Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRIEST, Mr. RIVET, Mr. ROGER W. FISHER, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mr. SHEPLEY, Mr. SMITH, Ms. SNOWE, Mr. SPERRY, 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 value 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. MURKOWSKI, 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.

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

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

(1) inserting “1.” before “Other”; and

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

(3) inserting after “Ex-Secretaries and ex-Senators at Arms of the Senate” 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—

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

(2) is in the employ of or represents any person or organization or entity who is engaged or is otherwise permitted to influence, directly or indirectly, the passage, defeat, or amendment of any legislation; or

(3) for purposes of influencing legislation, 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 aircraft owned, operated, or leased by a governmental entity, in connection with the duties of the Member, officer, or employee as an officer, employee, or lobbyist; 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.”.

(b) 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

(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, 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 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 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.”.

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:

“(b) (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 employee may not lobby any Member, officer, or employee of the Senate for a period of 1 year after leaving that position.”

The taking or withholding of an official act shall take effect 60 days after the date of enactment of this title.

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 transferred to the Treasury for deposit in the appropriations account 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 on the date of the certification 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 to whom this section refers, and all that follows through the Congressional Record the following no-

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(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.
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; (b) Registrant and amount of funds contributed or disbursed by, or arranged by, a registrant or employee listed as a lobbyist; (c) 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 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434); and

(7) the date, recipient, and amount of any gift (other than cash or a check) 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, 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, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by gift 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 DISCLOSE 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. 1605(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) NoDonor or Membership List Disclosure.—Section 4(b) of the Act (2 U.S.C. 1605(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 part funds, 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, 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 registrant or an organization identified under that paragraph, a person or entity is a member of a registrant if the person or entity—

(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 and the Committee on the Judiciary of the House of Representatives a list of lobbyists, 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) IN GENERAL.—The United States Attorney for the District of Columbia shall report to the Committee on Homeland Security and Governmental Affairs 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 DISCLOSE REPORTS.

Section 3 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;’’; and

(2) by adding at the end the following:

‘‘(c) E STIMATES OF INCOME OR EXPENSES.

(a) in General.—The term ‘paid efforts to stimulate grassroots lobbying’ means the voluntary efforts of members of the general public to communicate their own views on an issue to Federal officials or other members of the general public to do the same.

‘‘(b) PAID EFFORTS TO STIMULATE GRASSROOTS LOBBYING.’’.

(2) in paragraph (8), by inserting after ‘‘lobbying firm shall register with the Secretary of the Senate and the Clerk of the House of Representatives’’;

(3) by adding at the end the following:

‘‘(B) In the event income or expenses do not exceed $10,000, the registrant shall include a statement that income or expenses 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’’ in paragraph (4) by inserting after ‘‘total expenses’’ the following: ‘‘including a 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’’;

(3) by adding at the end the following:

‘‘(B) 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(b)(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) NONCOMPLIANCE.—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 registrant or an organization identified under that paragraph, a person or entity is a member of a registrant if the person or 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 engaged 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’’ in paragraph (4) by inserting after ‘‘total expenses’’ the following: ‘‘(including a 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

(3) by adding at the end the following:

‘‘(A) in General.—Section 3(c) of the Act (2 U.S.C. 1603(c)) is amended to read as follows:

‘‘(B) Provides for the Disclosure 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 $10,000 shall be rounded to the nearest $20,000.’’.

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)—

(1) in paragraph (1), by striking “and” after the semicolon;

(2) by striking the period and inserting “; and”;

and

(B) 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 911c(e)(3) of the Internal Revenue Code of 1986.”;

and

(2) in subsection (b)—

(1) in paragraph (1), by striking “and” after the semicolon;

(2) by striking the period and inserting “; and”;

and

(3) 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 911c(e)(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 following categories of information described in section 2(a).

“(2) ACCOUNTABILITY.—Each registration statement and update filed in electronic form required by paragraph (2) 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 programs for Members of the Senate and Senate staff.

(b) REQUIREMENTS.—The ethics training program conducted under paragraph (a) 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.

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

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

(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 est rules.

SEC. 234. ANNUAL ETHICS COMMITTEES REPORTS.

The Committee on Standards of Official Conduct of the Senate 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 reprimand.

(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 (c) 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) EXECUTIVE BRANCH.—

“(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 IN VIOLATION OF THE RULES OF CONGRESS.

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 make or receive 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.—No 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, including personal 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 not fewer than—

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

(2) 2 members shall be appointed by the senior member of the Senate to the Senate; and

(3) 2 members shall be appointed by the senior member of the House of Representatives to the House of Representatives.

(b) APPOINTMENT.—Each member of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

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

SEC. 265. FUNCTIONS OF COMMISSION.

The functions of the Commission are to submit to Congress, on the authority of the Commission, an annual report containing such findings, conclusions, and recommendations as the Commission determines to be necessary.

SEC. 266. POWERS.

(a) HEARINGS AND EVIDENCE.—The Commission shall have the power to hold such hearings, including public hearings, as it deems advisable to determine whether the existing congressional ethics requirements, if penalties are enforced and sufficient, and make recommendations for new penalties; and to receive such evidence, administer such oaths, and 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 head of the agency or instrumentality to the Commission to enable it to carry out its duties.

(c) LIMIT ON COMMISSION AUTHORITY.—The Commission shall not conduct any law enforcement investigation on 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. ADMINISTRATIVE SUPPORT SERVICES.

(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 of the Commission, in consultation with the minority leader of the Senate and the majority leader of the House of Representatives, shall appoint a chief 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 staff and personnel as the Commission determines to be necessary.

SEC. 268. 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 reports required by paragraph (1); containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of the Commission members.

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

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

(2) take action to appropriately disseminate such reports.

SEC. 269. 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 title 5, United States Code.

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the staff director may, by agreement with the appropriate entities in the legislative branch, utilize the assistance set forth in paragraph (1), departmental and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support services as the Congress 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 that individuals appointed to the Commission are United States citizens, with national recognition and significant depth of experience in professions such as governmental service, government contracting, the law, high education, historian, business, public relations, and fundraising.

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the staff director may, by agreement with the appropriate entities in the legislative branch, utilize the assistance set forth in paragraph (1), departmental 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.

(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 Congress.

SEC. 269. SECURITY CLEARANCES FOR COMMISSION MEMBERS.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and other individuals as may be necessary for the purposes of this Act, 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. 270. 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 reports required by paragraph (1); containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of the Commission members.

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

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

(2) take action to appropriately disseminate such reports.
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 the bill, I 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 McCAN’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, Mr. CANTWELL, Mr. LEAHY, Mr. LAUTENBERG, Ms. STABENOW, Mr. WEBB, Mr. KERRY, Mr. REED, Ms. LANDRIEU, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mr. DUNN, Mr. OBAMA, Mr. LEVIN, Mr. KOHL, Ms. FINKENSTEIN, 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, Mr. MIKULSKI, Mr. SCHUMER, 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. 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.)
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, Ms. Murray, Mr. Lieberman, Mr. AKAKA, Ms. CANTWELL, Mr. BINGAMAN, Mr. LEAHY, Mr. LATHENBERG, 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. 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, 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. 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 enacted 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 reassert 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. 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 enacted 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 SURPLUSES.—If direct spending or revenue legislation imposes 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 in the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived by the Senate to consider under the expedited procedures described in sections 305 and 310 of the Congressional Budget Act of 1974 any bill, resolution, amendment, 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, 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.

(2) SECTIONS 305 AND 310.—(a) IN GENERAL.—For purposes of this section, the levels of new budget authority, new outlays, and revenue for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(b) RULE TO GOVERN DISCUSSION.—(1) This section shall expire on September 30, 2012.

SEC. 3. RECONCILIATION FOR DEFICIT REDUCTION OR INCREASE OF THE SURPLUS IN THE BUDGET.

(a) IN GENERAL.—It shall not be in order in the Senate to consider under the expedited procedures described in sections 305 and 310 of the Congressional Budget Act of 1974 any bill, resolution, amendment, 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, or 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.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of 2⁄5 of the Senators, duly chosen and sworn, and an affirmative vote of 2⁄5 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.

By Mr. REID (for himself, Mrs. CLINTON, Mrs. MURRAY, Mrs. BOXER, Mr. AKAKA, Mr. KERRY, Mr. LEAHY, Mr. OBAMA, Mr. SCHUMER, Mr. LUTENBERG, 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.
Sec. 3. Amendments to Public Health Service Act relating to the group market.
Sec. 4. Amendment to Public Health Service Act relating to the individual market.

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 Public Health Service Act relating to the group market.
Sec. 203. Amendments 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 TRENDS 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 LIFESTYLE 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. 999. 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 2010: 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, this nation stands out as one of the highest rates of unintended pregnancies among industrialized nations.

(3) In 2004, 34,000,000 pregnancies, nearly half of all pregnancies, in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(4) In 2004, 34,000,000 pregnancies, nearly half of all pregnancies, in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(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 14 to 24. According to the CDC, these sexually transmitted diseases impose a tremendous economic burden with direct medical costs of $19 billion to $45 billion 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, being premature, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

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

(11) A woman who is 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 2,500,000 women who 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, 25.9 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 reproductive health care to underinsured or uninsured individuals who may otherwise lack access to health care.

The Medicaid program is the single largest source of public funding for family planning services and HIV/AIDS care in the United States.
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, uninsured, or underinsured women use emergency contraception consistently and correctly.

(25) A November 2006 study of declining pregnancy rates among Medicaid recipients concluded that the sexual transmission of HIV and other 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 II—TITLE X OF PUBLIC HEALTH ACT
Sec. 101. Short title.

This title may be cited as the “Title X Family Planning Services and Health Act of 2007.”

Sec. 102. Authorization of Appropriations.

For the purpose of making grants and contracts under section 101 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.

Sec. 201. Short title.

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


(a) In General.—Subpart B of part 7 of subtitle B of title I of the Employee Retire- ment 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 ap- proved by the Food and Drug Administra- tion, or generic equivalents approved as sub- stitutable by the Food and Drug Administra- tion, if such plan or coverage provides bene- fits for other outpatient prescription drugs or devices; or

“(2) exclude or restrict benefits for out- patient 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 an individual’s age, sex, or the 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 indi- vidual to accept less than the minimum protections available under this section.

“Every individual’s sex is an important factor or limit the reimbursement of a health care profes- sional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in sub- section (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 to—

“(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 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 drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

“(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 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, or requiring written prior authorization as a condition or limit 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 171(h)(4) 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 prohibits or limits in relation to other requirements) as subpart 2; and

“(f) DEFINITION.—In this section, the term ‘outpatient contraceptive services’ means contraceptive services, as defined in subpart 2, with respect to the requirements of this section as if such section applied to such plan.

“(g) 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.

“(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 contraceptive drugs or devices 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 rights or protections 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;

“(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 on the payment of such benefits;

“(B) that the summary description required by section 102(a)(1), for purposes of assuring no-cost-sharing or limitation for any such service, 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 prohibits or limits in relation to other requirements) as subpart 2; and

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

(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 or 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 122(f) of the Higher Education Act of 1965 (20 U.S.C. 114(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 non-profit organizations, consumer groups, institutions of higher education, Federal, State, or local agencies, clinics, and the media.

(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, is authorized to 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.

TITLES 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 OF 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 information about the prevention of pregnancy, 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 presentation 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, and shall be 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 conduct in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.

(1) IN GENERAL.—The Secretary shall publish in the Federal Register criteria for determining whether a hospital is operating within the scope of its license.

(2) 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.

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 and nondiscretionary grants 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 teen pregnancy, particularly communication among parents and guardians and their children.

(2) Educate community members about the consequences of teen pregnancy, and early pregnancy and parenthood can interfere with educational and other goals.

(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 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.

(5) 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 projects 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 under the grant;

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

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, the Secretary is authorized to make grants for the purpose of establishing and operating for eligible communities, in eligible communities, school-based health centers for such communities, projects for one or more of the following:

SEC. 503. SCHOOL-BASED PROJECTS.

(1) 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 eligible communities, school-based health centers 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 linkages 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.

(6) To provide for the purposes described in subsection (b) to one or more public secondary schools for the eligible community involved; and

(7) To provide for the purposes of the project.

(c) Training.—A grant under subsection (b) may be made under subsection (a) only if the applicant involved has 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) 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 applicants involved in 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) one or more nonprofit private entities to conduct, support, and coordinate research on the prevention of teen pregnancy in eligible communities.

(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.

(b) Application.—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) Requirements for Grantee.—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.

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

(2) The term “racial or ethnic minority 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. AUTHORIZATION OF CONTRACEPTIVE INFORMATION.

Notwithstanding any other provision of current or previous law, any information concerning the use of a contraceptive provided through any federally funded sex education, family life education, abstinence education, comprehensive education, or other education program shall be medically accurate and shall include health benefits and failure rates relating to the use of such contraceptive.
SEC. 703. EXPANSION OF FAMILY PLANNING SERVICES.

(a) COVERAGE AS MANDATORY CATEGORY—

(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 subsection (VI), by striking "or" at the end; and

(B) in subsection (VII), by adding "or" at the end; and

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—This subsection shall take effect on October 1, 2007.

(B) EXPANSION OF EFFECTIVE DATE FOR STATES.—In the case of a State plan approved under section 1115 as of January 4, 2007, the State plan shall be treated as medical assistance provided by such plan for purposes of clause (i) 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:

"(ii) by inserting after the period the following:

"(v) the term 'family planning setting provided during the period in which such an individual is eligible;"".

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

(1) by inserting "or for" and inserting "," for; and

(2) 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.

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 STATES.—(1) AMENDMENTS TO A STATE PLAN.—The Secretary of Health and Human Services, for each of the fiscal years 2008 through 2012, 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 meet 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 holds a legislative session during the 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."
(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 abstinence 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, 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 made 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 sampling 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 purpose 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 increasing 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) REQUIREMENTS.—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 throughout their lifespan; 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 not that 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 "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 reviewed journals.

(4) THE TERM "Secretary" means the Secretary of Health and Human Services.

SEC. 806. APPROPRIATIONS.

(a) IN GENERAL.—In 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 2011.

(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.

Since 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 way, and 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 under these 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 an 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 $5,000. 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 points that were 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 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, and 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 benefits. 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.

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:

SEC. 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.


(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 332 of this title 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 3677 of this title, and includes the limitations specified in section 3622(6) of this title.

(2) The terms 'program of education', 'Secretary of Defense', and 'Selected Reserve' have the meanings given such terms in section 3602 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) and (e), 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) as of 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; and

(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
f" 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) 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 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

‘‘(III) enters on active duty as a member of the Armed Forces and—

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

‘‘(b) 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 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

‘‘(iii) enters on active duty as a member of the Selected Reserve with a program of education leading to a standard college degree; and

‘‘(iv) after completion of the service described in subparagraph (A)(i)—

‘‘(I) is discharged from service with an honorable discharge, 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

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

‘‘(B) The individual—

‘‘(1) on or after September 11, 2001, 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 characterized by the Secretary concerned as honorable service; or

‘‘(ii) enters on active duty as a member of the Armed Forces and—

‘‘(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

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

‘‘(B) on or after September 11, 2001, first enters on active duty as a member of the Selected Reserve with a program of education leading to a standard college degree.

‘‘(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 Fleet Reserve or Fleet Marine Corps 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 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 graduation from one of the military service academies, and—

‘‘(a) is discharged from service with an honorable discharge, 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

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

‘‘(3) An individual who, after September 11, 2001, receives a commission as an officer in the Armed Forces and—

‘‘(a) is discharged from service with an honorable discharge, 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

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

‘‘(C) discharges or releases described in paragraphs (A) and (B) of this section are subject to the limitations contained in section 3311(b) of this title.

‘‘(D) A discharge or release described in section 3311(d) of this title is treated as a discharge or release described in paragraph (2), (3), (4) or (5) of section 3311(d) of this title.

‘‘(E) In the case of an individual described in subsection (d) and an individual described by subsection (i), a program of education is an approved program of education under section 3313 of this title.

‘‘(F) A discharge or release described in paragraph (2), (3), or (4) of section 3311(d) of this title is treated as a discharge or release described in paragraph (2), (3), or (4) of section 3311(d) of this title.

‘‘(G) Limitation.—Except as provided in subsection (c), an individual described in paragraph (2), (3), or (4) of section 3311(d) of this title may not receive educational assistance under this chapter for a period of more than three years.

‘‘§ 3312. Educational assistance: duration

(a) 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)(ii) 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) 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) of such paragraph, 36 months.

‘‘(b) Limitation.—Subject to section 3695 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 an individual described by paragraph (c)(2)(B) of such section) an amount equal to the estimated total cost of such program of education, or a portion thereof, as determined by the Secretary for such program of education.

(b) Approved Programs of Education.—Except as provided in subsections (e) and (f), a program of educational assistance under this chapter 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) The amount of the charges of the educational institution involved that the individual has enrolled in and is pursuing a program of education at the institution.

(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 circumstance nonveterans enrolled in the program of education involved would be required to pay.

(3) The amount payable under paragraph (1)(B) is payable under paragraph (2)(A) 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.

(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, or

(B) the number of course hours for full-time pursuit of such program of education.

(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 on a monthly basis.

(2) Payment of the amount payable under subparagraph (C) 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.

(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, or term, as applicable.

(4) 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.

(a) 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.

(b) 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 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.

(2) 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.

(c) CONDITIONS.—(1) The provision of benefits provided an eligible veteran under this chapter shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

(2) Conditions under this chapter shall also be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

* 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 provided under this chapter shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

(2) Conditions under this chapter shall also 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 pro-
vided to an individual under subsection (a) unless the professor or other individual
leading the course is in possession of, or has access to, the course for
which such benefits are provided certified that—

(A) such benefits are essential to correct a

(B) such course is required as a part of, or is

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factory pursuit of, an approved program of
is prerequisite or indispensable to the satis-
individual under this chapter.
Any benefits provided an individual under
ance under this chapter in the same manner
section 3311(d) of this title.
§ 3322. Bar to education of educational as-
sistance benefits

(a) In GENERAL.—An individual entitled
to educational assistance under this chapter
who is not in an approved program of
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
educational assistance under chapter 30, 31, 32
or 35 of this title, chapter 107, 1606 or 1607 of
title 10, shall 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 assist-
ance under this chapter.
(b) InAPPLICABILITY OF SERVICE TREATED
UNDER EDUCATIONAL LOAN REPAYMENT Pro-
grams.—A period of service counted for pur-
poses of repayment of an education loan under
section 3323(a) of this title may not be ac-
counted as a period of service for entitle-
ment 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 the following—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 edu-
cational 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 Re-
lief Act of 1980, or making contributions to-
ward educational assistance under chapter
30 of this title, as of the date of the enact-
ment of the Post-9/11 Veterans Educational Assis-
tance Act of 2007, coordination
of entitlement to educational assistance under
this chapter, on the one hand, and
such chapters or programs, on the other,
shall be governed by the provisions of sec-
tion 3334(a) of the Post-9/11 Veterans Edu-

SUBCHAPTER III—ADMINISTRATIVE
PROVISIONS
§ 3321. Time limitation for use of and eligi-

(a) In GENERAL.—An individual entitled
to educational assistance under this chapter
shall also be entitled to payment for one li-
censure or certification test described in sec-
tion 3462(b) of this title.
(b) LIMITATION ON AMOUNT.—The amount
payable under subsection (a) for a licensing
or certification test may not exceed the less-
er of—

(1) $2,000; or

(2) the fee charged for the test.
(c) CHARGE AGAINST ENTITLEMENT.—Any
amount paid an individual under sub-
section (a) is in addition to any other edu-
cational 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
may use such funds appropriated to, or other-
wise made available to, educational assis-
tance benefits
(1) Excep-
tion to the term 'educational assistance'
in such section 3482(g) shall be deemed as follows:

(1) Excep-
tion to the term 'educational assistance'
in such section 3482(g) shall be deemed as follows:

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in such section 3482(g) shall be deemed as follows:

(1) Excep-
tion to the term 'educational assistance'
in such section 3482(g) shall be deemed as follows:
(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 30, 1604, 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 title 10, United States Code, and has used, but retains unused, 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
   (B) as of the date of the individual’s election under this paragraph—
      (i) otherwise meets the requirements for entitlement to basic educational assistance under chapter 30 of title 38, United States Code, as applicable;
      (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 chapter 30 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unused, such individual may elect to revoke all or a portion of the entitlement so transferred that remains unused.
   (B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not 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 section 3011(b) or 3012(d)(1) of such title; and
   (C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual under this paragraph shall be available to the dependent to whom transferred, as applicable.
(3) POST-9/11 EDUCATIONAL ASSISTANCE.—
   (A) IN GENERAL.—Subject to subparagraph (B), an individual making an election under paragraph (1) who is entitled to basic educational assistance under chapter 33 of title 38, United States Code, or educational assistance under chapter 107, 1604, or 1607 of title 10, United States Code, as applicable, and the requirements of such section shall be deemed to be no longer applicable to such person.
   (B) TERMINATION OF ENTITLEMENT.—In the case of an individual under paragraph (1) of this subsection, an individual described by subparagraph (A)(ii) of that paragraph is not entitled to educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 30 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):
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 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 gasoline. Because 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 the 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 rejoin us in taking action to boost the transition to a cleaner, more resilient, and more secure energy economy. I rejoin us in taking action to boost the transition to a cleaner, more resilient, and more secure energy economy.

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. 302. MAINTENANCE RESPONSIBILITIES FOR DUAL FUELED AUTOMOBILES.

