants could be held indefinitely without recourse in court. Earlier in November, the Justice Department went to court to say that detainees who had been held in secret CIA prisons could not even meet with lawyers because they might tell their lawyers about the cruel interrogation techniques used against them. In other words, if our Government tortures somebody, that person loses his right to a lawyer because he might tell the lawyer about having been tortured. A law professor was quoted as saying about the Government's position in that case: ''Kafka-esque doesn't do it justice. This is 'Alice in Wonderland.' ''

We have eliminated basic legal and human rights for the 12 million lawful permanent residents who live and work among us, to say nothing of the millions of other legal immigrants and visitors who we welcome to our shores each year. We have removed a vital check that our legal system provides against the government arbitrarily detaining people for life without charge. We may well have also made many of our remaining limits against torture and cruel and inhuman treatment obsolete because they are unenforceable. We have removed the mechanism the Constitution provides to check government overreaching and lawlessness.

This is wrong. It is unconstitutional. It is un-American. It is designed to ensure that the Bush-Cheney Administration will never again be embarrassed by a United States Supreme Court decision reviewing its unlawful abuses of power. The conservative Supreme Court, with seven of its nine members appointed by Republican Presidents, has been the only check on this Administration's lawlessness. Certainly the last Congress did not do it. With passage of the Military Commissions Act, the Republican Congress completed the job of eviscerating its role as a check and balance on the Administration.

Some Senators uneasy about the Military Commissions Act's disastrous habeas provision took solace in the thought that it would be struck down by the courts. Instead, the first court to consider that provision, a federal court in the District of Columbia, upheld the provision. We should not outsource our moral, legal and constitutional responsibility to the courts. Congress must be accountable for its actions and we should act to right this wrong.

Abolishing habeas corpus for anyone who the Government thinks might have assisted enemies of the United States is unnecessary and morally wrong. It is a betrayal of the most basic values of freedom for which America stands. It makes a mockery of the administration's lofty rhetoric about exporting freedom across the globe.

We should take steps to ensure that our enemies can be brought to justice efficiently and quickly. I introduced a bill to do that back in 2002, as did Senator SPECTER, when we each proposed a set of laws to establish military commissions. The Bush-Cheney Administration rejected our efforts and designed a regime the United States Supreme Court determined to be unlawful. Establishing appropriate military commissions is not the question. We all agree to do that. What we need to revisit is the suspension of the writ of habeas corpus for millions of legal immigrants and others, denying their right to challenge indefinite detainment on the, government's say-so.

It is from strength that America should defend our values and our Constitution. It takes commitment to those values to demand accountability from the Government. In standing up for American values and security, I will keep working on this issue until we restore the checks and balances that are fundamental to preserving the liberties that define us as a nation. We can ensure our security without giving up our liberty.

By Mr. SPECTER:

S. 186. A bill to provide appropriate protection to attorney-client privileged communications and attorney work product; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, the legislation which I am introducing is the Attorney-Client Privilege Protection Act. This legislation was previously introduced in the 109th Congress.

In 2003, the Department of Justice adopted the provisions of the so-called Thompson Memorandum, which allowed prosecutors to request that companies under investigation waive their attorney-client privilege, and that, absent such a waiver, prosecutors may consider the company's refusal to waive privilege in the charging process. As a result, the legal and business community complained that, if the attorney-client privilege is not waived, the corporation and individuals may get a stiffer charge.

The Department of Justice has recently revised the Thompson Memorandum, with Deputy Attorney General McNulty substituting what is now known as the McNulty Memorandum. Prior to the release of the McNulty Memorandum, I had a number of discussions with Department of Justice officials, and I thank the Department of Justice for the effort which they have made, but it is not sufficient. The new memorandum is inadequate in its protection of the attorney-client privilege.

Although the McNulty Memorandum is inadequate in failing to protect attorney-client privilege, it does improve another part of the Department of Justice's prior procedure under the Thompson Memorandum, which effectively denied the payment of counsel fees so that people who were charged were unable to defend themselves without bankrupting themselves in defense. That provision of the earlier Thompson Memorandum was declared unconstitutional in a case in the Southern District of New York.

Mr. President, again, I ask unanimous consent that the full text of my statement be printed in the RECORD.

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

ATTORNEY-CLIENT PRIVILEGE PROTECTION ACT OF 2006

Mr. SPECTER. Mr. President, I seek recognition today to introduce the ''Attorney-Client Privilege Protection Act of 2007,'' which remains necessary despite Deputy Attorney General Paul McNulty's issuance of a new set of corporate prosecution guidelines on December 12 of last year. Although the new McNulty memorandum, which replaces

the memorandum issued by former Deputy Attorney General Larry Thompson, makes some improvements, the revision continues to erode the attorney-client relationship by allowing prosecutors to request privileged information backed by the hammer of prosecution if the request is denied.

This bill will protect the sanctity of the attorney-client relationship by prohibiting federal prosecutors and investigators from requesting waiver of attorney-client privilege and attorney work product protections in corporate investigations. The bill would similarly prohibit the government from conditioning charging decisions or any adverse treatment on an organization's payment of employee legal fees, invocation of the attorney-client privilege, or agreement to a joint defense agreement. This bill will hopefully force the Department of Justice to issue a meaningful change to its corporate charging policies beyond the changes in the McNulty Memorandum, which came ''a day late and a dollar short'' according to Frederick Krebs, the president of the Association of Corporate Counsel.