TITLE II—DUAL FUELED AUTOMOBILES

SEC. 201. REQUIREMENT TO MANUFACTURE DUAL FUELED AUTOMOBILES.

SEC. 202. MAINTENANCE RESPONSIBILITIES FOR DUAL FUELED AUTOMOBILES.

TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the “Biofuels Security Act of 2007”.

(b) APPROPRIATIONS.—The table of contents of this Act is 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) APPROPRIATIONS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

SEC. 101. RENEWABLE FUEL PROGRAM.

SEC. 102. INSTALLATION OF E-85 FUEL PUMPS BY MAJOR OIL COMPANIES AT OWNED STATIONS AND BRANDED STATIONS.

BIOFUELS SECURITY ACT OF 2007.
(1) by redesigning 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 franchise a renewable fuel pump, such as one that dispenses E85, shall be considered an unlawful restriction; and (d) 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 (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.—** 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 or not less than the applicable percentage set forth in the following table:

<table>
<thead>
<tr>
<th>Model Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>10</td>
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<tr>
<td>2009</td>
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<td>2010</td>
<td>30</td>
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<td>2014</td>
<td>70</td>
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<tr>
<td>2015</td>
<td>80</td>
</tr>
<tr>
<td>2016 and beyond</td>
<td>90</td>
</tr>
</tbody>
</table>

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

'(1) **ELIGIBILITY AND PERIOD FOR APPLICATING 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)."

(b) **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."

- (a) **Requirement.**—The Secretary of Transportation shall carry out activities to promote the use of fuel mixtures containing gasoline 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.

- (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 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 redesigning 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 24 months after the date of enactment of the Biofuels Security Act of 2007 by dividing 1.0 by the sum of:

(A) 0.8 divided by the fuel economy measured under section 32904(c) when operating the model on gasoline or diesel fuel; and

(B) 0.2 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 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.

(5) Notwithstanding paragraphs (2) through (4), the Administrator shall establish a production standard for all dual fueled automobiles manufactured to comply with the requirements under section 32902A(a), including automobiles for which dual fueled credits have been earned 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.**

**By Mrs. BOXER (for herself, Mr. FEINSTEIN, and Mr. LAUTENBERG):**

**H. R. 4306. 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 any water to 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 the original sponsors 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 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 133 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 it 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 regulation 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, as follows:
SEC. 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 pyrotechnic devices;
(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 efforts to 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 inhibiting the uptake of iodine by the thyroid gland, which is necessary to produce important hormones that help control human health and development;
(B) if affected, 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 regarding the effects of low levels of perchlorate exposure in women, finding that—
(i) significant changes existed in thyroid hormone levels in iodine-deficient women; and
(ii) even low-level perchlorate exposure may affect the production of hormones by the thyroid gland in iodine-deficient individuals; 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; and
(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 1412(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–1(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 to—
(1) 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 promote, 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—
(1) 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 populations (including pregnant women, fetuses, newborns, and children), considering body weight and exposure patterns and all routes of exposure.

(2) 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 1415(a)(2).

(3) DETERMINATION.—The regulation shall be in effect unless and until monitoring for perchlorate is required under a national primary drinking water regulation for perchlorate.

(4) CONSUMER CONFIDENCE REPORTS.—Each consumer confidence report issued under section 1412(a)(2) 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 continues to be 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 delay the marketing of generic drugs—the 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 or their behold) 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 manufacturers often wait to file citizen petitions until just before the FDA is about to grant the application to market the 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 approvals. We have seen cases in which the petitioner has attempted to simply delay approval of 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 they could have been 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. 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 time 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 (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 section 355(e)(3) for a period of not more than 10 years.

(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

(iv) may contain a materially false, misleading, or fraudulent statement as described in clause (i)(IV) of section 355(j)(5).

(ii) The Secretary shall investigate, on receipt of a complaint, a request under section 355(e)(3) for a period of not more than 10 years.

(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

(iv) may contain a materially false, misleading, or fraudulent statement as described in clause (i)(IV).

SEC. 2. CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.

Section 355(g)(3) of the Federal, Drug, and Cosmetic Act (21 U.S.C. 355(g)(3)) is amended by adding at the end the following:

(IV) (D) 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.

(III) may contain a materially false, misleading, or fraudulent statement as described in clause (i)(IV).

(II) the petition 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.

The Secretary shall have authority to investigate, on the petition or on its own motion, petitions submitted under such section 10.30 or section 10.35 (or any successor regulation), to determine whether

(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).

(II) the petition 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.

The Secretary shall have authority to investigate, on the petition or on its own motion, petitions submitted under such section 10.30 or section 10.35 (or any successor regulation), to determine whether

(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).

The Secretary shall have authority to investigate, on the petition or on its own motion, petitions submitted under such section 10.30 or section 10.35 (or any successor regulation), to determine whether

(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).

(II) the petition 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.

The Secretary shall have authority to investigate, on the petition or on its own motion, petitions submitted under such section 10.30 or section 10.35 (or any successor regulation), to determine whether

(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).
“(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) merit enforcement under such section 10.30 or section 10.35 (or any successor regulation) within 6 months of receipt. The Secretary may not extend such 6-month review period, even with consent of the petitioner, for any reason, including based upon the submission of comments or additional mental 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 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 opens 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 also my honor to join 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 forges a legacy that 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-extinct salmon fishery. The return of a single California’s most important salmon runs will create significant benefits for local communities in the San Joaquin Valley by fortifying the 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 2004. Beginning 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 along the full 375 miles of the San Joaquin, from Mendota, and a refuge for residents of larger cities like Fresno.

The settlement 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 $15 per acre-foot for use in dry years, far less than the approximately $235 per acre-foot that they would otherwise pay for this water.

In addition, the Secretary 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 protection 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, organizations, and individuals and 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 environment 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 impacts. Indeed, this legislation provides the Administration the authorization it needs to fully carry out its
section 2(d) of the Act of August 26, 1937 (50 Stat. 844, chapter 572), to carry out the measures authorized in this section and section 4.

(b) Disposal of the Settlement.—

(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.

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;

(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 572), to carry out the measures authorized in this section and section 4.

(c) USE OF FUNDS FOR ENVIRONMENTAL REVIEWS.—

(1) DEFINITION OF ENVIRONMENTAL REVIEW.—For purposes of this Act, 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 shall provide funds necessary to pay 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.

(d) NONREIMBURSABLE FUNDS.—The United States’ share of the costs of implementing this Act shall be nonreimbursable under Federal reclamation law, 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, may be construed to limit or modify existing or future Central Valley Project Rate Setting 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 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 requirement 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. 4721), as provided in the Settlement and section 9(d).

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 affect 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 Federal or 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 $250,000,000 authorized pursuant to subsection (b)(1), and such additional funds authorized pursuant to subsection (b)(2), and, for that purpose of implementing the provisions of section 8(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 in the State of California.

(B) Requirements.—Any agreements entered into under subparagraph (A) shall provide for the consideration of either monetary or in kind contributions toward the State of California’s share of the cost of implementing the provisions of section 8(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) Additional 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 for such public agency or subdivision of the State of California to repay the bond, loan or financing rather than into the Fund.

(2) Other Funds.—The Secretary is authorized to make a fund created under section 3407 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4721) 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 for 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 the terms of a Memorandum of Understanding executed by the State of California and the Parties to the Settlement, on September 13, 2006.

(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 costs, deposited in the Settlement Fund to be credited to the United States for implementation of the Settlement, which the Secretary may expend without further appropriation for the purposes for which other settled funds are appropriated.

(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, to be issued or entered into, 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 instrument, for 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 reduce the capital costs 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 payment made pursuant to paragraph (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 section 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 section 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 already in the accounts, 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;

(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 reinitiation of any flows other than Interim Flows.

(2) Report.—

(A) In General.—The Secretary shall file a report with Congress not later than 180 days after issuing a determination, as required by the Settlement, on whether to expand channel conveyance capacity to 4500 cubic feet per second for 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:

(Basis for the Secretary’s determination);

(i) whether the report would set out detailed review documents or otherwise, as to whether the expansion of Reach 4B would be the preferable means to achieve the Restoration objectives provided in the Settlement, including how different factors were assessed as comparative biological and habitat benefits, comparative costs, relative availability of cost-sharing funds, and the comparative benefits and impacts on water temperature, water supply, private property, and local and downstream flood control.

(b) Appropriate Agency.

(A) In General.—The Secretary’s estimate for expanding Reach 4B capacity to 4500 cubic feet per second, or any alternative route selected, as well as the alternative cost estimate provided 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 future Federal appropriations, or some combination of such sources.

(B) DETERMINATION REQUIRED.—The Secretary’s plan for funding the costs of expanding Reach 4B or any alternative route selected shall include the determination in subparagraph (A) prior to undertaking any substantial construction work to increase capacity in Reach 4B.

(3) FUNDING.—(A) 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 funds dedicated, and all new funds authorized by this Act and separate from all committed 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 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 litigation regarding restoration of the San Joaquin River and the reintroduction of the California Central Valley Spring Run Chinook salmon is a unique and extraordinary 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.) shall preclude 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 and its tributaries, including the Stanislaus, Tuolumne, Merced, and San Joaquin rivers and otherwise consistent with the terms of the Settlement, 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.

(c) REQUIRED COMPONENTS.—(1) An assessment of the major challenges, if any, to successful reintroduction;

(2) 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.—(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) solely for other anadromous fish species because those provisions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(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) for other species pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) and the Settlement, provided that the Secretary of Commerce shall permit for the reintroduction of California Central Valley Spring Run Chinook salmon a level of prescriptions that will not result in the overabundance of fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(b) EFFECT OF SUBSECTION.—(1) To modify the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) and the Settlement, provided that the Secretary of Commerce shall permit for the reintroduction of California Central Valley Spring Run Chinook salmon a level of prescriptions that will not result in the overabundance of fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(c) RECENT HISTORY.—Nothing in this subsection is intended or shall be construed to 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.

(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.

(e) FERC PROJECTS.—(1) IN GENERAL.—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) for other species pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) and the Settlement, provided that the Secretary of Commerce shall permit for the reintroduction of California Central Valley Spring Run Chinook salmon a level of prescriptions that will not result in the overabundance of fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(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.

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 an existing prescription 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 patients less than 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 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 generics, 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 of 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 so-called “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.”
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—

“(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 determines that the drug is the therapeutic equivalent of a listed drug under section 505(f)(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 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.

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 their homes. Rental properties are also eligible. Grants can also be used to buy out homes. The Louisianaans 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 it 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 because their homes were so badly damaged, the LRA will receive 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, and it must exceed a $100 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 your mortgage and have any 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 large 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 for a $100,000 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 that is helping our residents 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 Gulf Coast. That was supposed to attract businesses and people to Louisiana and the Gulf. The IRS’s actions will only keep people away. We should not put roadblocks 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 remarkably events causing unprecedented damage. As Congress has done in the past, we must continue to respond to 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 McMillan 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 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 $80 billion in expenditures, is dramatic compared to the last few years. China has doubled the share of its economy that it invests in research. China intends to double the amount...
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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 seeks to triple 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, the bill simplifies and streamlines 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 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: “Perpetual uncertainty is 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 expenses, the increase from 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 creations by using this new credit only, keeping only 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. It and 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 can actually 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 positive 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 $37,000 a year. In time, 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 a credit only 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. Universities, 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 80 percent rate.

The current formula for calculating the university basic research credit—defined as research “for the advancement of science with no specific commercial or industrial application, 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 a 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. Americans 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 competitive advantage is the combination of university research, 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 of my bill addresses 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 in research partnerships 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 allow these bonds to lose their tax-exempt 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 more than 50 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 act as a manufacturing manufacturing of 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 provides 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 promising 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 ensure that the 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 was ordered to be printed in the RECORD.

There being no objection, the text of this 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 called the “Arctic Research and Policy Amendments Act of 2007”.

SECTION 2. CHAIRPERSON OF THE ARCTIC RESEARCH COMMITTEE.
(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 the same level of private 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, they are frequently unstaffed.

For example, 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 health 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 gaps in 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 and 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 illness is immense, 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. 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 “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 provide preventive care training for health care practitioners and 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 preventive health care training component;

“(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 medical aid 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 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 new incentives 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 at university or nonprofit primary care centers developed mainly in collaboration with universities in 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 see patients 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 patient 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 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:

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. 1396a(a)) is amended—

(1) in paragraph (27), by striking “and” at the end;

(2) by redesigning paragraph (28) as paragraph (29); and

(3) by inserting after paragraph (27), the following new paragraph:

“(29) 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 1861 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 for which which are within the scope of practice of a registered nurse.”.

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 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 Noah’s Ark, the Pottawotomi Nation was the victim of this greatest of all ethnic cleansing. For years, the Pottawatomis steadfastly refused to move themselves west. For years, the Pottawatomis were dissatisfied. By 1836, the United States annexed most of the Pottawotomi Nation in Canada to the United States. They occupied and relented and on September 26, 1833, the United States annexed the Treaty of Chicago. Seventy-seven Pottawatomis 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 Pottawatomis 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. The Treaty Commissioners were sent back to acquire Pottawatomis 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 Wisconsin Band’s territories. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomis 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 make clear 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 Mr. REID (for Mr. INOUYE):

S. 56. A bill to provide relief to the Pottawotomi 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 Pottawotomi Nation in Canada to have the merits of their claims determined by the United States Court of Federal Claims.” That bill was introduced as Senate Resolution 223, which referred the Pottawotomi’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 Pottawotomi 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 Pottawotomi Nation in Canada has a legitimate and credible legal claim. Thereafter, by settlement stipulation, the United States has acknowledged that the Pottawotomi would be “fair, just and equitable” to settle the claims of the Pottawotomi 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.” Pottawotomi Nation in Canada, et al. v. United States, Cong. Ref. 94–1037TX at 28 (Ct. Fed. Claims December 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 the 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 Pottawotomi.

The members of the Pottawotomi Nation in Canada are one of the descendant groups-in-interest—of the historical Pottawotomi Nation and their claim originates in the latter part of the 18th century. The historical Pottawotomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawotomi 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 Pottawotomi 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 Pottawotomi.

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 Pottawotomi to cede the remainder of their traditional lands—some five million acres in and around the city of Chicago and reposition themselves west. For years, the Pottawotomi resisted, 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 Pottawotomi 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 Pottawotomi to agree to cede their territory. Finally, those Pottawotomi who were present relented and on September 26,1833, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventeen members of the Pottawotomi Nation signed the Treaty of Chicago. Members of the “Wisconsin Band” were not present and did not assent to the cession.

The Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawotomi 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 Pottawotomi removed westward, many of the Pottawotomi—particularly the Wisconsin Band, whose leaders never agreed to the Treaty—refused to do so. By 1836, the United States began to forcefully remove Pottawotomi who remained in the Wisconsin Band’s territories. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawotomi 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 Pottawotomi 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 make clear that many Pottawotomi 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 out of Canada—petitioned the Congress for the payment of their treaty annuities promised under the Treaty of Chicago and 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 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 directed 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 claimant Indians as directed the provision of the Act of June 25, 1864.

In order to carry out the 1906 Act, the Secretary directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomis 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 $3,303,840. The Secretary 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 petitioned the claim was 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 Indians their layed 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), Unassigned 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 1963. 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 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 beyond the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, they 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 gently sought to have their claim be recognized and that the United States is willing to do what we can to see that justice—so long delayed is now not 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 American Indian Nation of Pinnebog (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:

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 March 6, 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”);

(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. 1702) shall 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 1899, with it was mandated by Senate Resolution 32 authorizing 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 to full veteran 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, but moreover, these were diagnostic veterans. After the war, the Filipino veteran population is expected to decrease to approximately 20,000 or roughly one-third of the current population by 2010.

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;

(3) by striking subsections (c) and (d); and

(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.
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—

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<td>2008 or thereafter</td>
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Statement by Senator Daniel K. 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 non-profit hospitals are facing to modernize their facilities and meet the growing demand for charitable medical care. The problems have grown more urgent than 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.

A New England Journal of Medicine had surveyed hospitals and sources of payments be considered to finance these 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, non-profit 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 hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness. The success and financial constraints of non-profit teaching hospitals is evident in the work of the Queen’s Health Systems in Hawaii. It serves as the primary 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...
January 4, 2007

CONGRESSIONAL RECORD—SENATE

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 Programs to the Committee on Finance.

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 Programs 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 and policy to provide 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.

The 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 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 practice nurses. This bill recognizes 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 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.

The amendment being objected to is the text of the bill as ordered to be printed in the RECORD, as follows:

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. 1396t(b)(2)) is amended by striking subparagraph (B) and inserting the following:

"(B) A nurse practitioner (as defined in section 1861(aa)(5)(A)), and physician assistants (as defined in section 1861(aa)(5)(B)) who have been certified by a board of the State in which the provider is located as a "practitioner" shall be considered to be "physician" for purposes of the Medicaid program.";

(3) by striking the “certified pediatric nurse practitioner or certified family nurse practitioner” and inserting “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 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”;

(4) by inserting before the semicolon at the end of subsection (B) the following: “and (C) services furnished by a physician assistant (as defined in section 1861(aa)(5)(B)) who has been certified by a board of the State in which the provider is located as a "practitioner" shall be considered to be "physician" for purposes of the Medicaid program.”;

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the later of the date of the enactment of this Act, and the date on which the Secretary promulgates regulations pursuant to subsection (c).

By Mr. REID (for Mr. INOUYE):

S. 60. A bill to amend the Public Health Service Act to make funds available 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, the leaders of the Senate have been champions for improving children’s emergency services. 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 anatomical, 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, physicians, surgeons, and pediatricians.

The Institute of Medicine recently released study on Emergency Care for
Children, indicated that our Nation is not as well prepared as 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 incidents.

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 Nation.

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:

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, with 14 percent undergoing children’s hospitalizations, 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 and children under 1 year of age, and 70 percent of hospitals lacking pediatricians on call 24 hours a day to provide medical direction to emergency medical technicians, public health officials, and other non-physician emergency care providers.

(b) PURPOSE.—It is the purpose of this Act to reduce child and youth morbidity and mortality by improving the quality of all emergency medical care services for children.

**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 4-year period)” and inserting “3-year period (with an optional 5-year period)”;

(2) in subsection (b)(1), by striking “$23,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2011” and inserting “$23,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012”;

(3) by designating subsections (b) through (d) as subsections (c) through (g), 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 coordinating and improving emergency medical services, including those in rural areas and those for children with special healthcare needs. In carrying out this purpose, the Secretary shall—

“(A) develop and present scientific evidence about the effectiveness and cost-effectiveness of each project; and

“(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 use of evaluation and treatment services 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 importance 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:
SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clinical Social Workers’ Recognition Act of 2007”.

SEC. 3. RECOGNITION OF CLINICAL SOCIAL WORKERS

(a) RECOGNITION.—

(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 organizations 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 today and the proliferation 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 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 medical care, the problems have grown more urgent since that article appeared.

As a result, the article stated, for-profit hospitals are moving to 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 instruction 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 non-profit hospitals consistently performed-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 was so inadequate that had 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 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 maintains a 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 a way so as to 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 up against the ban on debt financing prohibited. 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 to prevent them from engaging in the business activities of teaching hospitals, law schools, 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’s general 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 conference report that had been reported 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.

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 services.

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.—Paragraph (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 “and” in 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:

(IV) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—For purposes of subparagraph (C)(iv), the term ‘qualified hospital support organization’ means, with respect to any eligible indebtedness, a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 118(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 20 percent of the fair market value of all investment assets held by the organization immediately
SEC. 2. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES.

(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 ‘‘a patient receiving clinical psychologist services (as defined in subsection (ii)) or clinical social worker services (as defined in subsection (hh)(2)) may be under the care of a clinical psychologist 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.

SEC. 3. PATIENT REHABILITATION FACILITY PROVIDE SERVICES.

(a) HEALTH PROFESSIONS SCHOOLS.—Section 738(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293(g)(1)(A)) is amended by striking ‘‘offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work’’.

(b) SCHOLARSHIPS.—Section 737(l)(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)’’.

SEC. 4. 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 a program to provide opportunities for social work training in health and mental health care;

(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, or practicing physicians;

(3) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program; 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, any school offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative

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 ‘‘Strengthens Social Work Training Act of 2007’’.
My colleagues and I agree. When the rule was implemented in 1978, they are much higher at more than 77 years. The FAA should end. My colleagues and I agree.

When the rule was implemented in 1960 life expectancy 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."

Further force the 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 decreased Pension Benefit Guarantee Corporation (PBGC) payments.

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 re-introducing legislation today that would end the Secretary of the Army's current authority 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:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippines, 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, veteran’s, or other benefits under the laws of the United States.

(b) DETERMINATIONS TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence relating to military service described in the certificate.

SEC. 2. CERTIFICATE OF SERVICE.

(a) ISSUANCE OF CERTIFICATE.—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.—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 the 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 Secretary 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): Sen. 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 give access to eligible 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 non-scheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide travel eligibility 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 cannot erase the sacrifices that 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 is 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, ...

SEC. 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—(1) Section 1060c of title 10, United States Code, is amended by inserting after section 1060b the following new section:

“§ 1060cc. Travel on military aircraft: certain disabled former members of the armed forces.

“(a) IN GENERAL.—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 scheduled 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:

“1060cc. 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 Small Business Administration 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, or MEP, for fiscal year 2008-fiscal year 2012. I am a long-time 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 manufacturer relies 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 health 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 smaller manufacturers—is to support MEP.

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 must stay ahead of the curve by continually upgrading their manufacturing processes. This can only be achieved with a skilled workforce that is available to adopt new technologies and make changes to products and services 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 efforts to alleviate 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 (3); and  

(C) by inserting after paragraph (3) the following new paragraph:  

“(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 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 professions 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 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 Union 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. 1395l(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(h)(2) of the Social Security Act (42 U.S.C. 1395(h)(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. 1395l(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. 1395w(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. We know that nurse staff levels 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 staffing levels and the skill mix of nursing staff directly affect the clinical outcomes of hospitalized patients. Studies show that inadequate staffing of 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 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”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) A critical shortage of registered nurses in the United States.

(2) The effect of that shortage is revealed in unsafe staffing levels in hospitals.

(3) Patient safety is adversely affected by these unsafe staffing levels, creating a public health crisis.

(4) 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.

(5) As a payer for inpatient and outpatient hospital services for individuals entitled to benefits under the Medicare program established by section 1802 of 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 that participates in the Medicare program to establish and maintain minimum safe staffing levels for registered nurses.

SEC. 3. Etablissement DE 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 1880.0.1 (b) of Regulations under Title XVIII of the Social Security Act is amended by inserting after section 1880.0.1 new section: ‘STAFFING REQUIREMENTS FOR MEDICARE PARTICIPATING HOSPITALS—

‘SEC. 1880.0.1. (a) STAFFING SYSTEM.—

‘(1) 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 official census, discharges, and transfers during each shift;

‘(C) account for contextual issues affecting staffing of patients in the 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 and downwardly adjusted registered nurse-to-patient ratios based on 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 perform all of the professional functions 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-to-patient levels below those required by any Federal or State law or regulation;

‘(B) use 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) maintain a 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 publication of such information for accuracy as a part of the process of determining whether an institution is a hospital for purposes of this title.

‘(2) RECORDKEEPING; DATA COLLECTION; EVALUATION.—

‘(1) RECORDKEEPING.—Each participating hospital shall maintain a 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 publication of such information for accuracy as a part of the process of determining whether an institution is a hospital for purposes of this title.

‘(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 patient outcomes.

‘(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 needle-stick injuries; and

‘(D) patient complaints related to staffing levels.

‘(3) EVALUATION.—Each participating hospital shall annually evaluate its staffing system to assure ongoing reliability and validity of the system and ratios. The evaluation shall be conducted by a joint task force staffed by individuals with 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 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 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.—

“(1) 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 subparagraph and 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.

“(2) RELIEF FOR PREVAILING EMPLOYEES.—An employee of a participating hospital who has been discriminated or retaliated against in employment in violation of this section 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 section 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 the wages under otherwise 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.—In addition to any other penalties prescribed by law, the Secretary—

“(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, credentialing, or licensing of the individual; and

“(iii) a personnel action that is adverse to the individual concerned.

“(6) 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 authorize the doing of any act which would be an unlawful practice under this title.

“(g) RELATIONSHIP TO CONDUCT PROHIBITED UNDER 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.

“(1) DEFINITIONS.—In this section:

“(i) PARTICIPATING HOSPITAL.—The term ‘participating hospital’ means a hospital that has entered into a provider agreement under section 1861.

“(ii) 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.

“(iii) UNIT.—The term ‘unit’ of a hospital is an organizational department or separate geographic area of a hospital, such as a burn center, a labor and delivery area, a post-hospitalization service area, an emergency department, an operating room, a pediatric unit, a stepdown or intermediate care unit, a special unit, a general medical care unit, a subacute care unit, and a transitional inpatient care unit.

“(iv) SHIFT.—The term ‘shift’ means a scheduled set of hours or duty period to be worked at a participating hospital.

“(v) 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 Audits 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 BENVENUTI.

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 the safety net that protects our constitutional rights of individual Americans.

Yet the ability of Congress to ensure that the intelligence community has sufficient resources and capability to perform its mission has never been in greater 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 with 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 agencies with overlapping missions including 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 Treasury; Department of Justice; Department of Energy; 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 those agencies under their jurisdiction. 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 for the CIA, perhaps some of the problems that were so clearly explained 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 terrorism information sharing 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 it is reviewing 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 (OPM), the Director of National Intelligence, and the DOD, Government Accountability Office (GAO) is the only source of information on the cost and effectiveness of intelligence activities is beyond GAO’s purview."

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 perceive (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 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 Section 3523a(c)(1) provides that Comptroller General audits or 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 or evaluations, may be done at the request of the congressional intelligence committees or any committee of jurisdiction of the House of Representatives or Senate (including senators that serve on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), or at the direction of 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 the Administrative Branch of the Government (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 this context, the new Section 3523a(b)(2), which is described below, makes clear that nothing in this or any other provision of law shall be construed to restrict or limit the authority of the Comptroller General to conduct 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 and 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 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 is intended to recognize the heightened sensitivity of audits and evaluations relating to

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.
intelligence sources and methods, or covert actions.

The new Section 3523a(c)(2)(A) provides that the results of such audits or evaluations under this subsection are to be disclosed 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 the results under new 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 on 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 the intelligence community relating to intelligence sources and methods, or covert actions in order to perform the audits and evaluations under new 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 confidentiality for 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 received by 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(e) 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 to restrict or impair 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.
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 have also influenced changes.

In 1985, the temporary Department of Defense (DOD) Security Review Commission, chaired by retired General Richard G. Stilwell, concluded that there were verifiable figures as to the amount of classified material produced in DOD and in defense industry each year. Nonetheless, it concluded that information lost to be classified and much at higher levels than is warranted. In October 1993, the cost of classified information became clearer when the General Accounting Office (GAO) reported that it was “able to identify government-wide costs directly applied to the processing of classified 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. 12858 sets limits for the duration of classification, regulating the classification of properly declassified records, authorized government employees to challenge the classification status of records, reestablished the Office of the Director of Intelligence to block declassification activities, and a date or event for declassification. In 1985, the temporary Department of Defense (DOD) Security Review Commission, chaired by retired General Richard G. Stilwell, concluded that there were verifiable figures as to the amount of classified material produced in DOD and in defense industry each year. Nonetheless, it concluded that information lost to be classified and much at higher levels than is warranted. In October 1993, the cost of classified information became clearer when the General Accounting Office (GAO) reported that it was “able to identify government-wide costs directly applied to the processing of classified 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.”

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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 classified information; easing the reclassification of declassified records; postponing the automatic reclassification 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 over 56 years, and not all agree with all of its rules and requirements. But attention to detail in its policy and procedure results in a significant management and administrative imperative, as order, as amended, defines its principal terms. Those who are authorized to exercise original classification authority are identified. Every set of classified information is specified, as are the terms of the duration of classification, as well as classification prohibitions and limitations. Classified information requires manual, administrative order, and is 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, to an apparently unsecured computer glitch at the Department of Energy. Describing the contents of the compromised materials and reactions to the breach, the account stated the “document was basically a list of 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, as to for the use of classification 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 consensus on adjudicating concerns regarding appropriate levels of protection.

Concerning the current Sensitive but Unclassified (SBU) marking system, the Federal Research Division of the Library of Congress commented that guidelines for its use are needed, and noted that “a uniform definition” of SBU is not applicable to all Federal government agencies because “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 but not classified national security material. That same month, the National Security Archive offered that, of 37 agencies surveyed, 24 used 28 control markings, based on 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.

(There are at least 15 agencies that use the term ‘Confidential Original Only’ (FOUO), but there are at least five different definitions of FOUO. At least seven agencies or agencies 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 Justice includes information pertaining to the protection of senior government officials, and OPM defines it as unclassified information used by law enforcement agencies to protect 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 government-wide policies or procedures that describe the basis on which agencies should use most of these sensitive but unclassified designations, explain that the different designations mean across agencies, or ensure that they will be used consistently from one agency to another. In this absence of a framework within which designations 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 re-alizing homeland security was emphasized by the National Commission on Terrorist Attacks Upon the United States. That commission 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.’ In its discussion of the Homeland Security Act of 2002, the President’s Office of Management and Budget (OMB) assigned this responsibility largely to the Secretary of Homeland Security. Nothing resulted.

The importance of information sharing was reinforced two years later in the reauthorization of the Intelligence Reform and Terrorism Prevention Act of 2004. Preparatory to implementing the OMB provisions, the President issued a December 16, 2005, memorandum recognizing the need for standards 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 2006 GAO assessment that, oftentimes, SBU information, designated as such with some marking, was not being shared due to concerns about the need for certain designations to protect it. In brief, it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing between agencies.

Congressional overseers have probed executive use and management of information control markings other than those pre-scribed for the use 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. 5122) containing sections which would require agencies to prepare a detailed report regarding the number, use, and management of these information control markings and submit it to specified congressional committees, among other things.

The importance of information sharing was reinforced two years later in the reauthorization of the Intelligence Reform and Terrorism Prevention Act of 2004. Preparatory to implementing the OMB provisions, the President issued a December 16, 2005, memorandum recognizing the need for standardized procedures for SBU information sharing was recognized by Congress 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.”

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, for purposes of this [Charter] shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activities or other such activity directly affects a matter otherwise within the jurisdiction of such committee.”
Both resolutions also direct that the membership of each intelligence committee include at least one member on the intelligence committees that historically have been involved in intelligence oversight. The respective resolutions designate the following committees 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 statutes authorize 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 establish the intelligence committees to 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, fail to state what role, if any, these ‘cross-over members’ play in keeping standing committees on which they serve informed of certain intelligence activities. Rather, the resolutions state 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 ELEMENTS OF THE INTELLIGENCE COMMUNITY

(a) REFERRING OFFICE 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 ‘‘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;

(2) such audits and evaluations may be requested by any committee of jurisdiction including the Committee on Homeland Security and Governmental Affairs of the Senate, and the House of Representatives; and

(3) the Comptroller General may conduct an audit or evaluation of the intelligence community, absent specific statutory language restricting or limiting such audits and evaluations.

(c) (1) The Comptroller General may conduct an audit or evaluation of the intelligence community's financial transactions, programs, and activities of the intelligence community absent specific statutory language restricting or limiting such audits and evaluations.

(2) The Comptroller General may 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.

(3) (A) Notwithstanding any other provision of law, the Comptroller General may 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.

(B) The Comptroller General may provide information obtained in the course of an audit or evaluation under paragraph (1) only to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

(4) (A) Nothing in this section or any other provision of law shall be construed to restrict or limit 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 AMENDMENTS.—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, Amtrak's busiest State and tribal boxing commissions. The provisions were stripped from the conference agreement. As a result, our Nation's transit system, Amtrak, and the freight railroads remain vulnerable to terrorist attacks.

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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 judgment.

I urge the Senate to move quickly to again pass this important legislation.

Mr. McCaI (for himself, Mr. Stevens, and Mr. Dorgan): S. 94. A bill to establish the United States Boxing Commission to administer the Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCaI. 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 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 boxing careers. For example, Congress has made efforts to improve the sport of professional boxing and for very good reason. With rare exception, professional boxing now 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 are at a crisis point.

By Mr. McCaI (for himself, Mr. Dorgan, Mr. Baucus, Mr. Grassley, Mr. Reid, Mrs. Feinstein, and Ms. Feinstein): 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 regulations 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.

I urge the Senate to move quickly to pass this important legislation.
Mr. MCCAIN. Mr. President, today I am introducing the Indian Tribes Methamphetamine Reduction Grants Act of 2007. This bill is 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 of abuse in Indian 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 rising levels of drug-related 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, criminal activities are 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 almost all meth 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 local law enforcement agencies and social services. Meth has forced tribes to bear the brunt of most law enforcement functions.

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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.

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. LUTENBERG, and Mrs. MURRAY):

S. 95. A bill to amend titles XIX and XIX 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 events in the world, 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 partnership to mandate health care 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 nation on earth, 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. 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 are uninsured. 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 Citizens Cospendors and another 20,000 Americans called into our “Give Voices to Our Children 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, 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.—The 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. 102. Elimination of cap on SCHIP funding for States that expand eligibility for children.
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 II—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 UNIFORM COVERAGE.—

(A) Currently, there are 9,000,000 children under the age of 19 who 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 to enroll 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 the uninsured were under the poverty line, 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 15 percent.

(E) Children’s health care needs are neglected in the United States. One out of every 5 children has problems accessing needed health care. One-quarter of young children in the United States are not fully up to date on their basic immunizations. One-third (B) 28,000,000 children are enrolled today in 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 and SCHIP do more than just fill the gaps. Gains in public coverage have reduced the percentage of low-income uninsured children by 1/3 from 1997 to 2005, 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 enrolled in public programs have 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 readiness as compared to children who were not insured.

(F) Despite the success of expansions in general under the Medicaid program and SCHIP, due to current budget constraints, many states are considering reducing 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 since the program’s enactment.

(G) It is estimated that nearly 50 percent of children covered through SCHIP do not remain in the program due to reenrollment barriers. Approximately 10 and 40 percent of these children are "lost" in the system. Difficult renewal policies and reenrollment barriers make seamless coverage for uninsured children an afterthought. 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 limits.

(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 gaps in 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 PER CENT OF FEDERAL MATCHING FINANCIAL Assistance FOR CHILDREN IN POVERTY IN EXCHANGE FOR EXPANDED COVERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER MEDICAID OR SCHIP.**

(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 and SCHIP do more than just fill the gaps. Gains in public coverage have reduced the percentage of low-income uninsured children by 1/3 from 1997 to 2005, 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.

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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 such determinations:—

(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, the State agrees to use all information in its possession (including information available to the State under other Federal programs) to determine eligibility or redetermine continued eligibility before seeking similar information from parents.

(B) 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 eligibility for benefits or services under this title and title XXI, 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).

(1) GENERALLY.—For purposes of this section, the term ‘poverty line’ has the meaning given that term in section 2110(c)(5).

(2) Conforming amendments.—

(a) The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended by inserting before the period the following:—

(b) The State agrees to—

(1) The second sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended by inserting after “benefits” the following:

(2) the term ‘SCHIP’.

(3) The State agrees to—

(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and services for children described in section 1939(e).

(5) The State agrees to—

SEC. 201. STATE OPTION TO PROVIDE WRAP-AROUND COVERAGE.—

(1) 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—

(2) by adding at the end the following new paragraph:

(a) The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended by inserting after “benefits” the following:

(b) The State agrees to—

(1) in paragraph (1)(C) by inserting “, subject to paragraph (5);” after “under title XIX or”;

(2) by at the end the following new paragraph:

(3) by adding at the end the following new paragraph:

(4) the State agrees to—

(5) the State agrees to—

SEC. 202. STATE OPTION TO ENROLL LOW-INCOME CHILDREN OF STATE EMPLOYEES.—

(a) The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended—

(b) the State agrees to—

(1) and (4) in subparagraphs (A) and (E) by striking the last sentence and in—

(2) in subparagraph (D) by striking “Such term” and inserting the following:

(3) in subparagraph (C) by striking “Such term” and inserting—

(4) by at the end the following:

(5) the State agrees to—

(6) the State agrees to—

SEC. 203. OPTIONAL COVERAGE OF LEGAL IMMIGRANT CHILDREN UNDER MEDICAID AND SCHIP.—

(a) Medicare.—

(b) SCHIP.—

(c) Medicaid—

(d) SCHIP. —

(e) SCHIP. —

(f) SCHIP. —

(g) SCHIP. —

(h) SCHIP. —

(i) SCHIP. —

(j) SCHIP. —

(k) SCHIP. —

(l) SCHIP. —

(m) SCHIP. —

(n) SCHIP. —

(o) SCHIP. —

(p) SCHIP. —

(q) SCHIP. —

(r) SCHIP. —

(s) SCHIP. —

(t) SCHIP. —

(u) SCHIP. —

(v) SCHIP. —

(w) SCHIP. —

(x) SCHIP. —

(y) SCHIP. —

(z) SCHIP. —

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in section 433(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; and

(ii) who are otherwise eligible for such assistance and for eligibility for assistance for children (as defined under such plan), including optional targeted low-income children described in section 1905(u)(2)(B).

SEC. 204. STATE OPTION FOR PASSIVE RENEWAL OF HEALTH INSURANCE COVERAGE OF 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:

"(E) Section 1903(c)(4) (relating to optional targeted low-income children),".

(b) APPLICATION UNDER 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(c)(4) (relating to optional targeted low-income children),"

(c) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

"(1) IN GENERAL.—The term ‘qualified health insurance’ means insurance, other than insurance described in paragraph (2), issued under title XIX or XXI of the Social Security Act, which constitutes medical care as defined in section 223(d) without regard to—

"(A) paragraphs (1) 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 exempted benefits (as defined in section 9822(c))."

(d) MEDICAL SAVINGS ACCOUNT AND HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.—

"(1) IN GENERAL.—Any governmental unit—

"(A) that makes an election under subparagraph (A) of section 223 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

"(2) 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.

"(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 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 213 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 section 220 or 223 for the taxable year to the medical savings account or health savings account of an individual who has not attained 21 years of age as of the close of the calendar year in which such individual’s taxable year begins.

"(6) ELECTRICITY AND GAS CREDIT.—This section shall not apply to a taxpayer for any taxable year in which such taxpayer elects to have such section not apply for such taxable year.

"(b) INFORMATION REPORTING.—

"(1) IN GENERAL.—Subpart B of part III 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, including 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 MADE BY INDIVIDUALS WITH RESPECT TO WHO 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 such 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 taxable year for which payments were received.

"(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except as provided by 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 definite income) is amended by striking “and” at the end of clause (xx) by inserting at the end the following new clause:

"(xx) a section 6060(e) relating to payments 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 “, and”, by adding at the end the following new paragraph:

"(DD) a section 6060(e) relating to payments relating to payments for qualified health insurance,”.

(3) CLEANCHE 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 the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050V the following new item:

"Sec. 6050W. Returns relating to payments for qualified health insurance".
Sec. 501. PARTIAL REPEAL OF RATE REDUCTION TO PURCHASE DEPENDENT COVERAGE—

(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.

(d) 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 such amendments were promulgated by such date.

TITLE V—REVENUE PROVISION

Sec. 601. PARTIAL REPEAL OF RATE REDUCTION IN HIGHEST INCOME TAX BRACKET.

Section 1(b)(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, which provides a substantial tax incentive to encourage companies 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 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 end to these practices by disallowing tax deductions to 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 overseas, and eliminates 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, and makes it clear 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 noted that tax control through shareholder remittances 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 is in better shape than 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 nearly every respect strengthen 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 back up 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 to take advantage of tax deferments.

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 have the most negative 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. 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 encourage companies to locate in tax havens, but basically maintain their operations in the United States. This provision should not hinder foreign investment in the United States. Our current tax system punishes U.S. companies by basing a corporation’s residency for publicly-traded companies that are incorporated in foreign countries with a comprehensive tax treaty with the United States will not be affected by this provision.

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 no longer voluntarily 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 and pay foreign income; (2) simplifying current-law Subpart F rules; (3) closing abusive corporate tax loopholes; and (4) repealing the top corporate tax rate. Currently, U.S. companies can 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 pay the taxes 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 are 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.

Revenue saved from ending deferral, strengthening the corporate residency test, and shutting down abusive tax shelters will be used to lower the top 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 activity.

The “Export Products Not Jobs Act” moves the U.S. 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. exports. 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 includes Subpart F income 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 paid or distributed 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 included in a CFC’s income except for active home country income of the CFC. Active home country income constitutes qualified property income or qualified service income and includes active and passive 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 property within the home country of the CFC; or (2) the resale in the home country of the CFC of personal property that is 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 income has to be sole for this or consumption within the home country in either case.

Qualified services income is defined as income derived in connection with the providing of services 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; (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 financial exception is repealed. The legislation includes a de minimis exception providing that if the Subpart F income of a CFC is less than five percent of gross income, the Subpart F home 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) is the policyholder 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, if the 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 country income is treated as 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. The incorporation of 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 treated as foreign 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 held that if the transaction lacks economic substance independent of tax considerations.

Penalty for Underratements 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 when the 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.

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 attributable to any noneconomic substance underpayment. The proposal applies to transactions entered into after the date of enactment.

Export Products Not Jobs Act of 2006

The proposal applies to 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 applies 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 of the Internal Revenue Code of 1986.

**TITLE I—FOREIGN TAX REFORM AND SIMPLIFICATION**

**SEC. 101. REFORM AND SIMPLIFICATION OF SUB-PART 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 for the taxable year, or

“(b) Exceptions for Certain Types of Income.—Subpart F income shall not include—

“(1) the active home country income (as defined in section 956) 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 not otherwise treated as subpart F income—

“(A) the manufacture, production, growth, or extraction (in whole or in substantial part) of any personal property which constitutes property of such corporation for any taxable year was reduced by reason of paragraph (2), income described in paragraph (2) or (3) of section 922(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 881 shall not be taken into account,

“(c) Limitation Based on Earnings and Profits.—

“(1) In General.—For purposes of subsection (a), the term ‘active home country 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) Reclassification in Subsequent Taxable Years.—If the subpart F income of any controlled foreign corporation for any taxable year is reduced by reason of paragraph (2), the term ‘active home country income’ of any controlled foreign corporation for any taxable year was reduced by reason of paragraph (2), income described in paragraphs (2) or (3) of section 922(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 881 shall not be taken into account.