There is no need to wait to see how the McNulty memorandum will operate in practice. The flaws in that memorandum are already apparent. Moreover, before the issuance of the McNulty memorandum last month, the Thompson memorandum has been undermining the attorney-client relationship in the corporate context for nearly 4 years. In January 2003, then-Deputy Attorney General Larry Thompson issued a memorandum to all Justice Department components throughout the United States entitled ''Principles of Federal Prosecution of Business Organizations.'' This memorandum, which was prepared on the heels of the establishment of the President's Corporate Fraud Task Force, set forth various factors for federal prosecutors to consider when deciding to prosecute corporations or other business organizations. The so-called ''Thompson memorandum'' lists a corporation's ''cooperation and voluntary disclosure'' as one of the chief factors to be considered in making a charging decision.

Just as the Thompson memorandum was issued with laudable goals in mind, the McNulty memorandum was, no doubt, the product of good intentions. Nevertheless, it continues to threaten the viability of the attorney-client privilege in business organizations by allowing prosecutors to request privilege waiver upon a finding of ''legitimate need''—a standard that should guide the most basic of prosecutorial requests, not sensitive requests for privileged information.

Just as the standard is inadequate, so is the level of internal review. Although the McNulty memorandum establishes some internal review for such waiver requests, it does so in a way that diminishes the importance of a corporate client's ability to communicate with its lawyers. The memo creates two different categories of privileged information and provides very little protection to client communications to the attorney while providing significant protection and DOJ internal review for attorney communications to the client. The memo identifies the two subcategories of privileged information as: (1) ''purely factual information,'' which consists of witness statements, interview memoranda, factual chronologies and summaries, and reports containing investigative facts documented by counsel; and (2) attorney advice to the client, including attorney notes, memoranda, and notes.

The first category of information, formally labeled Category 1 information by DOJ, may be requested with approval at the U.S. Attorney-level with consultation with the Assistant Attorney General for the Criminal Division. The consultation requirement is not defined in any way in the memo. By failing to define what it means ''to consult'' with the Assistant Attorney General, the McNulty memo fails to say whether the Assistant Attorney General can overrule the U.S. Attorney's decision. Unless there is a meaningful review of the U.S. Attorney's decision, it is difficult to see how the McNulty memo provides better safeguards for Category 1 information than the interim-McCallum memo, issued in October 2005, which mandated a U.S. Attorney-level ''written waiver review process'' for all attorney client privilege waiver requests.

As noted above, the new McNulty memo does provide greater protections for attorney advice and communication to the client, which the memo labels ''Category 2'' information. The McNulty memo protects Category 2 information in the first instance by making clear that it may be sought only if the prosecutor thinks Category 1 information provides an incomplete basis for the investigation. If such a request is deemed necessary, the request for Category 2 information must be approved by the Deputy Attorney General.

Although the McNulty memo provides greater protection for Category 2 information, the memo does not explain why such information will ever be needed by prosecutors outside of attorney advice in furtherance of a crime or fraud or where the advice is subject to an advice of counsel defense, both of which are expressly exempted from the waiver request process outlined in the memorandum. Thus, the only two types of attorney advice that are likely to be relevant in a criminal investigation are exempted from the memo's coverage. With that exception, I fail to see why Category 2 information is needed at all. Prosecutors do not need to know what attorneys are advising their clients unless the advice is in furtherance of a crime or the client puts the advice in issue by raising it as a defense.

No less than the Thompson memo, the new McNulty memo discourages corporate employees from having frank conversations with lawyers, which makes it difficult for companies who desire to prevent possible corruption from making appropriate remedies. The Department of Justice will not prevent corporate misconduct if it continues to inadvertently discourage the types of internal investigations and dialogues corporate officials need to detect and prevent corporate fraud.

In the next rewrite of its corporate prosecution guidelines, the Administration needs to look in the mirror. If the President refused to disclose documents or information after invoking a claim of executive privilege, it would not consider itself to be ''uncooperative.'' Rather, the executive would simply be doing its job in representing a client. Yet, when the tables are turned, the Justice Department has memorialized a policy instructing its prosecutors to discourage attorneys from doing their job effectively.

The right to counsel is too important to be passed over for prosecutorial convenience. It has been engrained in American jurisprudence since the 18th century when the Bill of Rights was adopted. The 6th Amendment is a fundamental right afforded to individuals charged with a crime and guarantees proper representation by counsel throughout a prosecution. However, the right to counsel is largely ineffective unless the confidential communications made by a client to his or her lawyer are protected by law. As the Supreme Court observed in Upjohn Co. v. United States, ''the attorney-client privilege is the oldest of the privileges for confidential communications known to the common law.'' When the Upjohn Court affirmed that attorney-client privilege protections apply to corporate internal legal dialogue, the Court manifested in the law the importance of the attorney-client privilege in encouraging full and frank communication between attorneys and their clients, as well as the broader public interests the privilege serves in fostering the observance of law and the administration of justice. The Upjohn Court also made clear that value of legal advice and advocacy depends on the lawyer having been fully informed by the client.