“(d) Limitation Based on Earnings and Profits.—

“(1) In General.—For purposes of paragraph (2), the term ‘active country income’ means income derived in connection with—

“(A) the manufacture, production, growth, or extraction (in whole or in substantial part) of any personal property which constitutes property of such corporation for any taxable year was reduced by reason of paragraph (2),

“(B) the resale by the controlled foreign corporation within its home country of personal property which was 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.—The term ‘active country income’ means income derived in connection with—

“(A) the manufacture, production, growth, or extraction (in whole or in substantial part) of any personal property which constitutes property of such corporation for any taxable year was reduced by reason of paragraph (2),

“(B) the resale by the controlled foreign corporation within its home country of personal property which was manufactured, produced, grown, or extracted (in whole or in substantial part) within that home country.

“(3) Indirect Foreign Corporations.—For purposes of paragraph (2), an active home country in—

“(A) the manufacture, production, growth, or extraction (in whole or in substantial part) of any personal property which constitutes property of such corporation for any taxable year was reduced by reason of paragraph (2),

“(B) the resale by the controlled foreign corporation within its home country of personal property which was manufactured, produced, grown, or extracted (in whole or in substantial part) within that home country.

“(4) Qualified Services Income.—For purposes of this section—

“(1) In General.—The term ‘qualified services income’ means income derived in connection with—

“(A) the services performed by a qualified service provider (as defined in section 956) or a related qualified service provider (as defined in section 956) for purposes of this title,

“(B) the services performed by a qualified service provider (as defined in section 956) or a related qualified service provider (as defined in section 956) for purposes of this title 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 personal property is sold for use or consumption within the home country.

“(3) Services Must Be Used in Home Country.—Paragraph (1) shall only apply to income if the personal property is sold for use or consumption within the home country.

“(4) Effect of Election.—

“(A) In General.—For purposes of section 367, if a foreign corporation election under paragraph (1) shall be treated as transferring (as of the first day of the first taxable year to which such election applies) all assets to a domestic corporation in connection with an exchange to which section 354 applies.
"(B) Exception for Pre-2008 Earnings and Profits.—

"(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) paragraph (5) of this subsection.

"(II) section 802(c)(5) (relating to certain capital losses).

"(iii) the term ‘United States shareholder’ means, with respect to any foreign corporation, a United States person (as defined in section 958(a)) by United States shareholders (as defined in section 956(a)(1))(a).

"(g) 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 (as of the last day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 382 applies.

"(c) Special Rule for Certain Captive Insurance Companies.—

"(1) In General.—For purposes of applying this subpart to related person insurance income—

"(A) the term ‘United States shareholder’ means any United States shareholder in the foreign corporation, a United States person (as defined in section 956(c)) who owns (within the meaning of section 956(a)) any stock of the foreign corporation.

"(B) the term ‘controlled foreign corporation’ has the meaning given to such term by section 956(a) determined by substituting ‘25 percent or more’ for ‘more than 50 percent,’ and

"(C) the pro rata share referred to in section 956(a)(1)(a)(i) shall be determined under paragraph (5) of this subsection.

"(2) Related Person Insurance Income.—For purposes of this subpart—

"(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 apply:

"(I) The small life insurance company deduction.

"(ii) the amount which would be determined under paragraph (2) of section 953(a) if the entire earnings and profits of the foreign corporation for the taxable year were subjected to tax.

"(B) Coordination with Other Provisions.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as are necessary or appropriate by reason of subparagraph (A).

"(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 paragraph shall be made under regulations prescribed by the Secretary.

"(5) Determination of Pro Rata Share.—

"(A) in General.—The pro rata share determined by United States shareholders for any United States shareholder is the lesser of—

"(i) the amount which would be determined under paragraph (2) of section 953(a) if—

"(I) only related person insurance income were taken into account,

"(II) the stock owned (within the meaning of section 956(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, and

"(B) the amount which would be determined under paragraph (2) of section 953(a) if—

"(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.

"(B) such person is a corporation, partnership, trust, or estate which controls, or is controlled by, the same person or persons which control the controlled foreign corporation.

"(C) such person is a corporation, partnership, trust, or estate which performs, or is performed by the same person or persons which control the controlled foreign corporation.

"(D) each person which, separately or together, owns directly or indirectly more than 50 percent of the stock possessing more than 50 percent of the
total voting power of all classes of stock enti-
titled to vote or of the total value of stock of
such corporation. In the case of a partner-
ship, trust, or estate, control means the own-
ership directly or indirectly, of more than 50
percent (by value) of the beneficial interests
in such partnership, trust, or estate. For pur-
poses of this paragraph, rules similar to the
rules of section 553 apply.

(b) CONFORMING AMENDMENT.—The table of
sections for subpart F of part III of sub-
chapter N of chapter 1 is amended by strik-
ing the cross-references to sections 953 and
954 and inserting:

“Sec. 953. Active home country income.
Sec. 954. Other rules and definitions relat-
ing to economic substance.”

(c) EFFECTIVE DATE.—The amendments
made by this subsection shall apply to taxable
years of controlled foreign corporations begin-
ning on or after the date which is 2 years
after the date of the enactment of this Act.

§ 952. Rules relating to economic sub-
stance.

(a) In general.—Section 7701(a)(4) of the
Internal Revenue Code of 1986 (defining
domestic) is amended to read as follows:

“(e) Economic substance.

“(f) Effective date.

The amendments made by this section shall apply to taxable years of such cor-
porations ending in any continuous period begin-
ning on or after December 31, 2007, and taxable
years of United States shareholders with or
within which such taxable years of such cor-
porations end.

SEC. 102. TREATMENT OF FOREIGN CORPORA-
TIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMES-
TIC CORPORATIONS.

(a) In general.—Section 7701(a)(4) of the
Internal Revenue Code of 1986 (defining
domestic) is amended—

“(D) ‘Domestic,—

“(A) in general.—The term ‘domestic’ means,
when applied to a corporation or partnership,
that the corporation or partnership 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 partner-
ty, the Secretary provides otherwise by regu-
lations.

“(B) income tax exception for publicly-
traded corporations managed and controlled
in the United States.—Notwithstanding
subsection (A), in the case of a corpo-
rations 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 pur-
poses of this subpart, 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 pur-
poses of subparagraph (B)(i), the manage-
ment and control of a corporation shall be
treated as primarily occurring within the
United States if substantially all of the execu-
tive officers and senior management of the
company who exercise day-to-day responsibility
for making decisions involving strategic,
financial, and operational policies of the corpo-
rations are primarily located within the
United States. The Secretary may by regula-
tions include other individuals not described
in the preceding sentence. The determina-
tion of whether the management and control of
the corporation occurs primarily within the
United States if such other individuals exer-
cise the day-to-day responsibilities described
in the preceding sentence.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made
by this section shall apply—

(i) the expected net tax benefits with re-
spect to the leased property shall not include
the benefits of—

(1) depreciation,

(2) any tax credit, or

(3) any other deduction as provided in

(b) tax-indifferent party.—The term
‘tax-indifferent party’ means any person or
entity not subject to tax imposed by subtit-
ute A. A person shall be treated as a tax-
different 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) treatment of transactions of individuals.—In the case of an
individual, the provisions of this subsection shall apply only to
transactions entered into in connection with a trade or business
or activity engaged in for the production of income.

(2) SPECIAL RULES FOR TRANSACTIONS WITH

(b) treatment of transactions of individuals.—In the case of an
individual, the provisions of this subsection shall apply only to
transactions entered into in connection with a trade or business
or activity engaged in for the production of income.

(1) IN GENERAL.—Section 7701(a)(4) of the
Internal Revenue Code of 1986 (defining
domestic) is amended—

“(A) Economic substance doctrine.

“(B) treatment of lessors.

(1) If the requirements of this paragraph are
met—

(i) the present value of the reasonably ex-
pected pre-tax profit from the transaction is
substantially in excess of the present value of
the anticipated economic return of the
transaction, and

(ii) the reasonably expected pre-tax profit
from the transaction exceeds a risk-free rate
of return.

(2) Treatment of fees and foreign
taxes.—Fees and other transaction expenses
and foreign taxes shall be taken into account as
deductions in determining pre-tax profit
attributable to transactions

(b) EFFECTIVE DATES.—The amends
made by this section shall apply to trans-
actions entered into after the date of the en-
actment of this Act.

SEC. 203. PENALTY FOR UNDERSTATEMENTS AT-
TRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUB-
STANCE, ETC.

(a) In general.—Subchapter A of chapter
68 is amended by inserting after section
6662A the following new section:

“§ 6662A. Penalty for understatements
attributable to transactions lacking economic substance, etc.

“(a) Imposition of penalty.—If a taxpayer
has a non-economic 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 understate-
ment.

“(b) Reduction of penalty for disclosed
transactions.—Subsection (a) shall be applied
by substituting ‘20 percent’ for ‘40 per-
cent’ in—

(1) the case of a non-economic substance
transaction understate-
ment with respect to which the relevant

“20 percent” for the term ‘40 percent’
in subsection (a) if the taxpayer dis-
closed the non-economic substance
transaction understate-
ment 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.

(3) Subsection (e) of section 6707A is amended—

(A) by striking “or” at the end of subpara-

graphs (B) and (C), and

(B) by striking subparagraph (C) and inser-

ning the following new subparagraphs:

“(C) is required to pay a penalty under sec-

tion 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

6662C(a) or under section 6662B.”.

(4) EFFECTIVE DATE.—The amendments

made by this section shall apply to trans-

actions entered into after the date of the en-

actment of this Act.

SEC. 202. DENIAL OF DEDUCTION FOR INTEREST

ON UNDERPAYMENTS ATTRIBUTABLE TO

NONECONOMIC SUBSTANCE TRANSACTIONS.

(1) In General.—Section 163(m) (relating to in-

terest on unpaid taxes attributable to under-

statement under section 6707A) is amended

by striking “noneconomic” and inserting “noneconomic substance”.

(2) EFFECTIVE DATE.—The amendments

made by this section shall apply to trans-

actions entered into after the date of the en-

actment of this Act.

TITLE III—ELIMINATION OF HIGHEST

CORPORATE MARGINAL INCOME TAX

RATE

SEC. 301. ELIMINATION OF HIGHEST CORPORATE MARKETED INCOME TAX RATE.

(1) 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 subpara-

graph:

“(C) 34 percent of so much of the taxable income as exceeds $75,000, etc.

(2) EFFECTIVE DATE.—The amendments

made by this section shall apply to trans-

actions entered into after the date of the enactment of this Act in taxable years ending after such date.

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.

By Mr. KERRY:

In 2004, I proposed a refundable tax credit to help pay for the cost of four years of college. It also builds on the proposal I made in 2004 by incor-
porating 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 for the next $3,000. The maximum amount would be $2,500 each year per student. The second provides a nonrefundable tax credit for part-time, graduate, 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. 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 joint taxpayers). Those 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:

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 TAX 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) 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.—(Par. 4) of section 25A(b) of such Code (relating to allowable limitation) is amended by striking ‘‘2’’ and inserting ‘‘3’’.

(3) CREDIT REFUNDABLE.—

(A) IN GENERAL.—Section 26A of such Code is amended by striking subsection (j) and by inserting after subsection (h) the following new subsection:

‘‘(1) PORTION OF CREDIT REFUNDABLE.—

‘‘(1) IN GENERAL.—The aggregate credits allowed under subsection C shall be increased by the amount of the credit which would be allowed under this subsection—

‘‘(A) by reason of subsection (b), and

‘‘(B) without regard to this subsection and the limitation under section 26A(a) or subsection (j), as the case may be.’’;

(B) TECHNICAL AMENDMENT.—Section 132(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.—In the case of any student for whom an election is in effect for this subsection 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 such student as are spent during any academic period beginning in such taxable year as does not exceed $1,000, plus

‘‘(2) 20 percent of such expenses so paid as 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 (b) 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 the limitation under section f(1)(f) 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.’’;

(C) 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:

‘‘(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26A(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(i) the sum of the regular tax liability (as defined in section 26(b)(11)) plus the tax imposed by section 55, over

(ii) the sum of the credits allowed under this subsection (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.

(2) CONFORMING AMENDMENT.—Section 25A(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.'
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 hope is lead by the Minority Entrepreneur Development Act of 2007 is the Small Business Administration. One of its primary functions will be to increase the number of small businesses that minority businesses receive.

First, this legislation will create an Office of Minority Entrepreneur Development within 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. 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 Office has staff and resources to market to minorities.

Second, this legislation will create the Minority Entrepreneurship and Innovation Pilot Program. This program will offer competitive grants 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 campuses 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 to pursue a career in entrepreneurship. 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 Distances 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 unemployment rate was 6 percent, well above the national average of 4.7 percent;

2. Hispanics 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
(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 minority-owned concerns; and

(3) act as an ombudsman for full consideration of minorities in all programs of the Administration (including those under section 7(c) and 8(a)); and

(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).

(c) GRANT AWARDS.

(1) be

(A) to minority small business concerns;

(B) for a small business concern to the extent that the small business concern participation in the entrepreneur development programs of the Administration.

(2) FOR GRANT—

(A) each small business development center shall develop a curriculum that includes training in various skill sets needed by successful entrepreneurs, including—

(i) management and marketing, financial management and accounting, marketing and sales, and compliance with federal, state, and local regulations;

(ii) minority and women-owned small business concerns; and

(iii) the majority of the program's budget directed to small business concerns owned and controlled by minority individuals.

(3) for the hire and retain minority professionals in the Administration.

(4) to minority small business concerns that shall develop a curriculum that includes training in various skill sets needed by successful entrepreneurs, including—

(i) management and marketing, financial management and accounting, marketing and sales, and compliance with federal, state, and local regulations;
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(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. 7. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

(a) In General.—The Administrator shall carry out this section $4,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(b) 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 DISPARITY LEARNING PILOT PROGRAM OF FEDERAL AGENCY.

(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) For Fiscal Year.—An eligible association or organization receiving a grant under this section shall develop a curriculum that includes training in various areas needed by the owner/concerns to successfully contract with the Federal Government, which may include training in accounting, marketing to the Federal Government, 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 more than one eligible association or organization to develop a curriculum for 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 subparagraphs (A) and (B) of section 21(a)(4) of the Small Business Act (15 U.S.C. 646a(a)(4)) shall not apply to a grant made under this section.

(c) Limitation on Use of Other Funds.—The Administrator shall carry out this section $4,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(d) Reporting.—

(1) In General.—The Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and Entrepreneurship of the House of Representatives at least once during each fiscal year, the number of offers of assistance made under this section to small businesses, and the number of offers of assistance that were accepted.

(2) Effect.—Any report made under paragraph (1) shall be submitted in accordance with section 551(a) of title 5.

SEC. 8. REPORTS TO CONGRESS ON CONTESTED PERSONAL JUDICIAL DECISIONS RELATED TO SMALL BUSINESS.

(a) In General.—The Administrator shall submit to the Congress a report forthwith of any personal decision rendered by a Federal judge or administrative law judge in a contested proceeding that was not before the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and Entrepreneurship of the House of Representatives.

(b) Limitation on Use of Other Funds.—The Administrator shall carry out this section $1,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(c) Authorization of Appropriation.—

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.

SEC. 9. SMALL BUSINESS TAKES COMMAND PROGRAM.

(a) In General.—The Administrator shall carry out this section $4,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(b) 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. 10. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

(a) In General.—The Administrator shall carry out this section $24,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(b) 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. 11. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

(a) In General.—The Administrator shall carry out this section $4,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(b) 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. 12. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

(a) In General.—The Administrator shall carry out this section $1,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(b) 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. 13. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

(a) In General.—The Administrator shall carry out this section $4,000,000 for each of fiscal years 2007 through 2009, to remain available until expended.

(b) 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.
“(B) SMALL EMPLOYER.—

“(1) 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) the average gross receipts of such employer employed an average of more than 1 but less than 50 qualified employees on business days during the preceding taxable year.

“(II) AGGREGATION OF GROSS ASSETS.—For purposes of clause (i)(I), the term ‘aggregate gross assets’ shall have meaning given such term by section 1252(d)(2).

“(III) PRECEDING TAXABLE 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 predecessors of such employer.

“(2) QUALIFIED EMPLOYER HEALTH INSURANCE EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified employer 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 3962(b)(1).

“(3) QUALIFIED EMPLOYER.—

“(A) IN GENERAL.—The term ‘qualified employer’ means 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 XXXI 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

“(v) any other provision of law.

“(B) EMPLOYER.—The term ‘employer’ means any individual, with respect to any given such term by 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

“(II) such amount, multiplied by

“(III) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined in accordance for calendar year 1992’ in subparagraph (B) thereof.

“(I) ROUNDING.—If any amount as adjusted under clause (ii) is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.

“(4) NO QUALIFIED EMPLOYERS EXCLUDED.—

“Subsection (a) shall 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 subsection 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 321(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).

“(C) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employer insurance expenses taken into account under subsection (a).”,

“(f) 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 ‘blue’ at the end of paragraph (30) 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. And that little 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, and assist with chronic conditions.

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, vegetables and whole grains.

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 organizing 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 commitment to serve 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 (AMT) for 2007. Last Congress, a choice was made to extend lower 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 rather than address the AMT for 2007. Congress, a choice was made to extend lower capital gains and dividends for 2009 and 2010; to the Committee on Finance.

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.

Under 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 and a number that declines sharply by 2010. The Tax Increase Prevention and Reconciliation 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 are not supposed 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 hike 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. These taxpayers are 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 address the AMT in a revenue neutral manner for 2007 as well.

We must 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 “$5,550 in the case of taxable years beginning in 2006” in subparagraph (A) and inserting “$6,250 in the case of taxable years beginning in 2007”, and
(2) by striking “$4,500 in the case of taxable years beginning in 2006” in subparagraph (B) and inserting “$4,800 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 “2007, or 2006”.
(b) CONFORMING PROVISIONS.—
(1) Section 30(b)(g) of the Internal Revenue Code of 1986 is amended by adding at the end the following paragraph:
(2) SPECIAL RULE FOR 2007.—For purposes of any taxable year beginning during 2007, the credit allowed under subsection (a) (after
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 reduction enacted in 2004 for domestic manufactured products, and for other purposes.

Mr. KERRY. Mr. President, today, I am introducing the Restore a Rational Tax Rate on Petroleum Production Act of 2007. This legislation repeals the manufacturing deduction for big oil and gas companies that was enacted in 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 allow the oil companies to replace their tax deduction 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 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:

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 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 26(b)) plus the tax imposed by section 55, over

(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 appropriate means of 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—

(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 historical factors from an interdisciplinary, family-centered and community-based approach.

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) In General.—Section 301(a) of the Public Health Service Act (42 U.C.S. 281(a)), as
amended by the National Institutes of Health Reform Act of 2006) is amended by adding at the end the following:


(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 282 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 practice, thus increasing the knowledge base which promotes a healthier America; and

(2) provide policymakers with empirically-supported research information to enable such policymakers to better understand complex social issues and make informed funding decisions about service effectiveness and cost containment.

SEC. 485K. SPECIFIC AUTHORITIES.

"(a) IN GENERAL.—To carry out the purpose described in section 485J, the Director of the Center, in consultation with the appropriate departments of the United States, shall establish and implement the following:

(1) a program of research and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and workshops 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, which will require care to address problems of significant social concern especially in underserved populations and under served geographical areas.

(2) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or engaged in workshops under subsection (a) with stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

(3) GRANTS.—The Director of the Center may make grants to nonprofit institutions to purchase and instruct in social work traineeships and fellowships under subsection (a)."
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 enrollment of minority, women, and individuals from economically disadvantaged backgrounds.

Minority therapists have an advantage in the provision of critical services to minority populations because they are better able to 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 such 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. 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 “Psychology 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. 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 qualified 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) is an entity that provides psychology training and services in medically underserved areas or to medically underserved populations; and

“(B) will provide services to medically underserved populations during the period of such grant;

“(C) will comply with any requirements 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 may 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 direct financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (D) of paragraph (1); and

“(C) will not use more than 10 percent of amounts provided under this section to pay the cost of tuition.
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 individual 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 Academies 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. PURPOSES.
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 shall be provided for in the articles of incorporation 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 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 the corporation possesses the right to vote in any proceeding of the corporation.

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 States 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 member in any manner in violation of this section.

(b) Loans.—The corporation shall not make any loan to an 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) Dividends.—The corporation shall not declare or pay any dividends.

(e) Authorization 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 Publicly Available.—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.

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:
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 study of the etiological 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 of 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. The components of the Institute include military matters relating to oncology and its 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.

The USMCI, 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:

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):

Section 505(a)(1) of title 38, United States Code, is amended by inserting at the end the following new sentence:

"'2111. United States Military Cancer Institute.'"

By Mr. REID (for 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 provided 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 minimal cost, provide 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:

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. 1396b(d)) is amended by inserting "and with respect to a 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) 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 with 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.

Today I 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 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. The brave and valiant men and women who have fought for our freedom and 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 these Global conflicts.

The Government Accountability Office reported that VA has faced $3 billion in budget shortfalls since 2005 because it underestimated the costs of care for veterans of the Global War on Terrorism. 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 kinds 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 VA’s Health 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 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 generational wave of Vietnam 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 PTSD and 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 now 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 identify veterans associated with mental health screening and treatment.

One treatment veterans face is that the VA and DoD do not effectively share medical 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 expanding VA healthcare network can now use the electronic copy and the personal medical records to help them apply for healthcare and benefits.

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 ad hoc, the services often give abbreviated and perfunctory transition assistance including limited employment training. VA should provide equal briefings and transition services for all service members regardless of their duty status.

Lane Evans dedicated his life to serving this country and serving veterans. The legislation Senator SNOWE and I are producing today is in keeping with 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 tribute to a man whose unflattering efforts on behalf of our nation’s veterans went unmatched.

I also applaud Senator OBAMA for introducing this vital legislation at a time when our returning service members 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 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 2006, 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, significant modernization 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 disability compensation users.

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 authority to provide equal briefings to the Congress to take action. We need a higher susceptibility to PTSD, stress, and abuse. Therefore, this legislation will extend the window for providing 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.

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 deployment, in order to ensure that no veteran ever experiencing symptoms of PTSD is returned to duty without treatment. If the VA and the DOD continue its current mental health screening policy, non-disclosures 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 receiving VA 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 providing 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.

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 correspondence to address the need to time 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, guardmen 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 has to those veterans is obvious, 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 Pryor in introducing S. 118, 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 want a new 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 Congress to take the 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 to eight years for bribery, deprivation of honest services, and extortion by a public official. This is an important change 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 for 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 cases 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 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 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 costs of supporting and maintaining 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 preserve 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 bill of the same title 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 1661, if the offense involves extortion under color of official right;"

"(4) section 1621, 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:

"Corruption offenses"
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 financial fraud in Iraq, and 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. 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. In 2006, $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.

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 ungodly 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 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 them to provide a war, a 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 reconstruction activities. This 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 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 has sent billions upon billions of dollars to Iraq with too little accountability and too few financial controls.

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 burdens of reconstruction contracts—where contracts are awarded in a system that offers little competition and even less accountability—concerns about wartime profiteering are grave matters.

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 approved 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:

SEC. 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.—Whoever, in any matter involving the 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; or

(ii) materially falsifies 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 has sent billions upon billions of dollars to Iraq with too little accountability and too few financial controls.

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 grave matters.

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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.—Whoever, in any matter involving the contract or the provision of goods or services, directly or indirectly, in connection with a 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; or

(ii) materially falsifies 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 has sent billions upon billions of dollars to Iraq with too little accountability and too few financial controls.

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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,
Congressional Record — Senate

January 4, 2007

S120

(b) Civil Forfeiture—Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting “1093,” after “1092.”

(c) Criminal Forfeiture—Section 982(a)(2) of title 18, United States Code, is amended by striking “or 1093” and inserting “1093, or 1099.”

(d) Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting the following: “section 1093 (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 renew the President’s authority to negotiate these deals. But when we do, we must raise the bar higher than before. Each deal must pass the last, in order to take advantage of and adjust to changes in the global marketplace, affect American business 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, generates 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 witnessed 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 manufactured 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 to 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 receive benefits under TAA because those 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 laying off 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 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 injure 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 to 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 requiring 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. Yet, we need a 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 left 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 increase the TAA for Firms 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 shop for wage insurance and record proposals.

But 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 have worked 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 help with 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 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 how 209 manufacturing plant closings in 2002 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 care 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 incentives that they need to sign 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 re- fresh their skills, and training.

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 programs.

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:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) This Act may be cited as the “Trade Adjustment Assistance for Services Sector Act of 2007.”

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

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 service sector firms.

Sec. 104. Monitoring and reporting.

Sec. 105. Effective date.

Sec. 106. Establishment of Trade Adjustment Assistance Advisor.

Title II—OTHER TRADE ADJUSTMENT ASSISTANCE MATTERS

Sec. 201. Other methods of requesting investigation.


Sec. 203. Independent determination.

Sec. 204. Coordination with other trade provisions.

Sec. 205. Regulations.

Sec. 206. Certification.

Sec. 207. Funding for administrative costs.

Sec. 208. Authorization of appropriations.

Subtitle A—Trade Adjustment Assistance

Sec. 301. Calculation of separation allowed during litigation.

SEC. 201. Other methods of requesting investigation.

(a) In general.—(1) A practice or a violation of any provision of 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.

SUBTITLE A—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 service sector firms.

Sec. 104. Monitoring and reporting.

Sec. 105. Effective date.

Sec. 106. Establishment of Trade Adjustment Assistance Advisor.

Sec. 107. Funding for administrative costs.

Sec. 108. Authorization of appropriations.

Sec. 201. Other methods of requesting investigation.

(a) In general.—(1) A practice or a violation of any provision of 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.

SUBTITLE A—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 service sector firms.

Sec. 104. Monitoring and reporting.

Sec. 105. Effective date.

Sec. 106. Establishment of Trade Adjustment Assistance Advisor.

Sec. 201. Other methods of requesting investigation.

(a) In general.—(1) A practice or a violation of any provision of 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.

SUBTITLE A—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 service sector firms.

Sec. 104. Monitoring and reporting.

Sec. 105. Effective date.

Sec. 106. Establishment of Trade Adjustment Assistance Advisor.

Sec. 107. Funding for administrative costs.

Sec. 108. Authorization of appropriations.
(B) in paragraph (4)—
(1) by striking “for articles” and inserting “for services, used in the production of articles or in the provision of services”; and
(2) by adding “or subdivision” after “such other firm”; and
(4) by adding at the end the following new subsection:
(1) BASIS FOR SECRETARY’S DETERMINATIONS.—
(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A), the Secretary may determine that increases imported of like or directly competitive articles or services exist if the workers’ firm or subdivision of a 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) 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.

SEC. 103. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—
(1) INTERIM DETERMINATION.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—
(A) by striking “and public agency” after “a firm” and inserting “public agency”; and
(B) by inserting “or public agency” after “or subdivision”;
(2) in paragraph (2)(B), by inserting “or public agency” after “a 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.

(b) AUTHORITY OF THE SECRETARY.—The Secretary of Commerce shall, in accordance with the provisions of this chapter, the term service sector firm means an entity engaged in the business of providing services.”

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:
(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 and in connection with the provisions of section 201 (including any agricultural safeguard provision) of the Trade Act of 1974 (19 U.S.C. 2251) and as otherwise provided by law.

(2) by adding “or subdivision” after “such other firm”; and
(3) by adding at the end the following:
(1) by striking “for purposes of” and inserting “for purposes of”; and
(2) by adding at the end the following:
(1) by striking “for purposes of” and inserting “for purposes of”; and
(2) by adding at the end the following:
(1) by striking “for purposes of” and inserting “for purposes of”.

(2) SERVICE SECTOR FIRM.—For purposes of this chapter, the term “service sector firm” as used in this title means a firm engaged in the business of providing services.

(3) AUTHORITY OF THE SECRETARY.—The Secretary of Labor shall, in accordance with the provisions of this chapter, the term “service sector firm” means an entity engaged in the business of providing services.

(4) TECHNICAL AMENDMENTS.—
(1) IN GENERAL.—Section 249 of the Trade Act of 1974 (19 U.S.C. 2271) is amended by striking “supplement” 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 “subsection 3a” 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. 2353) is amended—
(1) in the first sentence—
(A) by striking “The Secretary” and inserting “The Secretary”; and
(B) by inserting “and services” after “imported articles”;
(2) by inserting “and domestic provision of services” after “domestic production”; and
(3) by inserting “or service sector firm” after “service sector firm”.

SEC. 202. NOTIFICATION.
Section 224 of the Trade Act of 1974 (19 U.S.C. 2274) is amended to read as follows:

SEC. 224. NOTIFICATIONS REGARDING TRADE INVESTIGATIONS AND DETERMINATIONS.—Whenever the International Trade Commission makes a report under section 202(c) containing an affirmative finding regarding a serious injury, or the threat thereof, to a domestic industry, the Commission shall immediately notify the Secretary of Labor of that finding.

“(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:
(3) 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. 3332(b)).
(9) Section 312 of the United States-Bahrain Free Trade Agreement Implementation Act (19 U.S.C. 3805 note).
ASSISTANCE FOR WORKERS.—Section 202(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2233(a)(1)(A)) is amended to read as follows:

"(A) After receiving a report under section 202(b), the International Trade Commission shall immediately notify the Secretary of Labor 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) the Secretary of Labor shall certify as eligible to apply for adjustment assistance under section 221 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 later 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(b)."

"(B) 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(e), or (e), the Secretary shall certify as eligible for trade adjustment assistance under section 223(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); and

"(2) the date on which a final determination is made in the case of a notification under section 224(e); or

"(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 223 the following:

"Sec. 224A. Industry-wide certification based on bilateral safeguard provisions or antidumping or countervailing duty duties imposed.

"(d) *Antidumping and Countervailing Duties.*—Whenever the International Trade Commission makes a final affirmative determination under section 705 of the Tariff Act of 1930 (19 U.S.C. 1677d or 1677d-3), 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. 2233) is amended by adding at the end the following:

"(e) INVESTIGATION REGARDING INDUSTRY-WIDE CERTIFICATION.—If the Secretary receives a request for notification under section 221(c) on behalf of workers in a domestic industry or occupation (described in section 221(c)(2)) or receives or requests more petitions under section 221(d) 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 issues 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. 2242(e)(2)(D)) is amended by striking ‘‘, including the provision of trade adjustment assistance under chapter 2’’.

"(B) Section 202(a)(3)(D) of the Trade Act of 1974 (19 U.S.C. 2233(a)(3)(D)) is amended by inserting ‘‘, including the provision of trade adjustment assistance under chapter 2’’ after ‘‘, including the provision of trade adjustment assistance under chapter 2’’.

"(2) QUALIFYING REQUIREMENTS FOR WORKERS.—The provisions of subsection B shall apply in the case of a worker covered by a certification under this section or section 222(e), except as follows:

"(1) Section 231(a)(5)(A)(i) shall be amended by inserting ‘‘, and’’ after ‘‘, and’’.

"(2) The provisions of section 231(a)(1)(A) and (D) of the Trade Act of 1974 (19 U.S.C. 2417 et seq.) are amended by striking ‘‘. . .’’ after ‘‘. . .’’ and ‘‘. . .’’.

"(3) The date on which additional duties are assessed in the case of a notification under section 224(c) shall be the date on which the notification is made.

"(4) If the period of separation under subsection (c) begins prior to the date of notification, the period shall be tolled as of the date of notification and shall be extended by the period of separation.

"(5) Notifications under section 221(e) shall be tolled as of the date of notification and extended by the period of separation.

Ties Imposed.

The Secretary of the Treasury, the Secretary of Agriculture, and the International Trade Commission may promulgate such regulations as may be necessary to carry out the amendments made by this title.

TIE III—OTHER TRADE ADJUSTMENT ASSISTANCE MATTERS

Subtitle A—Trade Adjustment Assistance

SEC. 301. CALCULATION OF SEPARATION TOLLED DURING LITIGATION.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2233) is amended by adding at the end the following:

"(h) SPECIAL RULE FOR CALCULATING SEPARATION TOLLED DURING LITIGATION.—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.

CONGRESSIONAL RECORD—SENATE S123 January 4, 2007
SEC. 202. 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 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 253(a)) and shall provide technical and legal assistance and advice to enable persons or entities described in section 221a(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. 203. 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 enactment of this Act, the Secretary shall establish the Office of Trade Adjustment Assistance (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 desiring to file a petition for certification of eligibility 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 221a the following:

"Sec. 221A. Establishment of Office of Trade Adjustment Assistance Advisor.

SEC. 205. WAGE INSURANCE.

(a) IN GENERAL.—Subchapter C of chapter 2 of the Trade Act of 1974 (19 U.S.C. 2318a–2318d) is amended by inserting after section 231 the following:

"SEC. 231A. WAGE INSURANCE.

"(a) IN GENERAL.—A worker in a group that the Secretary has certified as eligible to apply for adjustment assistance under section 221 may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

"(A) obtained employment 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 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 or a State in which the worker is employed is less than the full-time employment established under section 221(a)(5);

"(E) does not return to the employment from which the worker was separated.

"(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of paragraph (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318a(2)) is 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. 206. TRAINING.


"(1) in subclause (I), by striking ‘‘16th week’’ and inserting ‘‘26th week’’; and

"(2) in subclause (II), by striking ‘‘8th week’’ and inserting ‘‘26th week’’.

(b) EXTENSION OF ALLOWANCE TO ACCOMPANY TRADE ENROLLMENT.—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:

"(1) 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 233(a)(5)(A)(ii) pursuant to a waiver granted under section 231(c)(1)(E).

"(2) EXTENSION OF ALLOWANCE.—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 231 and 246. The formula shall take into account—

"(i) the number of workers enrolled in trade adjustment assistance;

"(ii) the type of assistance;

"(iii) the anticipated training costs for workers; and

"(iv) any other factors the Secretary deems appropriate.

"(2) 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.

"(b) CONTRACTING."
“(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 for which the petitioners are eligible for adjustment assistance to the same extent and in the same manner as a group of workers under chapter 2.

SEC. 312. ELIGIBILITY.

(a) IN GENERAL. —Section 292(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended by striking “80 percent” and inserting “90 percent”.

(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 fish or shellfish 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. 313. DETERMINATIONS BY THE SECRETARY OF LABOR.

(a) IN GENERAL. —Section 282(h)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking “´(A)´”.

(b) CONFORMING AMENDMENTS. —

(1) COORDINATION. —Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by striking “(A)”.

(c) REPORT. —The Secretary shall submit to the Committee on Finance of the Senate, 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.

(2) EFFECTIVE DATE. —The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 314. DETERMINATIONS BY THE SECRETARY OF LABOR.

(a) IN GENERAL. —Section 292(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended by striking “80 percent” and inserting “90 percent”.

(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 fish or shellfish 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. 315. DETERMINATIONS BY THE SECRETARY OF LABOR.

(a) IN GENERAL. —Section 292(c)(1) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended by striking “80 percent” and inserting “90 percent”.

(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 fish or shellfish shall be eligible for adjustment assistance to the same extent and in the same manner as a group of workers under such chapter 2.
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, 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 Center 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 relates to 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 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 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 current legislation, authorized 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 microchips 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 use. 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 for 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 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 contracts permit 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, they 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: 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 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 more than adequate 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 rent 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 to make up the difference 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 proud 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 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 drugs across our 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, state, Federal, and foreign 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, it accounts for 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 methods 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 only fight. 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 citizens. 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, on July 31, 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 be blended with gasoline or diesel to make up a certain percentage of the nation’s 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 originator 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 preparation now. We must build upon our current path. We must continue our pursuit in cracking the code for corn cellulosic ethanol. For that reason, I introduced 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 diesel that complements the RFS for gasoline. The Alternative Diesel Standard requires 2 billion gallons of alternative diesel by 2020. We also 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 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 your 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 transporters.
Sec. 6. Alternative diesel fuel content of diesel.
Sec. 7. Excise tax credit for production of cellulosic biomass ethanol.
Sec. 8. Incentives for the State fleets for medium and heavy duty hybrids.
Sec. 9. Credit for qualifying ethanol blendable 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.-(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) 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;
(D) 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
(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 personal staff as are necessary to enable the Director to carry out the responsibilities of the Director under this section.
\( (f) \) 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 450."

(b) Election to use additional AMT credit. —Section 38(c)(4)(B) 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:

"(c) Additional amount of flexible fuel motor vehicle credit. —

(1) In general. —In the case of a taxpayer making an election under this subsection for any taxable year ending in the same calendar year as the taxable year of the qualifying expenditure, the credit determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>10 cents</td>
</tr>
<tr>
<td>2013</td>
<td>20 cents</td>
</tr>
</tbody>
</table>

(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. —The term ‘sold at retail’ means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(3) Uses 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.

(d) Qualified alternative fuel motor vehicle. —The term ‘qualified alternative fuel motor vehicle’ means any motor vehicle

"(A) which is capable of operating on an alternative fuel,

"(B) which is acquired by the taxpayer for use or lease, but not for resale, and

"(C) which is made by a manufacturer.

(e) Election to pass credit. —A person who 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.

(f) Exemption from the basis adjustments made by this section shall apply to motor vehicles produced in model years ending after the year 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 chapter 1 of the Internal Revenue Code of 1986 (defining the business related credits) is amended by inserting after section 40A the following new section:

\[\text{SEC. 40B. Credit for retail sale of alternative fuels as motor vehicle fuel.}\]

\[\text{\textmd{(a) General rule. —The alternative fuel retail sales credit for any taxable year is the applicable amount for each gallon of alternative fuel sold at retail by the taxpayer during such year.}}\]

\[\text{\textmd{(b) Applicable amount. —For purposes of this section, the applicable amount shall be determined in accordance with the following table:}}\]

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>35 cents</td>
</tr>
<tr>
<td>2011</td>
<td>25 cents</td>
</tr>
<tr>
<td>2012</td>
<td>10 cents</td>
</tr>
</tbody>
</table>

\[\text{\textmd{(c) Definitions. —For purposes of this section:}}\]

\[\text{\textmd{\textmd{(1) Alternative fuel. —The term ‘alternative fuel’ means any fuel at least 85 percent (or another percentage of not less than 70 percent, as the Secretary may determine, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) of the volume of which consists of ethanol.}}}\]
RESTRICTION PROHIBITED.—For purposes of subsection (a), restricting the right of a franchisee to install on the premises of that franchisee qualified alternative vehicle refueling property (as defined in section 303(c) of the Internal Revenue Code of 1986) shall be considered an unlawful restriction, and

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 the Energy Policy Act (Public Law 109-58; 119 Stat. 594); and

(3) by redesignating subsection (c) as subsection (d), inserting ("as used in this section,

and inserting the following:

(b) Application of Gasohol Competition Act of 1988.—Section 26 of the Clayton Act (15 U.S.C. 26a) is amended

(1) by redesigning subsection (c) as subsection (d); and

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

(b) APPLICATION OF GASOHOL COMPETITION ACT OF 1988.—Section 26 of the Clayton Act (15 U.S.C. 26a) is amended

(1) by redesigning subsection (c) as subsection (d); and

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

(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.

(d) Conforming Amendments.—(A) General.—Section 101(13) of the Petroleum Marketing Practices Act (15 U.S.C. 2801(13)) is amended by adjusting the indention 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—

(1) by inserting after the item relating to section 106 the following:

Sec. 107. Prohibition on restriction of installation of alternative fuel pumps.

and

(1) by striking the item relating to section 202 and inserting the following:

Sec. 202. Automotive fuel rating testing and disclosure requirements.

(b) Provision of Estimation of Volume 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 amount of diesel projected to be sold or introduced into commerce in the United States.

(1) Determination of Applicable Percentages.—(A) Provision of Estimate of Volume 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 amount 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,
and the Secretary of Energy, shall approve a request from the Administrator receives a petition under subparagraph (2) and inserts into the credit, or transfer all or a portion of the created quantity of alternative diesel fuel for the following calendar year on the condition that the person, during the 1-year period beginning on the date which it appears and inserting “(o), or (p);” and (2) in paragraph (2), by striking “and (o)” and inserting “(o) and (p);” (C) DURATION 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 person that generates a credit 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 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). (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 in the previous year. (5) WAIVERS.—(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture, 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 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.— (1) 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. (2) EXCEPTION.—The Administrator, in consultation with the Secretaries of Agriculture and Energy, may extend a waiver under paragraph (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 subsection (i)(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 325” each place it appears and inserting “section 325— (2) in subsection (k)(10), by inserting subparagraphs (E) and (F) appropriately; (3) in subsection (n), by striking “section 219(2)” and inserting “section 219(2);” (4) by redesigning subsection (r) and inserting subsections (s) and (t) respectively; and (5) in subsection (u)(1) (as redesignated by paragraph (4) by inserting “this subtitle” and inserting “this part” 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 diesel fuel is amended by redesignating paragraphs (1)(B) and (1) respectively; and inserting (s) and (t) as subsections (s) and (t) respectively; (2) DEFINITIONS.—(A) CELLULOSIC BIOMASS ETHANOL.—The term ‘cellulosic biomass ethanol’ means— (i) the production of an alcohol fuel mixture in which the alternative diesel fuel credit with respect to such fuel to any taxpayer under this subsection or a payment has been made with respect to such fuel under section 627(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 sections for subsection 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. Credits for certain fuels and fuel mixtures.”. (b) CELLULOSIC BIOMASS ETHANOL. NOT USED FOR A TAXABLE PURPOSE.— (1) IN GENERAL.—Section 6426(e) of the Internal Revenue Code is amended— (i) by redesigning paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph: “(5) CELLULOSIC BIOMASS ETHANOL.—If any person sells or uses cellulosic biomass ethanol (as defined in section 6226(c)(2)(A)) for a purpose described in subparagraph (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.—(4) Paragraph (6) of section 6226(e) of such Code, as redesignated by paragraph (1), is amended to read as follows: “(4) COORDINATION WITH OTHER REIMBURSEMENT 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 6226(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 paragraph (D) and inserting “, and”, and by adding at the end of the following new subparagraph: “(E) any cellulosic biomass ethanol credit (as defined in section 6226(f)(2)(A) sold or used after December 31, 2008.”. (4) CONFORMING AMENDMENT.—(5) Paragraph (4) of section 6226(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. 6. 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 ‘or a dual fueled vehicle or a medium or heavy duty vehicle that is a hybrid vehicle’;
than 8,500 pounds but not more than 14,000
has a gross vehicle weight rating of more
than 1,000,000 gallons of ethanol during the
processing equipment credit.
paragraph:
end of paragraph (4) and inserting
paragraph (3), by striking the period at the
of 1990) shall apply for purposes of this
enactment of the Revenue Reconciliation
50(c) of the Internal Revenue Code
of 1986 (relating to amount of credit) is
vestment credit property with respect to a
taxpayer if such taxpayer receives a pay-
ment in exchange for a credit for emission
uctions attributable to such qualifying
pollution prevention equipment for purposes of
an offset requirement under part D title I
of the Clean Air Act.’’
recapture of credit. — Paragraph (3) of sec-
50(c) of the Internal Revenue Code of
relating to basis adjustment to invest-
ment credit property with respect to a
cease to be in-
process equipment credit” after “energy cred-

t(3) the fueling center requirements of this
(4) the requirements described in subsection (b) shall remain in effect
(2) by inserting after paragraph (12) (as re-
designated by paragraph (2)) the following:
(13) the term ‘‘medium or heavy duty vehi-
cle’’ means a vehicle with a gross vehicle
weight rating of more than 14,000 pounds.