As a former prosecutor, I am acutely aware of the enormous power and tools a prosecutor has at his or her disposal. As former Supreme Court Justice and then Attorney-General Robert Jackson stated in his 1940 speech to U.S. Attorneys, ''The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous. He can have citizens investigated and, if he is that kind of person, he can have this done to the tune of public statements and veiled or unveiled intimations.'' Thus, the federal prosecutor has enough power without the coercive tools of the privilege waiver, whether that waiver policy is embodied in the Holder, Thompson, McCallum, or McNulty memorandum. I see no need to have the Justice Department publicly express a policy that encourages waiver of attorney-client privilege, especially where the policy is backed by the heavy hammer of possible criminal charges. Cases should be prosecuted based on their merits, not based on how well an organization works with the prosecutor. As Justice Jackson warned in the same speech, ''the most dangerous power of the prosecutor [is] that he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted.''

Just as the Holder and Thompson memoranda before it, the McNulty memorandum embodies bad public policy by empowering federal prosecutors at the expense of the attorney-client relationship. Consequently, I echo the comments of the following organizations and individuals who have criticized the McNulty memorandum:

''The Justice Department's new corporate charging guidelines for federal prosecutors fall far short of what is needed to prevent further erosion of fundamental attorney-client privilege, work product, and employee protections during government investigations.''—Karen Mathis, ABA President.

''While containing some improvements, this new policy does not adequately protect the right to attorney-client privilege, and unwisely ignores many of the recommendations of former senior Justice Department officials, the American Bar Association, and a massive coalition of some of the nation's most prominent business, legal, and civil rights groups.''—Stanton Anderson, U.S. Chamber of Commerce.

''The McNulty Memorandum still falls short of protecting the attorney-client privilege, and the related work product doctrine, which derives from it.''—Martin Pinales, President, National Association of Criminal Defense Lawyers.

''[T]his memo is a day late and a dollar short. Asking prosecutors to get permission before formally requesting that companies waive their attorney-client privilege will not put an end to the 'culture of waiver' that exists within DOJ. Our research shows that more often than not, requests for waiver are not asked for outright, but are coercively inferred.''—Frederick Krebs, President, Association of Corporate Counsel.

''Deputy Attorney General Paul McNulty's memorandum is a disappointment. It perpetuates the dynamic that compels companies to ''voluntarily'' waive their rights in order to get favorable treatment or to avoid the

death penalty of a federal indictment.''—Caroline Fredrickson, Director, ACLU Washington legislative office; George Landrith, President, Frontiers of Freedom; Stephanie A. Martz, Director, White Collar Crime Project, National Association of Criminal Defense Lawyers; Daniel J. Popeo, Chairman, Washington Legal Foundation, in a letter to the editor of USA Today.

My bill amends title 18 of the United States Code by adding a new section, §3014, that would prohibit any agent or attorney of the United States government in any criminal or civil case to demand, request or condition treatment on the disclosure of any communication protected by the attorney-client privilege or attorney work product. The bill would also prohibit government lawyers and agents from conditioning any charge or adverse treatment on whether an organization pays attorneys' fees for its employees or signs a joint defense agreement.

While I am glad that the Justice Department revised the Thompson memorandum, I am hopeful that the Department will act again to reform the McNulty memorandum. In the absence of such action, this legislation is needed to ensure that basic protections of the attorney-client relationship are preserved.

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. 186

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 ''Attorney-Client Privilege Protection Act of 2007''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Justice is served when all parties to litigation are represented by experienced diligent counsel.

(2) Protecting attorney-client privileged communications from compelled disclosure fosters voluntary compliance with the law.

(3) To serve the purpose of the attorney-client privilege, attorneys and clients must have a degree of confidence that they will not be required to disclose privileged communications.

(4) The ability of an organization to have effective compliance programs and to conduct comprehensive internal investigations is enhanced when there is clarity and consistency regarding the attorney-client privilege.

(5) Prosecutors, investigators, enforcement officials, and other officers or employees of Government agencies have been able to, and can continue to, conduct their work while respecting attorney-client and work product protections and the rights of individuals, including seeking and discovering facts crucial to the investigation and prosecution of organizations.

(6) Despite the existence of these legitimate tools, the Department of Justice and other agencies have increasingly employed tactics that undermine the adversarial system of justice, such as encouraging organizations to waive attorney-client privilege and work product protections to avoid indictment or other sanctions.

(7) An indictment can have devastating consequences on an organization, potentially eliminating the ability of the organization to survive post-indictment or to dispute the charges against it at trial.

(8) Waiver demands and other tactics of Government agencies are encroaching on the constitutional rights and other legal protections of employees.

(9) The attorney-client privilege, work product doctrine, and payment of counsel fees shall not be used as devices to conceal wrongdoing or to cloak advice on evading the law.

(b) PURPOSE.—It is the purpose of this Act to place on each agency clear and practical limits designed to preserve the attorney-client privilege and work product protections available to an organization and preserve the constitutional rights and other legal protections available to employees of such an organization.

SEC. 3. DISCLOSURE OF ATTORNEY-CLIENT PRIVILEGE OR ADVANCEMENT OF COUNSEL FEES AS ELEMENTS OF COOPERATION.

(a) IN GENERAL.—Chapter 201 of title 18, United States Code, is amended by inserting after section 3013 the following:

''§ 3014. Preservation of fundamental legal protections and rights in the context of investigations and enforcement matters regarding organizations

''(a) DEFINITIONS.—In this section:

''(1) ATTORNEY-CLIENT PRIVILEGE.—The term 'attorney-client privilege' means the attorney-client privilege as governed by the principles of the common law, as they may be interpreted by the courts of the United States in the light of reason and experience, and the principles of article V of the Federal Rules of Evidence.