**SEC. 9. CREDIT FOR QUALIFYING ETHANOL BLENDE
NING AND PROCESSING EQUIPMENT.**
(a) ALLOWANCE OF QUALIFYING ETHANOL BLENDE
NING AND PROCESSING EQUIPMENT CREDIT. — Sec-
tion 46 of the Internal Revenue Code of
1986 (relating to amount of credit) is amended by inserting after
paragraph (5) of subparagraph (A) of subsection (a) the follow-
ing: ‘‘(6) the amount of the credit allowed for the
blending and processing equipment credit shall be reduced by
50 percent if the alternative fuel vehicle is a tractor-
hauled vehicle with a gross vehicle weight rating of more than
7,500 pounds and less than 10,000 pounds.”
(b) AMOUNT OF QUALIFYING ETHANOL BLENDE
NING AND PROCESSING EQUIPMENT CREDIT. — Sub-
paragraph (A) of section 46(f) of the Internal Revenue
Code of 1986 (relating to amount of credit) is amended by
inserting after subparagraph (5) the follow-
ing: ‘‘(6) the credit allowed shall be reduced by
50 percent if the alternative fuel vehicle is a tractor-
hauled vehicle with a gross vehicle weight rating of more than
7,500 pounds and less than 10,000 pounds.”

**SEC. 48C. QUALIFYING ETHANOL BLENDE
NING AND PROCESSING EQUIPMENT.**
(a) In General. — Paragraphs (1) through (4) of section 48C(a)
are amended by inserting: ‘‘— (5) the qualifying ethanol
blending and processing equipment credit.”
(b) QUALIFYING ETHANOL, BLENDING AND
PROCESSING EQUIPMENT. — For purposes of this section,
the term qualifying ethanol, blending and processing equipment
means any equipment installed in or on a qual-
ifying facility for blending ethanol with pet-
troleum fuels for the purpose of direct sale, including in-line blending equipment, storage tanks, pumps and piping for de-
大宗s, and load-out equipment.
(c) QUALIFYING FUEL. — For purposes of this section,
the term qualifying fuel means any fuel which produces less than
1,000,000 gallons of ethanol during the
taxable year.
(d) SPECIAL RULE FOR CERTAIN SUBSIDIZED
PROPERTY. — Rules similar to section 48(a)(4) shall apply for
purposes of this section.
(e) CANCELLATION OF CREDIT—if alter-
ation of the Revenue Reconciliation
Act of 1990) shall apply for purposes of this
section.
(f) TERMINATION.—This section shall not apply to property
placed in service after Decem-
ber 31, 2014.”

**SEC. 10. PUBLIC ACCESS TO FEDERAL ALTE
RATIVE FUELING STATIONS.**
(a) DEFINITIONS. — In this section:
(1) the date that is 7 years after the date of enactment of this Act;
(2) the term ‘‘alternative fueling station’’ means a
station that provides refueling for qualified
alternative fuels, including refueling
from an alternative fuel vehicle;
(3) the term ‘‘qualified alternative fuel vehicle’’ means a
vehicle that uses an alternative fuel;
(4) the term ‘‘battery electric vehicle’’ means a
electric vehicle that has a battery that
is charged primarily from an external source;
(5) the term ‘‘hybrid electric vehicle’’ means a
vehicle that uses an internal combustion engine in
conjunction with an electric motor;

**SEC. 11. PURCHASE OF CLEAN FUEL
USES.**
(a) DEFINITIONS. — In this section:
(1) the term ‘‘alternative fuel’’ means
fuel that is composed of at least 22
percent biodiesel (as defined in section 312(f)
12202 et seq.));
(2) Executive Order 13149 (65 Fed. Reg.
24959; relating to the government
through Federal fleet and transportation ef-
iciency); and
(3) the fueling center requirements of this
section.

**S 5326. Purchase of clean fuel buses**
(a) DEFINITIONS. — In this section:
(1) the term ‘‘alternative fuel’’ means
fuel that is composed of at least 22
percent biodiesel (as defined in section 312(f)
12202 et seq.));
(2) Executive Order 13149 (65 Fed. Reg.
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24959; relating to the government
through Federal fleet and transportation ef-
iciency); and
(3) the fueling center requirements of this
section.
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); and

(ii) by the use of which the person is engaged in the trade or business; or

(B) 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) a fuel 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, sugar, vegetable, animal, or fish materials including fats, greases, and oils, sugarcane, sugar beets, sugar components, tobacco, potato, 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 product 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 Act, fuel 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 (vi), (vii), (viii), 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 such report.

(2) NONCOMPLIANCE.—Failure of an applicant or recipient of funds to provide the certification or documentation required under paragraph (1) is a violation of the agreement to receive the funds; and

(3) in paragraph (14), by striking the period after the semicolon at the end the following:

(iv) a plug-in hybrid electric vehicle; and

(vi) an electric rail vehicle;

(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—

(1) an electric fuel;

(2) an on-board, rechargeable storage device;

(3) a fuel that is produced from biological materials in the United States; and

(4) the term ‘qualified fuel’ means a qualified fuel as defined in subsection (d) of section 13.

(c) USE OF CERTAIN ALTERNATIVE FUELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), 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 201 of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)) is amended—

(1) in the heading, by striking the period after the semicolon at the end the following:

(iv) a plug-in hybrid electric vehicle; and

(v) a plug-in hybrid electric vehicle; and

(vi) an electric rail vehicle;

(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;

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(v) a plug-in hybrid electric vehicle; and

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(1) an electric fuel;

(2) an on-board, rechargeable storage device;

(3) a fuel that is produced from biological materials in the United States; and

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(c) USE OF CERTAIN ALTERNATIVE FUELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), 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. .

By Mr. ALLARD:

S. 135. 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 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 world has increased exponentially. As such, the Army’s 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 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 requirement 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 Training 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 seek 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:

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 prescription drugs.
Sec. 3. Guaranteed prescription drug benefits.
Sec. 4. Full reimbursement for qualified re-tire 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. 1365w–111) is amended by striking subsection (b) (relating to noninterference) and inserting the following:

“(1) Negotiation; No National Formulary or Price Structure.—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) 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. 1365w–103) is amended to read as follows:


“(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 Sponsor.—The requirement in paragraph (1)(B) is not satisfied with respect to an area if only one entity offers all the qualifying plans in an area.

"(3) Qualifying Plan Defined.—For purposes of this section, the term ‘qualifying plan’ means—

"(A) a prescription drug plan;

"(B) a MA-PD plan described in section 1851(a)(2)(A)(i) that provides—

(i) basic prescription drug coverage; or

(ii) supplementary prescription drug coverage that provides supplemental prescription drug coverage so long as there is no MA monthly supplemental beneficiary premium applied under such plan 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 action as may be necessary to determine and serve as a PDP sponsor and to offer a prescription drug plan that offers basic prescription drug coverage throughout the United States. Such plan shall be in addition to, and not in lieu of, other prescription drug plans offered under this part.

"(2) Premiums; 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 the Federal Register 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) 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) to the Secretary.

"(b) Conforming Amendment.—Section 1860D-11(g) of the Social Security Act (42 U.S.C. 13975w–11(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 REETIREE PRESCRIPTION DRUG PLANS.

(a) Elimination of True Out-of-Pocket Limitation.—Section 1860D-2(b)(4)(C)(i) of the Social Security Act (42 U.S.C. 13975w–102(b)(4)(C)(i)) 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 provision of law, the Secretary of Health and Human Services shall provide for such increase in the special subsidy payment amounts under section 1861D-22(a)(1) and section 13975w–132(a)(3) as may be appropriate to provide for payments in the aggregate equitable 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 computing such payment amounts under such section, 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.—Section 1858 of the Social Security Act (42 U.S.C. 13975–27a) is repealed.

(b) Conforming Amendment.—Section 1858(c)(1) of the Social Security Act (42 U.S.C. 13975–27a(c)(1)) is amended by striking ‘‘subject to subsection (e).’’

SEC. 7. REPEAL OF COST CONTAINMENT PROVISIONS.


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. 13975w–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 prescription of benzodiazepines 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 amend the Community Reinvestment Act, 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. This 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, 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 industries that thrived and were 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 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 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 an 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 American might which helps to make America the most powerful nation in the world”.

(3) The Historic District was established as a National Historic Landmark in 1969.

(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 industry.

(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 design for a power system at Great Falls and the buildings erected around it over two centuries constitute the finest and most extensive remaining example of New York City’s industrial and architectural heritage, and are 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 wording will come from private donors of New Jersey, which have committed substantial sums of money to fund a state park that will be in the financial and jurisdictional control of the State of New Jersey.

(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 and in 1942 was 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) Hinchliffe Stadiuim 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 long-term professional care and financial support required to attract private donors from across the country.

(16) Though the State of New Jersey will be a strong financial partner in the development, 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 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. 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. PATERNAN 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, the 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 (as 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 of the State 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 the national park are available and that 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 Partnership shall 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 establish a management plan to 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 §5703 of title 5, United States Code, of its members.

(B) The adequacy of regulatory and financial tools that can be used to implement the management plan.

(C) The adequacy of public participation and consultation with interested federal, state, and local officials regarding implementation of the management plan.

(D) The adequacy of public participation, including the opportunity to testify with respect to matters to be addressed by the management plan.

(2) DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall within 30 days after the date on which the Secretary receives the management plan, submit the plan to the Partnership, who shall prescribe changes and submit the revised management plan within 30 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.

(c) MEMBERSHIP; COMPENSATION; TERMS.

(1) MEMBERSHIP.—The Partnership shall consist of the following:

(A) 4 members shall be appointed by the Secretary, consisting of 1 member as Chairperson and 1 member as Vice Chairperson, the term of office of the Chairperson and Vice Chairperson shall be one year. The Chairperson shall serve as chairperson in the absence of the Chairperson.

(B) 7 members shall be appointed to the Partnership in the manner specified herein by the Secretary from the Paterson Great Falls National 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.

(C) 2 members shall be appointed by the Secretary from nominees submitted by the City Council of Paterson; and

(D) 1 member shall be appointed by the Secretary from the Paterson Great Falls National Park Advisory Board; and

(E) 2 members shall be appointed by the Secretary from nominees submitted by the Board of Chosen Freeholders of Passaic County, New Jersey.

(2) TERMS.—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.

(c) MEETINGS.—The Partnership shall meet at the call of the Chairperson or a majority of its members.

(d) QUORUM.—A majority of the Partnership shall constitute a quorum.

(e) STAFF.—The Secretary shall provide the Partnership with such technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may detail personnel from the State of New Jersey, any political subdivision of the State, or any entity represented on the Partnership.

(f) HEARINGS.—The Partnership may hold such hearings, sit and act at such times and places, take such evidence as it may deem necessary, and receive such evidence as the Partnership may deem appropriate.

(g) 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.

(h) USE OF FUNDS TO OBTAIN MONEY.—The Partnership may use and 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.

(i) JAILS.—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.

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.—The Commission shall be composed as follows:

(1) A majority of the Partnership shall be appointed by the Secretary of personnel detailed from the State of New Jersey, any political subdivision of the State, or any entity represented on the Partnership.

(2) TERMS.—The Partnership shall consist of the following:

(A) 4 members shall be appointed by the Secretary from nominees submitted by the Governor of the State of New Jersey; and

(B) 2 members shall be appointed by the Secretary from nominees submitted by the City Council of Paterson.

(c) COMPENSATION.—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.

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 recommend various groups of interests in the National Park and make recommendations to the Partnership on issues related to

(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.

(A) Seek and accept donations of funds, property, and services to carry out this section.

(B) 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.

(C) The adequacy of public participation, including the opportunity to testify with respect to matters to be addressed by the management plan.

(D) The adequacy of regulatory and financial tools that can be used to implement the management plan.

(E) The adequacy of public participation and consultation with interested federal, state, and local officials regarding implementation of the management plan.

(F) The adequacy of public participation, including the opportunity to testify with respect to matters to be addressed by the management plan.

(G) The adequacy of regulatory and financial tools that can be used to implement the management plan.

(H) 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.

(I) 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.

(J) 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.

(K) 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.

(L) 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.

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(P) 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.

(Q) 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.

(R) 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.

(S) 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.

(T) 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.

(U) 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.

(V) 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.

(W) 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.

(X) 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.

(Y) 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.

(Z) 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.

{1} 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.
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 transportation, tourism, recreation, natural resources, cultural and historic resources, and revenue raising activities. Participation on any such committee shall 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 13 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 shall 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 that 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 to the property 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 any interest 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 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 worked closely with the Justice Department’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 proceedings 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 the estate can challenge a conviction 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—which 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’s 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 inducement of fraud proceeds totaling tens of millions of dollars.” In other words, the dismissal meant that millions of dollars that the jury found were 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 challenge his 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 29, 2006, the Fifth Circuit’s Parsons decision 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, 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 to his 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 Constitution.

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 presumption “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. Although 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 that the case be withdrawn 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, 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. As it turns out, the Government, 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 21 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 after a sentence is announced or a special assessment is ordered, I believe that the death of a defendant 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 posted in the RECORD.

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

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.
(1) In General. 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*

(b) Prior to sentencing or the exhaustion or completion of any appeal, post-conviction proceeding, a final order of restitution under section 3664(e)(5) of this title or any other provision of law.

(c) CIVIL PROCEEDINGS.
(1) The death of a defendant after a sentence has been announced shall 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.

(d) 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 the 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 not prevent the use of that plea, verdict, sentence, or judgment in civil proceedings, to the extent otherwise permitted by law.

(B) Any appeal, motion, or petition by or on behalf of the 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

(C) any pending direct appeal, 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, petition, or appeal in that case, restitution ordered or awaited shall be paid:

(i) in an unappealed conviction, supervision, or imprisonment may be abated or otherwise invalidated; and

(ii) shall not require return of any portion of any criminal forfeiture, fine, or special assessment already paid.

(b) Civil actions—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 the court which shall adjudicate and order 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.

(c) Finality for Jurisdiction—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.

(d) Appeals, Motions, and Petitions.—(A) No appeal, motion, or petition by or on behalf of the 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 direct appeal, petition, or appeal in that case shall be dismissed with the notation that the dismissal is due to the death of the defendant.

(i) Prior to sentencing or the exhaustion or completion of any appeal, post-conviction proceeding, a final order of restitution under section 3664(e)(5) of this title or any other provision of law.

(ii) CIVIL PROCEEDINGS.

(1) The death of a defendant after a sentence has been announced shall 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.

(2) Effect of death of a defendant in Fed-
eral 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, sentence, or judgment entered prior to the death of that defendant, for 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) EXCEPTIONS.

(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, as the case may be, on any amount remaining due of a criminal forfeiture, fine under section 3613(b), or of any amount remaining due of a criminal fine under section 3571; and

(2) PUNITIVE SANCTIONS.

(A) DEATH BEFORE SENTENCE ANNOUNCED.

(i) 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, sentence may be imposed, no criminal forfeiture may be ordered, and no liability for a fine or special assessment may be imposed on the defendant.

(ii) The death of a defendant after a sentence has been announced shall not be a 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.

(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 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.

(C) RESTITUTION.

(i) 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.

(ii) CIVIL ACTIONS.

(A) No appeal, motion, or petition by or on behalf of the 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 direct appeal, petition, or appeal in that case shall be dismissed with the notation that the dismissal is due to the death of the defendant.

(iii) Sentence or Judgment.

(A) Except as provided in paragraph (2), after the death of a defendant convicted in a criminal case:

(B) Any appeal, motion, or petition by or on behalf of the 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

(C) any pending direct appeal, petition, or appeal in that case shall be dismissed with the notation that the dismissal is due to the death of the defendant.

(iv) Finality for Jurisdiction.

(A) No appeal, motion, or petition by or on behalf of the 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 direct appeal, petition, or appeal in that case shall be dismissed with the notation that the dismissal is due to the death of the defendant.


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 certiorari; and otherwise permissible motion under the Federal Rules of Criminal Procedure, to the extent that the appeal, petition, or motion raises an otherwise impermissible 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.—

(ii) Personal Representative.—If the Government gives notice under clause (i), the court shall appoint a personal representative of that 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 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 action.

(b) Conforming Amendment.

SEC. 3. EFFECTIVE DATE.

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 continue to pursue, civil forfeiture of property alleged to be forfeitable in the indictment, under subsection (c)(2), the following procedures for a permitted appeal, petition, or 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.

(C) 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;

(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 guilt 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 judgment of conviction, 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 striking the entry for section 3606A and inserting the following:

"3606. Effect of death of a defendant in Federal criminal proceedings."
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, primarily in the thyroid 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 US 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 much larger number of 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:

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;
(2) is also used in fireworks, road flares, and other applications;
(2) waste from the manufacturing 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 1,000 sites, 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 133 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) 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;
(a) in children, the thyroid helps to regulate metabolism;
(b) in adults, the thyroid helps to regulate metabolism;
(c) in children, 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 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;
(2) to require the Administrator of the Environmental Protection Agency to establish 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;
(3) to require the Administrator of the Environmental Protection Agency to establish a national primary drinking water regulation 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
(4) to require the Administrator of the Environmental Protection Agency to establish a 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 1432(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 establish a health advisory and promulgate a national primary drinking water regulation for perchlorate, in accordance with the schedule and provisions established by this subparagraph, the Administrator shall establish a health advisory and promulgate a national primary drinking water regulation for perchlorate, in accordance with the schedule and provisions established by this subparagraph, the Administrator shall establish a

“(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

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 one year of early education for all children attending 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 agree that an early education experience is one of the most effective strategies for improving later school performance.

Research has 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 pre-kindergarten 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 that provide one year of pre-kindergarten early education in the public schools. There is a 50 percent matching requirement, and the $300 million authorized annually under this bill would be used by States to supplement—note: the Federal Government, and pro-

provide grants to States to reduce tuition, scholarships, and 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 from 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 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 some medical care for 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. PORY, 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.

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 dependence 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 find 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 and 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 provide 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 has it been delayed recently? 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 per-

missions, 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 net-

work 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 could have proven the economics of the 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 CO2 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 demand down. We will not always be this lucky.

No matter what energy prices are, America needs a domestic source of fuel. The time we have taken $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-Liq
uid Fuel Energy Act of 2007”.

SEC. 2. DEFINITIONS.
In this Act:
(1) COAL-TO-LIQUID.—The term “coal-to-liq
uid” means—
(A) with respect to a process or tech
nology, 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:
(1) 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 re
sources from which the facility produces not less than 10,000 barrels a day of liquid trans
portation 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:
(1) COAL-TO-LIQUID PROJECTS.—
(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the cost of guarantees for projects involving large-scale coal-to-liquid facilities under section 1703(b)(11).
(B) ALTERNATIVE FUNDING.—If no appro
priations are made pursuant to paragraph (1), an eligible applicant may elect to provide payment to the Secretary, to be de
delivered if and at the time the application is made, in lieu of the cost of guarantees for projects involving large-scale coal-to-liquid facilities under section 1703(b)(11).

(2) LIMITATIONS.—
(A) IN GENERAL.—No loan guarantees shall be provided under this title for projects described in paragraph (1) after (as deter
mined by the Secretary)
(i) the tenth such loan guarantee is issued under this title; or
(ii) production capacity covered by such loan guarantees reaches 150,000 barrels per day of coal-to-liquid fuel.
(B) INDIVIDUAL PROJECTS.—
(i) IN GENERAL.—A loan guarantee may be provided under this title for a 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.

(C) NON-FEDERAL FUND 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 guaran
tee for the proportion of the cost of the fa
tility that represents 20,000 barrels of coal
to-liquid fuel per day of production.

(D) REQUIREMENTS.—
(A) GUIDELINES.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish guide
lines for the coal-to-liquids loan guarantee application process.

(B) APPLICATIONS.—Not later than 1 year after the date of enactment of this sub
section, the Secretary shall begin to accept applications for coal-to-liquid loan guaran
tees 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 de
terminations under this subsection.

(D) 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 subsec
tion not later than each of
(i) 180 days after the date of enactment of this subsection;
(ii) 1 year after the date of enactment of this subsection; and
(iii) the dates on which the Secretary ap
proves 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 not less than 10,000 barrels per day of coal-to-liquid fuel.

(b) ESTABLISHMENT.—The Secretary shall establish a program under which the Sec
retary shall provide loans, in a total amount not to exceed $200,000,000, 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) 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) SOURCES 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 1705(b)(11) of the Federal Credit Reform Act of 1990 (42 U.S.C. 16151(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-liquid 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 appropriate, in a quantity not to exceed 20 percent of the total quantity of petroleum and petroleum products in the Reserve.

SEC. 6. STRATEGIC PETROLEUM RESERVE.

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 develop Fischer-Tropsch fuels developed from coal for aviation jet use.

SEC. 8. COAL-TO-LIQUID LONG-TERM FUEL PROCUREMENT AND DEPARTMENT OF DEFENSE DEVELOPMENT.

Section 238ba of title 10, United States Code is amended—

(1) in subsection (b) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(2) in subsection (d) by striking “section 160(f)” and inserting “section 160(e)”.

SEC. 9. REPORT ON EMISSIONS OF FISCHER-TROPSC PRODUCT USED AS TRANSPORTATION FUELS.

(a) IN GENERAL.—In cooperation with the Administrator of the Office of Information and Regulatory Affairs, the Administrator of the Federal Aviation Administration, and the Secretary of Energy, 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 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 fuel and 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 these 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. PETERS, Mr. MARSHALL, 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,
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, and 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 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 coal of a feedstock that is primarily domestic coal at the Fischer-Tropsch facility, including carbon emissions.

(2) SECRETARY.—The term ‘Secretary’ means—

SEC. 102. COAL-TO-LIQUID FUEL LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ‘eligible recipient’ means—

SEC. 103. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ‘eligible recipient’ means—

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) In this subsection, the Secretary shall provide loans, in a total amount not less than 10,000 barrels a day of liquid coal-to-liquid fuel.

(2) SOURCE OF FUNDS.—Repayment of a loan under paragraph (1) shall be used to provide a dollar-for-dollar match of the amount of the loan.

(c) APPLICATION.—To be eligible to receive a loan under this subsection, an eligible recipient shall submit to the Secretary an application 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 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—

(a) conduct a study of the feasibility and suitability of maintaining coal-to-liquid products in the Reserve; and

(b) 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 results of the study.

(c) 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 major base.

(d) 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), by inserting a semicolon at the end; and

(2) in subsection (b), by striking ‘‘and’’ and inserting ‘‘and’’; and

(3) by redesignating subsections (f), (g), (j), (k), and (l) as subsections (a), (b), (e), (f), and (g), respectively; and

(g) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of the Coal-to-Liquid Fuel Promotion Act of 2007, 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.—The Secretary shall provide loan guarantees under this section.

(i) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of the Coal-to-Liquid Fuel Promotion Act of 2007, the Secretary shall carry out this section 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.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending June 30, 2008, for this purpose $200,000,000.

(k) AMENDMENT.—Subsection (a) of section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended—

(1) by redesigning subsections (f), (g), (j), (k), (l), and (m) as subsections (a), (b), (e), (f), (g), and (h), respectively; and

(2) by redesigning subparagraph (A) as paragraphs (1) and (2), respectively; and

(3) by redesigning subsection (a) as paragraphs (1) and (2), respectively; and

(4) by redesigning subparagraph (A) as paragraphs (1) and (2), respectively; and

(5) by redesigning subparagraph (B) as paragraphs (1) and (2), respectively; and

SEC. 104. LOCATION OF COAL-TO-LIQUID MANUFACTURING FACILITIES.

The Secretary, in coordination with the head of any agency affected, 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. 6259) is amended—

(1) by redesigning subsections (f), (g), (h), (j), (k), and (l) as paragraphs (a), (b), (e), (f), and (g), respectively; and

(SECTION 1 SHORT TITLE. This Act may be cited as the ‘‘Coal-to-Liquid Fuel Promotion Act of 2007.’’)

TITLE 1—COAL-TO-LIQUID FUEL ACTIVITIES

SEC. 101. DEFINITIONS.

In this title:

(1) COAL-TO-LIQUID.—The term ‘coal-to-liquid’ applies to—

(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, and 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 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 coal of a feedstock that is primarily domestic coal at the Fischer-Tropsch facility, including carbon emissions.

(2) SECRETARY.—The term ‘Secretary’ means—
SEC. 107. COAL-TO-LIQUID LONG-TERM FUEL PROCUREMENT AND DEPARTMENT OF DEFENSE DEVELOPMENT.

Section 239aa 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 such entities to design and construct new facilities at the research centers (as defined in section 101 of the Coal-to-Liquid Fuel Promotion Act of 2007) or on or near military installations.

"(B) CONSIDERATIONS.—In entering into contracts and other agreements under sub-paragraph (A), the Secretary shall consider the cost, proximity of raw materials, and in-terest in entering into contracts or other agreements under sub-paragraph (A), the Secretary shall consider the cost, proximity of raw materials, and

(2) in subsection (d)—

(A) by striking "Subject to applicable pro-

visions of law, any" and inserting "Any"; and

(B) by striking "1 or more years" and in-

serting "up to 25 years";

(3) in subsection (e)—

(A) by striking "has documented to the satis-

faction of" and inserting "the Secretary that"; and

(B) by adding at the end the following:

"(1) 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 FUEL.

(a) In GENERAL.—In cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Defense, the Administrator of the Federal Aviation Ad-

ministration, 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 fuel in the transportation sector;

(3) in accordance with subsection (e), sub-

mit to Congress a report on the effect on air quality of the use of Fischer-Tropsch fuel in the transportation sector.

(b) GUIDANCE AND TECHNICAL SUPPORT.—
The Secretary shall issue any guidance or technical support documents necessary to fa-

cilitate the effective use of Fischer-Tropsch fuel and blends under this section.

(c) FACILITIES.—For the purpose of evalu-

ating the emissions of Fischer-Tropsch transportation fuels, the Secretary shall—

(1) support the use and capital modifica-

tion of existing facilities and the construc-

tion of new 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 re-

quired 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 en-
gines and the aviation sector; and

(2) the production costs associated with dom-

estic production of those fuels and prices for comparable fuels.

(e) REPORTS.—The Secretary shall submit to the Committee on Energy and Natural Re-
sources of the Senate and the Committee on Energy and Commerce of the House of Rep-

resentatives—

(1) not later than 180 days after the date of enactment of this Act an interim report on ac-

tions 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 ac-

tions 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 sec-

tion.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 201. CREDIT FOR INVESTMENT IN COAL-TO-
LIQUID FUELS PROJECTS.

(a) In GENERAL.—The term ‘qualifying coal-to-liquid fuels project’ means any project to develop and operate coal-to-liquid facilities (as defined in section 417 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” By striking “in accordance with section (a)(4) and (b) of section 48 shall apply.” and by adding at the end the following:

(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 invest-

ment for such taxable year.

(b) QUALIFIED INVESTMENT.—

(1) IN GENERAL.—For purposes of sub-

section (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) the construction, reconstruction, or e-

rection of which is completed by the tax-

payer;

(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 al-

lowable.

(2) APPLICABLE RULES.—For purposes of this section, rules similar to the rules of sub-

section (a)(4) and (b) of section 48B shall apply.

(c) DEFINITIONS.—For purposes of this sec-

tion—

(1) QUALIFYING COAL-TO-LIQUID FUELS PROJECT.—The term ‘qualifying coal-to-liqu-

id fuels project’ means any project which—

(A) employs the class of reactions known as Fischer-Tropsch to produce at least 10,000 barrels per day of transportation grade liq-

uid fuel from a feedstock that is primarily domest-

ic coal (including any property which allows for the capture, transportation, or se-

questration of by-products resulting from such process, including carbon emissions), and

(B) any portion of the qualified invest-

ment in which is certified under the quali-

fying coal-to-liquid project as eligible for credit under this section in an amount (not to exceed $200,000,000) determined by the Sec-

retary.

(2) COAL.—The term ‘coal’ means any car-

bonized or semicarbonized matter, including peat.

(d) QUALIFYING COAL-TO-LIQUID FUELS PROJECT CREDIT.

(1) IN GENERAL.—The Secretary, in con-

sultation with the Secretary of Energy, shall establish a qualifying coal-to-liquid fuels project program to consider and award cer-

tifications for qualified investment eligible for credits under this section to 10 qualifying coal-to-liquid fuels projects annually 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 begin-

ning on October 1, 2007.

(3) SELECTION CRITERIA.—The Secretary shall not make a competitive certification award for qualified investment for credit eligi-

bility under this section if the recipi-

ent has documented to the satisfaction of the Secretary that—

(A) the proposal of the award recipient is technically feasible and financially viable;

(B) the recipient will provide sufficient information to the Secretary for the Sec-

retary to ensure that the qualified invest-

ment is spent efficiently and effectively;

(C) the fuels identified with respect to the gaseification technology for such project will comprise at least 90 percent of the fuels re-

quired 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 the project; and the gaseification technology is similar with operation of the Fischer-Tropsch proc-

ess, 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 cri-

teria established and published by the Sec-

retary.

(4) DENIAL OF DOUBLE BENEFIT.—No de-

duction or other credit shall be allowed with respect to the basis of any property taken into account in determining the credit al-

lowed under this section.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) of the Internal Rev-

enue 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 in-

serting "; 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.;"
SEC. 43. ENHANCED OIL, NATURAL GAS, AND COALBED METHANE RECOVERY, AND CAPTURE AND SEQUESTRATION CREDIT.

The amendments made by this section shall apply to costs paid or incurred for any qualified project after December 31, 2020.

(b) CONFORMING AMENDMENTS.—

(1) Section 6427(e) of the Internal Revenue Code of 1986 is amended by striking "or" and inserting "and" in the case of a project described in paragraph (4) of such section.

(2) Section 43 of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1)(B), by striking "and" and inserting "but not including a project described in subparagraph (K) and inserting", "or", and, by inserting after paragraph (K) the following new subparagraph:

"(L) expenditures for which a deduction is allowed under section 179E.")

(3) Section 28(b)(1) of such Code is amended by inserting "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and, by inserting after paragraph (K) the following new subparagraph:

"(L) expenditures for which a deduction is allowed under section 179E.")

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred for any qualified project after December 31, 2020.

SEC. 203. EXTENSION OF ALTERNATIVE FUEL CREDIT FOR FUEL DERIVED FROM COAL THROUGH THE FISCHER-TROPSCH PROCESS.

(a) ALTERNATIVE FUEL CREDIT.—

(1) Alternative fuel credit.—Paragraph (4) of section 42(d) of the Internal Revenue Code of 1986 is amended—

(ii) transport qualified carbon dioxide, or

(iii) process and use qualified carbon dioxide in a qualified project.

(b) PAYMENTS.—

(1) IN GENERAL.—

(2) TERMINATION.—

(1) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

(2) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

(3) DEFINITIONS.—

(a) In general.—

(b) Compliance with section—

(c) CONFORMING AMENDMENTS.—

(d) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

(2) ORDINARY INCOME RECAPTURE.—

(3) OTHER DEDUCTIONS.—

(4) REPORTING.—

(a) In general.—

(b) Reporting.—

(c) REPORTING.—

(d) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

(e) OTHER DEDUCTIONS.—

(3) CONFORMING AMENDMENTS.—

(f) APPLICATION WITH OTHER DEDUCTIONS AND CREDITS.—
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 "empower 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 "empower credit.",

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning 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 in the last 3 years, with stunningly consistent support. 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 good news, 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 that are as high as 30 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 Tax Freedom Act is not passed, but you have to ask how many times Congress has to revisit, re-litigate 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, and again in 2007. 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. is 12th in the world in per capita Internet access, lagging behind competitors South Korea, the United Kingdom and Canada. This is absolutely unacceptable in a country that leads the world in technological 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 70 percent. So 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 Congresses that are all too willing to raise 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 at a higher rate 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 legislation that we believe is bad for 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, we ensure that innovators will 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 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 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 includes: 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 tax incentives to encourage businesses and non-profit organizations to provide health insurance to small employers, the backbone of the Maine economy.

Our legislation will also provide grants to provide start-up funding to businesses and non-profits to encourage innovation relat-
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, while also providing coverage for non-elderly individuals and families who do not have employer-provided coverage. The bill would provide incentives for States to establish or expand community 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 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 Community 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 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.

The problem of access to affordable health care services is not limited to the uninsured. It 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, 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 most families when a chronically ill or dementia patient, such as Alzheimer’s Disease, becomes demented or shows 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 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 all health care costs in Maine.

Our bill 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 “woksite wellness” programs for their employees. It would also authorize a grant program 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 their elderly and disabled citizens.

The Medicare Modernization Act of 2003 and subsequent legislation did not 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 health professionals who practice 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 for 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 Maine, Senator COLLINS, in introducing today 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 9.3 million children with asthma, not being 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 are vital to the competitiveness and growth 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.

Guided by its intensity 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 lower the cost of opening new small businesses and provide the 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 carefully and to provide 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. 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 demonstrates 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, 2006, 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 Assistance 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. After a floor debate, the Small Business Committee of the Senate 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 proposal is supported 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 the 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 the SBA with the authority to offer them to the agencies to 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 longer-term 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 re-admitted and given access to the capital they require to continue their services. To this end, the administrator is authorized to make disaster loans to non-profit entities, including religious organizations.

Construction and rebuilding contracts being awarded are likely to be larger than the current $2 million dollar disaster loan program. 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 SBA 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 bill 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 businesses 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

In the 16 months since Katrina struck, I have visited New Orleans three times. I have met with the life-blood 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:

8. 163

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

TITLES I—PRIVATE DISASTER LOANS

See. 1. Short title; table of contents.

See. 101. Private disaster loans.

See. 102. Technical and conforming amendments.

TITLES II—DISASTER RELIEF AND RECONSTRUCTION

See. 201. Definition of disaster area.


See. 203. Disaster loan amounts.

See. 204. Small business development center portability grants.

See. 205. Assistance to out-of-State businesses.

See. 206. Outreach programs.

See. 207. Small business bonding threshold.

See. 208. Contracting priority for local small businesses.

See. 209. Termination of program.


TITLES III—DISASTER RESPONSE

See. 301. Definitions.

See. 302. Business expedited disaster assistance loan program.

See. 303. Catastrophic national disasters.

See. 304. Public awareness of disaster declaration and application periods.

See. 305. Consistency between Administration regulations and standard operating procedures.

See. 306. Processing disaster loans.

See. 307. Development and implementation of major disaster response plan.

See. 308. Congressional oversight.

TITLES IV—ENERGY EMERGENCIES

See. 401. Findings.

See. 402. Small business energy emergency disaster loan program.

See. 403. Agricultural producer emergency loan programs.

See. 404. Guidelines and rulemaking.

See. 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. 636(b)).

TITLES V—LAWSUIT 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 (b) and (c), 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); and

‘‘(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 163 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) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (a) or (b).

‘‘(3) ORIGINATION FEE.—The Administrator, in determining whether to guarantee a loan, shall consider the origination fee for a loan guaranteed under this subsection.

‘‘(4) INTEREST RATE.—The Administrator may reduce the interest rate on a loan guaranteed under this subsection.

‘‘(5) MAXIMUM AMOUNTS.—The Administrator shall not guarantee more than $1 million under this subsection.

‘‘(6) DISBURSEMENT.—The Administrator may disburse the loan proceeds to the qualified private lender, or to any other appropriate Federal agency so designated.

‘‘(7) FEES.—The Administrator may charge a fee in an amount agreed upon in advance for any loan guaranteed under this subsection.

‘‘(8) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall submit a report to the Congress on the progress of the regulations required by subparagraph (A) to the Congress; and to the Congress on a rulemaking that may be needed by the Administrator to implement the regulations promulgated under paragraph (9).

‘‘(9) IMPLEMENTATION REGULATIONS.—

‘‘(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall promulgate such final regulations as may be necessary to implement the provisions of paragraph (1) of subsection (b), and to carry out this subsection.

‘‘(B) AUTHORITY TO REDUCE INTEREST RATES.—Funds appropriated to the Administration under subsection (a), and by the Administrator 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(d)(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 7(d)(2), by striking “7(c)(2)” and inserting “7(d)(2)”;

(2) in section 7(d)(2), in the undesignated matter following paragraph (7), by striking “7(c)(2)” and inserting “7(d)(2)”; and

(3) in section 7(d)(2), in the undesignated matter following paragraph (7), by striking “Notwithstanding the provisions of paragraphs (1) and (2), the Administrator may charge a fee in an amount agreed upon in advance for any loan guaranteed under this subsection” and inserting “Notwithstanding the provisions of paragraphs (1) and (2), the Administrator may charge a fee in an amount agreed upon in advance for any loan guaranteed under this subsection.”

SEC. 2. 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 paragraphs (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 loan authorized under section 7(b) of the Small Business Act, the Administrator may make such loans (either directly or in cooperation with banks or
SEC. 203. DISASTER LOAN AMOUNTS.

(a) INCREASED LOAN CAPS.—Section 7(b)(2)(A) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended by inserting immediately after paragraph (4), as added by this title, the following:

"(5) INCREASED LOAN CAPS.—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)" before the period at the end of subsection (A).

(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)(2)) 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 area 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 "or (2)."

SEC. 204. SMALL BUSINESS DEVELOPMENT CENTER PORTABILITY GRANTS.


(1) in the first sentence, by striking "as a result of a business or government facility down time in an area affected by a major disaster, or is anticipated to result 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 down time 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 BUSINESS.

Section 21(b)(3) of the Small Business Act (15 U.S.C. 648(b)(3)) is amended—

(1) in the first sentence, by striking "within 60 days of the declaration of a major disaster" and inserting "as determined by the Administrator;" and

(2) in the last sentence, by adding at the end "At the discretion of the Administrator, the Administrator may authorize assistance on a case-by-case basis to provide such assistance to small business concerns located outside of the State, with 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 concern shall provide immediate access to counseling services 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 services, the Administrator shall, to the maximum extent practicable, permit small business development center personnel to use any site or facility at the discretion of 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 President; and

(3) any Federal, State, or local government entity, agency, or 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 THRESHOLDS.

(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—

(1) waive any bonding requirements that 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, performance bond, or bonds ancillary there to, 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.—Until the end of the calendar year 2017, the Administrator may—

(1) in the first sentence, by striking "$10,000,000." and inserting "$15,000,000.

"(2) INCREASE OF AMOUNT.—Until the end of the calendar year 2017, the Administrator may—

(1) increase the bonding requirement for contracts for which the Administration involved in reconstruction efforts in response to a major disaster, as designated by the President, to $20,000,000.

SEC. 208. CONTRACTING PRIORITY FOR LOCAL SMALL BUSINESSES.

Section 15(d) of the Small Business Act (15 U.S.C. 636(d)) is amended—

(1) in the first sentence, by striking "local subcontracting priorities" and inserting "local subcontracting priority; and

(2) by adding at the end "At the discretion of the Administrator, 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)."

"(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, when there is a reasonable expectation of receiving competitive, reasonably priced bids or proposals from not fewer than 2 local small business concerns;

"(iii) the awarding of contracts and placement of subcontracts 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 under this Act.

"(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 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 1998 (15 U.S.C. 644 note) is amended by adding after “January 1, 1989” the following: ‘’, and in the last sentence of the date on the 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 "$4,000 or less".
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 the affected 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 promulgate, implement, and administer a small business disaster assistance loan program to provide small business concerns with immediate disaster assistance, as is necessary to establish and implement such programs

SEC. 303. CATASTROPHIC NATIONAL DISASTERS.

(a) Deferral of Restrictions and Deemed Approval Under Section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

(1) 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)) 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 extend such such as are necessary to carry out this section.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 304. PUBLIC AWARENESS OF DISASTER DESTRUCTION 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 (5), as added by this Act, the following:

(1) 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 loans under this paragraph on an emergency basis, in consultation 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).

(b) COORDINATION WITH FEMA.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with 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.

(d) COORDINATION WITH AGENCIES AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall conduct a study of whether the Federal Emergency Management Agency and other Federal Agencies and organizations are providing the public with information about the availability of small business programs.

(e) CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARDS OPERATING PROCEDURES.—Not later than 90 days after the date of enactment of this Act, the Administrator shall conduct a study of the consistency between the regulations and standards operating procedures of the Administration and other Federal Agencies and organizations for disaster assistance programs.
Administration for administering the disaster loan program.

(b) Report.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the 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 (6), as added by this Act, the following:

‘‘(9) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—

‘‘(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. 5121)) 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. 5121)) 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.

‘‘(2) 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 by the Administrator.

(2) 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 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 how the Administrator 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) ways to expedite 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 of disasters 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 an applicant, and the date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to verify losses and preclude processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declares a major disaster, that are located in a 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 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).

(3) Implementation 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 and Entrepreneurship of the House of Representatives, a report on how the Administrator can better coordinate its disaster response operations with the operations of other Federal, State, and local entities.

(b) CONTENTS.—The amended report required under subsection (a) shall include—

(1) any updates or modifications made to the disaster response plan since the report submitted 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 catastrophic disasters, including in what manner, upon request by the Administrator.

(c) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall provide to the Small Business and Entrepreneurship Committee of the House of Representatives a report on how the Administrator 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; and disaster response staff of the Administration;

(iii) procedures for disaster response staff of the Administration;

(iv) methods, if any, for the Administration to verify losses and preclude processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declares a major disaster, that are located in a 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 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 Administrator’s plan to implement findings from the Administrator’s study conducted under section 2(e).

(c) IN GENERAL.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the House of Representatives, a report on how the Administrator can better coordinate its disaster response operations with the operations of other Federal, State, and local entities.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the average daily 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 average weekly 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 such funding has increased or decreased since the previous report under paragraph (2); and

(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).

(3) AGENCY.—The Administrator shall provide to the Committee on Small Business and Entrepreneurship 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.

(4) EXERCISES.—Not later than May 31, 2007, the Administrator shall conduct simulation exercises to demonstrate the effectiveness of the 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 submit a report to the Committee on Small Business and Entrepreneurship 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) Presentation of Findings.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the House of Representatives a report on how the Administrator plans to integrate and coordinate the disaster loan program of the Administrator with the disaster loan programs of the other Federal agencies.

(b) Five-Year Review Report.—Not later than 15 business days after the date on which the Administrator completes the five-year review report, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the House of Representatives a report on what recommendations of the Administrator, if any, based on a review of the operation of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(c) Plan for how the Administrator, in cooperation with the Director of the Federal Emergency Management Agency, will coordinate the provision of accommodations necessary to enable the Administrator and the Disaster Assistance Personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(d) Exercises.—Not later than May 31, 2007, the Administrator shall develop and execute simulation exercises to demonstrate the effectiveness of the disaster response plan required under this section.