''(2) ATTORNEY WORK PRODUCT.—The term 'attorney work product' means materials prepared by or at the direction of an attorney in anticipation of litigation, particularly any such materials that contain a mental impression, conclusion, opinion, or legal theory of that attorney.

''(b) IN GENERAL.—In any Federal investigation or criminal or civil enforcement matter, an agent or attorney of the United States shall not—

''(1) demand, request, or condition treatment on the disclosure by an organization, or person affiliated with that organization, of any communication protected by the attorney-client privilege or any attorney work product;

''(2) condition a civil or criminal charging decision relating to a organization, or person affiliated with that organization, on, or use as a factor in determining whether an organization, or person affiliated with that organization, is cooperating with the Government—

''(A) any valid assertion of the attorney-client privilege or privilege for attorney work product;

''(B) the provision of counsel to, or contribution to the legal defense fees or expenses of, an employee of that organization;

''(C) the entry into a joint defense, information sharing, or common interest agreement with an employee of that organization if the organization determines it has a common interest in defending against the investigation or enforcement matter;

''(D) the sharing of information relevant to the investigation or enforcement matter with an employee of that organization; or

''(E) a failure to terminate the employment of or otherwise sanction any employee of that organization because of the decision by that employee to exercise the constitutional rights or other legal protections of that employee in response to a Government request; or

''(3) demand or request that an organization, or person affiliated with that organization, not take any action described in paragraph (2).

''(c) INAPPLICABILITY.—Nothing in this Act shall prohibit an agent or attorney of the United States from requesting or seeking any communication or material that such agent or attorney reasonably believes is not entitled to protection under the attorney-client privilege or attorney work product doctrine.

''(d) VOLUNTARY DISCLOSURES.—Nothing in this Act is intended to prohibit an organization from making, or an agent or attorney of the United States from accepting, a voluntary and unsolicited offer to share the internal investigation materials of such organization.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 201 of title 18, United States Code, is amended by adding at the end the following:

''3014. Preservation of fundamental legal protections and rights in the context of investigations and enforcement matters regarding organizations.''.

By Mr. SPECTER:

S. 187. A bill to provide sufficient resources to permit electronic surveillance of United States persons for foreign intelligence purposes to be conducted pursuant to individualized court-issued orders for calls originating in the United States, to provide additional resources to enhance oversight and streamline the procedures of the Foreign Intelligence Surveillance Act of 1978, to ensure review of the Terrorist Surveillance Program by the United States Supreme Court, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I am reintroducing the text of S. 4051, which I originally introduced on November 14 of last year. And the title articulates it in a succinct way, so I will read that. It is: a bill to provide sufficient resources to permit electronic surveillance of United States persons for foreign intelligence purposes to be conducted pursuant to individualized court-issued warrants for calls originating in the United States, to provide additional resources to enhance oversight and streamline the procedures of the Foreign Intelligence Surveillance Act of 1978, and to ensure review of the Terrorist Surveillance Program by the United States Supreme Court.

I made a number of efforts in the 109th Congress to subject the President's surveillance program to judicial review in accordance with the existing law that a search-and-seizure warrant or a wiretap ought not to be issued without a judge making a finding of probable cause and authorizing that kind of a search and seizure or that kind of a wiretap.

Without going into the entire history, that bill was refined to the point where it is articulated in S. 4051 of the 109th Congress, which would provide for individualized warrants for calls originating in the United States and going out. That can be accomplished, according to the CIA, if there are additional resources, which this bill provides, and if the time for retroactive approval is extended from 3 days to 7 days.

With respect to calls originating outside the United States and coming in,

we are advised there are simply too many of those to cover, so that on those calls the bill would expedite the judicial review which is currently in process.

A Federal court in Detroit has declared the President's program unconstitutional, and it is now pending in the Sixth Circuit. This bill would mandate review by the Supreme Court of the United States and would put review in the Federal courts on an accelerated timetable.

There are objections to proceeding with legislation along this line because of an interest in having hearings. Well, we have had a whole series of hearings, and the administration has refused to tell the Judiciary Committee the details of the program. Under our division of authority, it is the Intelligence Committee which has jurisdiction over this kind of a program.

But, we could proceed with hearings and still enact legislation which would provide constitutional protection for calls originating in the United States, which is the more serious category. Citizens here, people here in the United States, would have individual warrants and a judicial determination of probable cause before the surveillance and the wiretaps were put into effect.

Meanwhile, the program goes on. It has been going on since late 2001. It has been known to the public since December 16, 2005. And each day that passes, there are more taps, there are more searches and seizures, there is more surveillance, which may not comport with constitutional provisions.

There may be the motivation to show that the President has broken the law. And there is no doubt that the surveillance program does violate the Foreign Intelligence Surveillance Act of 1978. But the President contends that he has inherent article II power as Commander in Chief which supersedes the statute. And he may be right about that. But only a court can determine. And under the existing standards, the court must make a determination of the nature of the invasion of privacy contrasted with the importance for the public welfare of providing security. That is a judicial function.

It seems to me that where you have an avenue to have probable cause established in the traditional way on calls going out of the United States, we ought to utilize it. We ought not to have that program continue in effect without having that kind of constitutional procedure.

And then, as to calls originating outside of the United States, if the President is right, that can be determined by the courts. Let that proceed in that manner. And, the justification for delay—that we need to show the President of the United States has violated the law—is a wholly insufficient justification to withhold legislation that would be a major improvement to this surveillance program.

We can conclude, in my view, that he has violated FISA. But to repeat—and I do not like to repeat—he may have the constitutional authority for the surveillance program, but that has to be determined by a judicial proceeding.

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

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

S. 187

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 ''Foreign Intelligence Surveillance Oversight and Resource Enhancement Act of 2007''.

TITLE I—ENHANCEMENT OF RESOURCES AND PERSONNEL FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 101. FOREIGN INTELLIGENCE SURVEILLANCE COURT MATTERS.

(a) AUTHORITY FOR ADDITIONAL JUDGES.—Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in paragraph (1), as so designated, by inserting ''at least'' before ''seven of the United States judicial circuits'';

(3) by designating the second sentence as paragraph (4) and indenting such paragraph, as so designated, accordingly; and

(4) by inserting after paragraph (1), as so designated, the following new paragraph:

''(2) In addition to the judges designated under paragraph (1), the Chief Justice of the United States may designate as judges of the court established by paragraph (1) such judges appointed under Article III of the Constitution of the United States as the Chief Justice determines appropriate in order to provide for the prompt and timely consideration under section 105 of applications under section 104 for electronic surveillance under this title. Any judge designated under this paragraph shall be designated publicly.''.

(b) CONSIDERATION OF EMERGENCY APPLICATIONS.—Such section is further amended by inserting after paragraph (2), as added by subsection (a) of this section, the following new paragraph:

''(3) A judge of the court established by paragraph (1) shall make a determination to approve, deny, or seek modification of an application submitted under section subsection (f) or (g) of section 105 not later than 24 hours after the receipt of such application by the court.''.

SEC. 102. ADDITIONAL PERSONNEL FOR PREPARATION AND CONSIDERATION OF APPLICATIONS FOR ORDERS APPROVING ELECTRONIC SURVEILLANCE.

(a) OFFICE OF INTELLIGENCE POLICY AND REVIEW.—

(1) ADDITIONAL PERSONNEL.—The Office of Intelligence Policy and Review of the Department of Justice is authorized such additional personnel, including not fewer than 21 full-time attorneys, as may be necessary to carry out the prompt and timely preparation, modification, and review of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) for orders under section 105 of that Act (50 U.S.C. 1805) approving electronic surveillance for foreign intelligence purposes.

(2) ASSIGNMENT.—The Attorney General shall assign personnel authorized by paragraph (1) to and among appropriate offices of the National Security Agency in order that such personnel may directly assist personnel of the Agency in preparing applications described in that paragraph.

(b) FEDERAL BUREAU OF INVESTIGATION.—

(1) ADDITIONAL LEGAL AND OTHER PERSONNEL.—The National Security Branch of the Federal Bureau of Investigation is authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 for orders under section 105 of that Act approving electronic surveillance for foreign intelligence purposes.

(2) ASSIGNMENT.—The Director of the Federal Bureau of Investigation shall assign personnel authorized by paragraph (1) to and among the field offices of the Federal Bureau of Investigation in order that such personnel may directly assist personnel of the Bureau in such field offices in preparing applications described in that paragraph.

(c) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR NATIONAL SECURITY AGENCY.—The National Security Agency is authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 for orders under section 105 of that Act approving electronic surveillance for foreign intelligence purposes.

(d) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR FOREIGN INTELLIGENCE SURVEILLANCE COURT.—There is authorized for the Foreign Intelligence Surveillance Court such additional personnel (other than judges) as may be necessary to facilitate the prompt and timely consideration by that Court of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 for orders under section 105 of that Act approving electronic surveillance for foreign intelligence purposes. Personnel authorized by this paragraph shall perform such duties relating to the consideration of such applications as that Court shall direct.

(e) SUPPLEMENT NOT SUPPLANT.—The personnel authorized by this section are in addition to any other personnel authorized by law.

SEC. 103. TRAINING OF FEDERAL BUREAU OF INVESTIGATION AND NATIONAL SECURITY AGENCY PERSONNEL IN FOREIGN INTELLIGENCE SURVEILLANCE MATTERS.

The Director of the Federal Bureau of Investigation and the Director of the National Security Agency shall each, in consultation with the Attorney General—

(1) develop regulations establishing procedures for conducting and seeking approval of electronic surveillance on an emergency basis, and for preparing and properly submitting and receiving applications and orders, under sections 104 and 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804 and 1805); and

(2) prescribe related training for the personnel of the applicable agency.

TITLE II—IMPROVEMENT OF FOREIGN INTELLIGENCE SURVEILLANCE AUTHORITY

SEC. 201. EXTENSION OF PERIOD FOR APPLICATIONS FOR ORDERS FOR EMERGENCY ELECTRONIC SURVEILLANCE.

Section 105(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(f)) is amended by striking ''72 hours'' both places it appears and inserting ''168 hours''.

SEC. 202. ACQUISITION OF FOREIGN-FOREIGN COMMUNICATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), no court order shall be required

for the acquisition through electronic surveillance of the contents of any communication between one person who is not located within the United States and another person who is not located within the United States for the purpose of collecting foreign intelligence information even if such communication passes through, or the surveillance device is located within, the United States.

(b) TREATMENT OF INTERCEPTED COMMUNICATIONS INVOLVING DOMESTIC PARTY.—If surveillance conducted, as described in subsection (a), inadvertently collects a communication in which at least one party is within the United States, the contents of such communications shall be handled in accordance with the minimization procedures set forth in section 101(h)(4) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(h)(4)).

(c) DEFINITIONS.—In this section, the terms ''contents'', ''electronic surveillance'', and ''foreign intelligence information'' have the meaning given such terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

SEC. 203. INDIVIDUALIZED FISA APPLICATIONS.

The contents of any wire or radio communication sent by a person who is reasonably believed to be inside the United States to a person outside the United States may not be retained or used unless a court order authorized under the Foreign Intelligence Surveillance Act is obtained.

SEC. 204. ISSUES RESERVED FOR THE COURTS.

Nothing in this Act shall be deemed to amend those provisions of FISA concerning any wire or radio communication sent from outside the United States to a person inside the United States. The constitutionality of such interceptions shall be determined by the courts, including the President's claim that his Article II authority supersedes FISA.

TITLE III—ENHANCED CONGRESSIONAL OVERSIGHT AND SUPREME COURT REVIEW OF THE TERRORIST SURVEILLANCE PROGRAM

SEC. 301. CONGRESSIONAL OVERSIGHT.

(a) ELECTRONIC SURVEILLANCE UNDER FISA.—Section 108 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808) is amended—

(1) in subsection (a)(2)—

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

(B) in subparagraph (C), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(D) the authority under which the electronic surveillance is conducted.''; and

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

''(b) On a semiannual basis, the Attorney General additionally shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on electronic surveillance conducted without a court order.''.

(b) INTELLIGENCE ACTIVITIES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) in section 501 (50 U.S.C. 413)—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection:

''(f) The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform, on a bipartisan basis, all members or any individual members of such committee of a report submitted under subsection (a)(1) or subsection (b) as such Chair considers necessary.''; and

(2) in section 502 (50 U.S.C. 414), by adding at the end the following new subsection:

''(d) INFORMING OF COMMITTEE MEMBERS.—The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform, on a bipartisan basis, all members or any individual members of such committee of a report submitted under subsection (a) as such Chair considers necessary.''.

SEC. 302. SUPREME COURT REVIEW OF THE TERRORIST SURVEILLANCE PROGRAM.

(a) IN GENERAL.—Upon appeal by the United States or any party to the underlying proceedings, the Supreme Court of the United States shall review the final decision of any United States court of appeal concerning the legality of the Terrorist Surveillance Program.

(b) EXPEDITED CONSIDERATION.—It shall be the duty of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(c) DEFINITION.—In this section, the term ''Terrorist Surveillance Program'' means the program identified by the President of the United States on December 17, 2005, to intercept international communications into and out of the United States of persons linked to al Qaeda or related terrorist organizations.

TITLE IV—OTHER MATTERS

SEC. 401. DEFINITION.

In this Act, the term ''Foreign Intelligence Surveillance Court'' means the court established by section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act and the amendments made by this Act.

SEC. 403. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date that is 30 days after the date of the enactment of this Act.

By Mr. SALAZAR (for himself, Mr. LEAHY, Mr. REID, Mr. MENENDEZ, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 188. A bill to revise the short title of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006; to the Committee on the Judiciary.

Mr. SALAZAR. Mr. President, I rise today to speak on behalf of legislation I am introducing today, which has the support and co-sponsorship of several of my colleagues including Senators REID, LEAHY, FEINSTEIN, BOXER and MENENDEZ.

This is a simple, straight forward measure to include the name of César E. Chávez, a truly remarkable civil rights leader and American, into the title of the reauthorization of the Voting Rights Act passed last year.

With my bill, the title of this Act would be referred to as the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, and César E. Chávez Voting Rights Act Reauthorization and Amendments Act of 2006. I am proud to have been part of a unanimous Senate that reauthorized this landmark piece of civil rights legislation. Reauthorizing the Voting Rights Act extended the open door for every American to exercise their right to participate in the representative democracy founded by our Constitution, and cherished by our people. In that spirit, it is fitting that César Chávez's name be included with the other names honored in this bill—as pioneers who helped pave the way to ensure that all Americans have a voice in electing their Government at the voting booth.

César Chávez is an American hero. Like the venerable American leaders who are now associated with this effort, he sacrificed his life to empower the most vulnerable in America. For this reason, he continues to be an important part of our country's journey on the path to a more inclusive America. César Chávez believed strongly in our American democracy and saw the right to vote as a fundamental cornerstone of our freedom. I believe it is fitting that his name be a part of the reauthorization of the Voting Rights Act.

President Lyndon Johnson once stated: ''The vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men.'' With his simple but powerful slogan ''Si Se Puede'' or yes, it can be done, César Chávez reminded us of this truth.

Still, throughout our history and even today, many Americans have been shut out of our most fundamental right, the right to vote. When President Johnson signed the Voting Rights Act of 1965 into law, he restored the faith of millions of African Americans, Hispanic Americans, Native Americans, and others who had historically been kept from voting.

As our Nation moved forward in the next chapter of civic equality and inclusion with the reauthorization of the Voting Rights Act last year, we demonstrated to millions of Hispanic Americans this body's continued commitment to safeguarding their right to vote. To include César E. Chávez's name to that commitment today is an important change because of the message it sends Hispanic Americans. It serves as a signal of Congress' commitment to an inclusive America that brings all Americans into our democratic process.

This past November, more than 86 million Americans voted all across the country. Fifty years ago, before the enactment of the Voting Rights Act, many would not have been able to do so. It is important and fitting that we honor those civil rights leaders whose contributions and courage helped pave the way for today's more inclusive democracy, and it is fitting that the name of César E. Chávez be included with them in the title of last year's Voting Rights Act reauthorization. I look forward to working with my colleagues on this small change, and am hopeful that they will approve my proposal to revise the official title of this

landmark reauthorization as the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, and César E. Chávez Voting Rights Act Reauthorization and Amendments Act of 2006.

Mr. President, I yield the floor.

By Mr. McCAIN (for himself, Mr. LIEBERMAN, Ms. COLLINS, and Mr. FEINGOLD):

S. 192. A bill providing greater transparency with respect to lobbying activities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. McCAIN. Mr. President, today I am pleased to be joined by Senators FEINGOLD, COLLINS, and LIEBERMAN in introducing a bill to provide greater transparency into the process of influencing our Government, and to ensure greater accountability among public officials.

The legislation proposes a number of important and necessary reforms. It would provide for faster reporting and greater public access to reports filed by lobbyists and their employers under current law. It would require greater disclosure of lobbyists' contributions and payments to lawmakers and entities associated with them, as well as fundraising and other events they host. the bill also would require greater disclosure from both lobbyists, and Members and employees of Congress, of travel that is arranged or financed by a lobbyist or his client.

To address the problem of the revolving door between Government and the private sector, the bill would strengthen the lobbying restrictions on former senior members of the Executive Branch, former Members of Congress, and former senior congressional staff. It would require that Members publicly disclose negotiations they are having with prospective private employers to ensure there is no conflict of interests. The bill also would modify the provision in current law that exempts former Federal employees who go to work for Indian tribes as outside lobbyists and agents from the revolving door laws.

The bill would prohibit all gifts from lobbyists to lawmakers and their staff. To ensure that such a ban is not circumvented, the bill also would require Members of Congress and their staff to pay the fair market value for travel on private planes and the fair market value of sports and entertainment tickets. Members and staff would also have to post the details of their privately-sponsored work trips on-line for public inspection.

The bill would establish an independent, non-partisan Office of Public Integrity. Armed with a number of investigative tools, the Office of Public Integrity would investigate alleged misconduct by Members and their staff and make appropriate recommendations to the Senate Ethics Committee for final disposition.

Finally, the bill would help us combat wasteful, porkbarrel spending. It would amend Congressional rules to allow lawmakers to challenge unauthorized appropriations, earmarks, and policy riders in appropriations bills.

Mr. President, when I introduced similar legislation over a year ago, I regretted that such reform was even necessary. And, I voted against the bill that was ultimately passed in the Senate because it lacked a number of elements essential to true reform.

Unfortunately, the need for such reform has only become more acute. The American people's faith and confidence in this venerable institution has steadily eroded. The day after the mid-term elections, CNN reported that, according to national exit polls, voters were concerned about corruption and ethics in Government more than any other issue. I can tell you the polls, if not spot on, are not far off.

During my travels around the country last year, it quickly became clear that there is a deep perception that we legislators do not act on the priorities of the American people, that special interests, and not the people's interests, guide our legislative hand. This loss in confidence is not limited to a single party or ideology; rather, it cuts across the spectrum. It is a perception bred by recent Congressional failures and scandals, which I need not chronicle here.

We can begin to restore faith in this institution by divesting ourselves of some of the perks and privileges that have somehow crept into public service. Take, for example, free meals and sports and entertainment tickets. The American people have rightfully come to see the abuse of such perks as a corrupting influence. In a string of guilty pleas last year, several lobbyists, former congressional aides, and a congressman admitted that such gifts were used as bribes. Quite frankly, there is no good reason why Members of Congress and their staff cannot forgo such gifts from lobbyists. No one would seriously contend that they are necessary for us to conduct the people's business. A total gift ban would go a long way towards restoring the public's confidence in us.

Another critical aspect requiring reform is the ability of a Member to travel on a corporate jet and only pay the rate of a first class plane ticket. This bill requires Senators and their employees who use corporate or charter aircraft to pay the fair market value for that travel. While I appreciate that such a change is not popular with some of my colleagues, the time has come to fundamentally change the way we do things in this town. Much of the public views our ability to travel on corporate jets, often accompanied by lobbyists, while only reimbursing the first-class rate, as a huge loophole in the current gift rules. And they are right—it is. I have no doubt that the average American would love to fly around the country on very comfortable corporate-owned aircraft and only be charged the cost of a first-class ticket. It is a pretty good deal we have got going here. We need to face the fact that the time has come to end this Congressional perk.

At a time when the public is questioning our integrity, the Senate needs to more aggressively enforce its own rules. We can do this not just by making more public the work that the Senate Ethics Committee currently undertakes, but by addressing the conflict that is inherent in any body that regulates itself. That is why I am again proposing the creation of a new Office of Public Integrity with the capacity to initiate and conduct investigations, uncolored by partisan concerns and unconstrained by collegial relationships.

Finally, Mr. President, if we are truly serious about reform, we need to address what some have coined the currency of corruption—earmarks. In 1994, there were 4,126 earmarks. In 2005, there were 15,877—an increase of nearly 400 percent! But there was a little good news for 2006 solely due to the good sense that occurred unexpectedly when the Labor HHS appropriations bill was approved with almost no earmarks, an amazing feat given that there were over 3,000 earmarks the prior year for just that bill. Yet despite this first reduction in 12 years, it does not change the fact that the largest number of earmarks have still occurred in the last three years—2004, 2005, and 2006.

Now, let us consider the level of funding associated with those earmarks. The amount of earmarked funding increased from $23.2 billion in 1994 to $64 billion in FY 2006. Remarkably, it rose by 34 percent from 2005 to 2006, even though the number of earmarks decreased! Earmarked dollars have doubled just since 2000, and more than tripled in the last 10 years. This explosion in earmarks led one lobbyist to deride the appropriations committees as favor factories. The time for us to fix this broken process is long overdue.

Mr. President, this past election, the American people sent a clear message: clean up the way business is done in our capitol. As faithful public servants, we are obligated to respond. Let us respond meaningfully, to assure the American people that we are here promoting the interests of main street over that of K Street, and that we are more interested in public service than the perks and privileges offered us. Let us also remind ourselves that we came here in the sincere belief that public service is a noble calling, a reward unto itself.

I therefore urge my colleagues in joining me on this bill. I think our Nation and this venerable institution will be all the better for it.

By Mr. CRAIG:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relative to require a balanced budget and protect Social Security surpluses; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, today I am reintroducing the balanced budget

amendment to the Constitution of the United States. I, for some years, along with my colleagues in a bipartisan way, have spoke to this issue. Today, in a new year and in a new Congress, Americans are eager to see a new direction for our country. They have seen Federal spending increase by $200 billion from fiscal years 2005 to 2006. They have watched the Federal deficit swell into hundreds of billions of dollars, and they have borne the costs. Our spending system is broken and, in my opinion, so is our Tax Code.

The new year is a time for new solutions to this problem. When new solutions that draw upon old principles of limited government and fiscal responsibility and tax simplicity and fairness are how you approach a problem, I think Americans once again will listen, and they will allow us to build a system that increasingly builds faith, once again, with the American people and America's taxpayers. It is simply getting back to basics. We must look at the big picture of Federal spending as a crisis in our country and begin to speak the language that is fundamental to reform in itself, not instead of half measures or bits or pieces or nibbling around the edges. But as both of our leaders have spoken in the last hour to bipartisan efforts, they speak of bold strokes to solving problems for America, and I think that is what Americans expect of us as their leaders. We must look at it simply and reduce the deficit—I would hope we could eliminate it—and to do so with a Tax Code that is fairer, more balanced, certainly simpler, and not so complex that the American taxpayers collectively have to spend billions of dollars a year simply in complying with the Tax Code itself.

In the coming months, I will address all three components of the Federal spending crisis, including a flat tax and a budget process that reforms what we get done here, and that we get it done in a timely manner. I begin with a balanced budget amendment to the United States Constitution. For many Americans, one of the signs of our deep respect for the Constitution is to acknowledge that, in exceptional cases, a problem finally rises to a level that it can only be addressed through a constitutional adjustment in our government.

I believe spending is at that crisis level and we here, Democrat and Republican, have demonstrated our inability to deal with it in a timely and responsible fashion. So it is time we act. My balanced budget amendment would require Congress to pass a balanced budget every year to ensure that Social Security surpluses are set aside exclusively to meet the future needs of beneficiaries and to require a supermajority in both the House and the Senate to raise the Nation's debt limit. In addition, it recognizes that national security is a priority of this Congress by providing essential exceptions for war and imminent military threats. In other words, over the last several years a balanced budget amendment would not have deterred us from funding, as appropriate and necessary, our engagement in Iraq and to make sure the men and women who are there on the front lines today are adequately provided with the necessary tools.

Thomas Jefferson said it so well, and he said this:

> . . .with respect to future debt, would it not be wise and just for that nation to declare in the constitution they are forming that neither the legislature, nor the nation itself can validly contract more debt than they may pay?

His logic is simple. His logic is right. I urge you to join me in making fiscal responsibility constitutionally acceptable—and a habit—of this Nation's Capitol.

With the first piece of legislation I introduce to the 110th Congress, I call on the Senate to pass a balanced budget amendment to the Constitution, a bill of economic rights for our future and our children.

I ask unanimous consent that a copy of this joint resolution proposing a balanced budget amendment to the Constitution be printed in the RECORD.

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

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

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

''ARTICLE—

''SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

''SECTION 2. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

''SECTION 3. Any surplus of receipts (including attributable interest) over outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds shall not be counted for purposes of this article. Any deficit of receipts (including attributable interest) relative to outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds shall be counted for purposes of this article, and must be completely offset by a surplus of all other receipts over all other outlays.

''SECTION 4. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

''SECTION 5. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

''SECTION 6. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

''SECTION 7. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

''SECTION 8. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

''SECTION 9. This article shall take effect the second fiscal year beginning after its ratification.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 1—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 2—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled, and that the Senate is ready to proceed to business.

SENATE RESOLUTION 3—TO ELECT ROBERT C. BYRD, A SENATOR FROM THE STATE OF WEST VIRGINIA, TO BE PRESIDENT PRO TEMPORE OF THE SENATE OF THE UNITED STATES

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 3

Resolved, That Robert C. Byrd, a Senator from the State of West Virginia, be, and he is hereby, elected President of the Senate pro tempore.