January 4, 2007

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(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 submitted under paragraph (1) shall include:

(A) the number of Administration staff personnel, field inspectors, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, work zones, 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 amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and other information included in the declaration of a major disaster.

(c) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—The Administration shall notify 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.—

(I) IN GENERAL.—Not later than 6 months after the date on which the President declares a major 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, identifying Federal contracts awarded as a result of the declared disaster.

(II) CONTENTS.—Each report submitted under paragraph (I) 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;

(D) the total number of contracts awarded to local businesses as a result of the declared disaster.

(d) SEC. 401. FINDINGS.

(a) I N GENERAL.—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 States well, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) significantly increased 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, 1985 to 1986, 1986 to 1987, 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.

(b) SEC. 402. SMALL BUSINESS ENERGY EMERGENCY LOAN PROGRAM.

(a) IN GENERAL.—SEC. 3(k) of the Small Business Act (15 U.S.C. 636(k)) 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—

(1) with respect to the price of heating oil, natural gas, propane, or kerosene—

(A) an increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

(B) an increase which the Administrator makes at the same interest rate as economic injury loans under paragraph (2).

(2) with respect to the price of kerosene, any increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

(3) any increase which the Administrator may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate in the administration of such loans by the Administration, 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 the area in which the declared disaster occurred, as determined by the Administrator, in case the Administrator, in the discretion of the Administrator, may waive the $1,500,000 limitation.

"(E) USE OF FUNDS.—Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concerned 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.

"(F) CONFORMING AMENDMENTS RELATING TO HEATING FUEL.—SEC. 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’’ before ‘economic’.

"(G) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which this Act is enacted and are in effect by the Administrator under section 404.

"(H) SEC. 403. AGRICULTURAL PRODUCER EMERGENCY LOAN PROGRAM.

"(a) IN GENERAL.—SEC. 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) by striking ‘‘(a)’’ and inserting ‘‘(b)’’; and

(2) by inserting ‘‘(ii)’’ after ‘‘(i)’’.
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) by inserting “or by an energy emergency declared by the President or the Secretary”; and (3) by inserting “or” 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 section 404 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) SMALL BUSINESS ADMINISTRATION.—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, 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 of a method for determining a significant increase in the price of kerosene under section 7(b)(10)(A)(v)(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 and Entrepreneurship 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. 2202 et seq.) shall be available to carry out the amendments made by subsection (a) to meet the needs resulting from energy emergencies.

(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. 2202 et seq.) as added by this section; 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 strengthen 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 cornerstone of 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 Act 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 accountable 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 also provided 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, there must be 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 ensure that our schools are on track for success in college and the workforce. The councils would be charged with ensuring that State

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 measure 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 great as 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 raise higher, not lower. We should use the well-regarded National Assessment of Educational Progress the ‘Nation’s report card’ as a benchmark for the progress of our students. States should also align their elementary and secondary school standards with those for college entrance and success, creating seamless systems that guide students from the beginning of their education through 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.

Legislation under the No Child Left Behind Act requires 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 States to report on the progress of all 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.

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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.

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. Teachers in high-poverty schools who dedicate more than 30 percent of their time to non-academic needs.

Children’s social, emotional and other needs. The initial implementation of the No Child Left Behind Act has been flawed, but we can’t abandon its vision of all children achieving the skills and education that they will need to succeed.

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:

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 shows that for grade 4 mathematics, there are many States—more than half 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 Program for International Student Assessment, that the United States trails 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 pre-kindergarten through grade 18 student preparedness councils to better link early childhood education and school readiness with elementary school success.

(4) To offer grants to school districts to sup-

(5) 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”, “school day”, “Secretary”, and “State educational agency” have the meanings given in such 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 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” mean, with respect to a particular State, 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 the sciences as a part of a comprehensive education;
(D) applies the use of tools and skills employed by a globally skilled 21st century workforce necessary for communication, manufacturing, construction, energy systems, biomedical systems, transportation systems, and other related fields; and
(E) State or gubernatorial systems of engineering principles and concepts, develop 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 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; 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 student performance at the opportunity for student success in 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 inappropriate use of curricula and assessments;
(G) are, as a whole, regularly evaluated for their impact on student achievement, student performance at the opportunity for student success in State academic content standards and student academic achievement standards, and the perfection of each teacher’s performance in the classroom; 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, 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) STATE PREPAREDNESS.—The term ‘student preparedness’ means preparedness based on the knowledge and skills that—
(A) are prerequisites for entrance into—
(i) the Armed Forces; and
(ii) the 21st century workforce; and
(B) can be measured and verified objectively using widely accepted professional assessment standards; and
(C) are covered by 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 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 assessment 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; and
(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 each subject area and grade,

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; and
(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 each subject area and grade,

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 most recent applicable year on the assessment required under section 1111(c)(2) of the Elementary and Secondary Education Act of 1965; and

(E) 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

(F) The difference between—
(i) the percentage of students who performed at or above the basic level on the State assessment for such year;
(ii) the percentage of students who performed at or above the proficient level for the most recent applicable year on the State assessment indicated in such section and, if such assessment is not required in such year, the assessment described in section 303 of the National Assessment of Educational Progress Authorization Act (as amended by this Act), in the United States compared to the achievement and preparedness of students in other industrialized countries; and

(G) possible reasons for any deficiencies identified in the achievement and preparedness of United States students compared to students in other industrialized countries.

(2) 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 described in 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 and

(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 Governing Board 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 inserting ‘shall’;

(2) in subsection (b), by striking ‘formulate’ and all that follows through the period at the end inserting ‘formulate’;

(3) in subsection (c), by striking paragraph (4);
(4) in subsection (e)—
(A) in paragraph (1)—
(i) by striking “and grade 12 student preparedness levels” after “academic achievement” and inserting “and standards to be developed under section 1111(b)(4)”; and
(ii) by striking subparagraph (C) and inserting the following:
“(C) conduct a national assessment and collect and report assessment data, including achievement level and 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;”; and
(iii) in subparagraph (D)—
(I) by striking “subparagraph (B) are implemented” and inserting “and standards 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 and grade 12 student preparedness data”; and
(vi) by striking 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) the science or technical 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 compares to the achievement and the preparedness of students in other industrialized countries; and
(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”; 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 “‘assessment’ after ‘study’”;
(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) by striking “(B),” by striking “reading and mathematics” and inserting “reading, mathematics, and science”; and
(ii) by striking subparagraph (C) and inserting the following:
“(C) conduct a national assessment and collect and report assessment data, including achievement level and 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;”; and
(iii) in subparagraph (D)—
(I) by striking “subparagraph (B) are implemented” and inserting “and standards 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 and grade 12 student preparedness data”; and
(vi) by striking 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) the science or technical 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 compares to the achievement and the preparedness of students in other industrialized countries; and
(iii) in subparagraph (K) (as redesignated by clause (iv)), by striking “and” after the semicolon.
(iv) in subparagraph (L) (as redesignated by clause (iv)), by striking the period at the end and inserting “; and”; and
(v) 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
(vi) in the flush matter at the end—
(I) by inserting “‘assessment’ after ‘study’”;
(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.”

(1) by striking the paragraph heading—
by inserting “ADVICE” after “TECHNICAL”;
and
(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”;

(ii) 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.”

(1) by striking the paragraph heading—
by inserting “ADVICE” after “TECHNICAL”;
and
(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”;

(ii) 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.”

(1) by striking the paragraph heading—
by inserting “ADVICE” after “TECHNICAL”;
and
(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”;

(ii) 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.”

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and
(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.”

(1) by striking the paragraph heading—
by inserting “ADVICE” after “TECHNICAL”;
and
(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.”
school graduates are well-prepared to enter academic achievement of students, beginning in with rigorous national and international specifications, and questions are competitive questions, to ensure that such standards, assessments, and assessment student academic achievement standards, as- of their State academic content standards, the National Assessment of Educational 1965, assessment specifications, and assess- ment 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, as- sessment specifications, and assessment questions, to ensure that such standards, specifications, and assessments are competitive with rigorous national and international benchmarks; and (3) to improve the instruction and acade- mic 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) PURPOSES.—The purposes of this sec- tion shall include— (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, as- sessment specifications, and assessment questions, to ensure that such standards, specifications, and assessments are competitive with rigorous national and international benchmarks; and (3) to improve the instruction and acade- mic 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; (c) NATIONAL BENCHMARKS.—The National Assessment of Educational Progress Authorization Act (20 U.S.C. 921 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 fol- lowing: "SEC. 304. NATIONAL BENCHMARKS. (a) PURPOSES.—The purposes of this sec- tion shall include— (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, as- sessment specifications, and assessment questions, to ensure that such standards, specifications, and assessments 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; (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 para- graph (3); and (2) by inserting after paragraph (1) the fol- lowing: "(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 amend- ed— (1) by striking paragraph (1) and inserting the following: "(1) for fiscal year 2009— (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", (2) in paragraph (2)— (A) by striking ‘‘5 succeeding’’ and insert- ing ‘‘5 succeeding’’; and (B) by striking ‘‘2003, as amended by section 401 of this Act’’ and inserting ‘‘303, and 304’’. (f) CONFORMING CHANGES AND AMEND- MENTS.— (1) CONFORMING CHANGES TO THE ELE- MENTARY 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 ‘‘ elementary and secondary education standards adopted by the State’’ and inserting ‘‘ academic content standards, as- sessment specifications, and assessment questions adopted by the State’’; and (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. 913(a)(1)) is amended by striking ‘‘section 302(c) (1)(J)’’ and insert- ing ‘‘section 302(c)(1)(J)’’. SEC. 7. PREKINDERGARTEN THROUGH GRADE 16 STATE AND LOCAL PREPAREDNESS COUNCIL GRANTS. (a) PROGRAM AUTHORIZED.— (1) IN GENERAL.—(A) Amou- nts appropriated for fiscal year 2007 from the Secretary is authorized to award, on a competitive basis, grants to States for the purpose of allowing the States to establish State panels of academic content and assessment experts, inclusive of student achievement standards adopted under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, who may enter into a contract with an entity that possesses the technical expertise to con- duct the analysis described in this sub- section. (B) STATE PANEL.—The chief State school officer of a State participating in an align- ment analysis described in this subsection shall appoint a panel of not less than 6 indi- viduals, including representatives from State Assessment Board in conducting the alignment analysis. Such panel— (A) shall include— (i) local and State curriculum experts; (ii) relevant content and pedagogy ex- perts, 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 As- sessment Board contracts to conduct the analysis under paragraph (3); and (B) may include other State and local rep- resentatives and representatives of organiza- tions with relevant expertise.”; (2) MANDATORY CONDITION.—The purposes of this sec- tion— (A) a State— (i) shall ensure that such State— (I) is a member of the National Assessment of Educational Progress; (II) is participating in the National Assessment of Educational Progress under Federal law; and (III) is a member of the Assessment Board; (B) the Assessment Board shall— (i) foster the development of a plan described in section 305, as amended by subsection (c)(1), to include— (I) 21st century curricula for secondary schools; (II) curriculum for elementary schools and middle schools; and (III) 21st century curricula for secondary schools; and (C) inform the design and implementation of integrated prekindergarten through grade 16 data systems, which— (i) will allow the States 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 a plan under paragraphs (1) and (2) of subsection (a) that possesses the technical expertise to con- duct the analysis described in this subsection. (3) CONTRACT.—When the chief State school officer of a State identifies a need for, and requests the Assessment Board to con- duct, 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 aca- demic content standards and student aca- demic achievement standards adopted under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)) as specified in paragraph (2) or, if such a request is not met as a result of a determination under subsection (b), the Assessment Board shall— (A) identify the differences between the State’s academic content standards and student academic achievement standards, as- sessment specifications, and assessment questions, as required by the State; and (B) may include other State and local rep- resentatives and representatives of organizations with relevant expertise.”; (B) 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 sec- tion; 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); (4) REQUIRED MEMBERS.—The members of a council described in subsection (a) shall in- clude— (A) the Governor of the State or the desig- nee of the Governor; (B) the chief executive officer of the State public institution of higher education; and (C) the chief executive officer of the State’s higher education coordinating board; (D) the chief State school officer; and (E) not less than 1 representative each from— (i) the business community; and (ii) the Armed Forces; (F) a public elementary school teacher em- ployed in the State; and (G) a public secondary school teacher em- ployed in the State; (5) EXPERTS.—The secretaries of State and the State education agency of a State— (A) shall appoint representatives to serve on the council from— (i) businesses and employers in the State; (ii) local, State, and Federal government; (iii) a nonprofit, nonpartisan organization or association, such as the Business Roundtable or the U.S. Chamber of Commerce; (iv) experts in public or private education, or both; and (v) representatives of the business community of the State; (6) COMPETENCIES.—The council de-scribed in subsection (a) may also include— (A) a representation 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; (D) the State official responsible for eco- nomic 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) 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)) no 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 largest, representative, 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 for preprofessional development for teachers, paraprofessionals, principals, and school administrators;

(C) explain how the State will provide assistance to preprofessional educational agencies in implementing rigorous State standards through substantive curricula, including scientifically based remediation and acceleration options 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 participation information, including race or ethnicity, gender, and income status;

(III) the ability to match individual students to test records from year to year to measure academic growth;

(IV) information on untested students;

(V) a teacher identifier system with the ability to link this data to teachers; and

(VI) student-level transcript information, including information on courses completed and grades earned;

(VII) student-level college readiness 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 to the Armed Forces; and

(XIII) student nonmilitary postsecondary employment information;

(i) to the extent possible, coordinate with other relevant State databases, such as criminal justice or social services data systems;

(ii) 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 Armed Forces; and

(V) the extent possible through linkages with appropriate databases on service in the Armed Forces and continued participation in the 21st century workforce;

(VI) to the extent possible through linkages with appropriate databases on service in the Armed Forces and continued participation in the 21st century workforce; and

(VII) the ability to match student records including information on courses completed and grades earned; and

(B) implement a plan to better align the standards and the curriculum allows graduates to attain the skills necessary to enter the 21st century workforce or the Armed Forces;

(ii) articulate 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 partnerships the State will enter into with credit-bearing coursework in higher education without the need for remediation; and

(iv) a description of the activities the State will undertake to implement the revised standards or assessments, or both, at the State, district, or local level, and the local educational agency level, which activities may include—

(I) preserve and in-service teacher, para-professional, 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 of new high-quality assessments, with a focus on ensuring that such assessments are rigorous, measure significant depth of knowledge, use multiple measures and 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 PREPAREDNESS TO ENTER THE 21ST CENTURY WORKFORCE, PERSISTENCE IN THE ARMED FORCES, AND THE DEMANDS OF HIGHER EDUCATION.—Each State shall—

(1) using the data produced by a data system described in subparagraph (A) or (B), or other information as appropriate; and

(II) identify 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; and

(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 academic content standards and student academic achievement standards described in subparagraph (A) or (B), or other information as appropriate.

(E) If the State has an officially designated college preparatory curriculum at the time the State applies for a grant under this section—

(A) describe the extent to which students who completed the college preparatory curriculum were prepared to enter credit-bearing coursework in higher education without the need for remediation; and

(B) 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

(C) 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) The State shall provide for the credit-bearing coursework in higher education without the need for remediation for students who completed the 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 a postsecondary institution 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), deliver a 21st century workforce and student graduation and workforce and student graduation and retention.

(i) may be adopted by the local educational agencies in the State for use in secondary schools; and

(ii) enables secondary school students to enter credit-bearing coursework in higher education without the need for remediation;
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(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, and school administrators, and college faculty;

(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 prekindergarten, paraprofessionals, principals, and school administrators, to improve instruction and support mechanisms for states 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 that are necessary 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) building 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 school students enrolled in postsecondary-level coursework;

(cc) creating dual enrollment programs;

(dd) connecting prekindergarten and secondary school campuses on the campuses of institutions of higher education; and

(ee) providing opportunities for higher education courses that 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.

(1) REPORTS.—

(A) INITIAL REPORT.—Not later than 9 months after 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); and

(III) matriculate into an institution of higher education (disaggregated by 2-year and 4-year degree-granting programs); —

(ii) 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 coursework in higher education without the need for remediation;

(iii) persist in an institution of higher education into the second year; and

(iv) graduate from an institution of higher education (disaggregated by 2-year and 4-year degree-granting programs); —

(V) continue postsecondary education without the need for remediation; and

(vi) focus on providing rigorous core courses that reflect the State academic content standards and a curriculum described in subparagraph (E) or (F), and the accessibility of the curriculum to all students in prekindergarten through grade 12; —

(vii) 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;

(viii) an analysis of the quality and rigor of the State’s curriculum described in subparagraph (E) of subsection (e) and the quality of State assessments, including data that indicates the percent of students who—

(I) achieve critical-need foreign languages, technology, and critical-need foreign language degree programs at institutions of higher education;

(ii) are highly rigorous, internationally competitive, and aligned with the demands of 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 (F) of subsection (e) and the accessibility of the curriculum to all students in prekindergarten through grade 12;

(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 States that so request, 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.

(3) 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 aligned with the demands of the 21st century; and

(2) are tailored 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.

(4) ELIGIBLE CONSORTIUM.—

(A) DEFINITIONS.—

(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 it uses through participation in a prekindergarten through grade 16 student preparedness council described in section 7 or through other means to ensure the standards and assessments—

(A) are aligned with the demands of the 21st century; and

(B) are tailored 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.

(B) APPLICATION.—An eligible consortium described in paragraph (a) shall submit an application to the Secretary describing the grant activities.

(2) AVAILABLE 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.

(3) 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. DE MINT, 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. is 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 communication 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, I hope that the 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 than 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 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” as designed to reduction 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 what is a 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, a renewable fuel made from glucose, a sugar derived from the cellulose 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 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 tax incentives, 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 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 cellulosic by 2013.

In addition, EPAct 05 also created a new ethanol program under 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.

In order to encourage 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 2016. 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:

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—
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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 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. 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. Our 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):
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. DE MINT):

S. 173. A bill to amend title XVIII of the Social Security Act to establish Medicare Health Savings Accounts, to: (1) provide increased 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 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 by the Senate. 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.

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 insurance policies. Alternatively, 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 work with federal 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. ENZI, Mr. MARTINEZ, Mr. THUNE, and Mr. STEVENSONS):

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 taxes paid. 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 paid at state and local levels should not be taxed again by the federal level.

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 and the 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 and the one level of Government should not also be taxed by another level of Government.

It is unfair to give citizens from some States a deduction for the revenue they provide to local governments, while not doing the same for citizens from other States. Federal tax laws 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 Department of State Health Services, 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 100,000 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. Fortunately, 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 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 tax the decision of the Senate to finish the job we started and make marriage penalty relief permanent.

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 extraditions 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 320,000 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 for the divorce.

The effects of family abduction on children are often traumatic. Abducted children suffer from severe separation anxiety. To break emotional ties with the other parent, 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 family was 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—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 local authorities or 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 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 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 for years has Inhibited the Secretary of Transportation’s ability to raise 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 excluding or postponing CAFE reviews, 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 FEA rule 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 barrels 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 Transportation 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:

SEC. 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:

Title I—40 MPG Standard by 2017

Section 1. Short title; table of contents.

Section 101. CAFE Standards for Passenger Automobiles.

Section 102. Fuel Economy Standard Credits.

Section 103. Authorization of Appropriations.

Section 104. Effective date.

TITLES II—MARKET-BASED INITIATIVES FOR GREENHOUSE GAS REDUCTION

Section 201. Market-Based Initiatives.

Section 202. Implementing Panel.

Section 203. Definitions.

TITLES III—40 MPG STANDARD BY 2017

Section 301. Average Fuel Economy Standards for Automobiles.

Section 302. Authorization of Appropriations.
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 under this Act amounts as may be necessary to carry out this title and chapter 329 of title 49, United States Code, as amended by this Act.

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(a) of title 49, United States Code, as amended by this Act, shall remain in effect.

(c) RULEMAKING.

(1) AUTHORITY.—Except as provided in 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 32902(b) of title 49, United States Code, with respect to passenger automobile models 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 VERIFICATION AND TRADE OF REDUCTIONS.—The Secretary of Commerce shall establish a national registry for greenhouse gas trading among industries and economic sectors. Such registry shall be a public registry, and 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 vehicles;

(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 provide a register, publicly, 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) ADMINISTRATION.—The national registry shall carry out the following functions:

(1) REFERRALS.—Provide referrals to approved providers for advice on—

(A) design and 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 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 emissions baselines and reductions verified by qualified independent auditors.

(4) ENCOURAGE PARTICIPATION.—Encourage organizations to monitor, 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.

(6) TRANSACTIONS OF REDUCTIONS.—The registry shall—

(1) allow for the transfer of ownership of any reductions realized in accordance with the program;

(2) require that the registry be notified of any such transfer within 30 days after the transfer is effected.

(7) 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 greenhouse gas emission reduction programs. The Secretary of Transportation shall 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) MEASUREMENT, VERIFICATION, AND RECORDING STANDARDS.—The standards promulgated by the Secretary of Commerce and the implementing panel to—

(A) measure the accuracy and reliability of greenhouse gas inventory data;

(B) measure, verify, and record greenhouse gas and 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.

(3) 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 and greenhouse gas emission reductions, subject to the following:

(A) the Department of Commerce; and

(B) the Environmental Protection Agency; and

(C) the Department of Agriculture; and

(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 technical experts in the fields of climate change and related issues or any other qualified expert who is likely to facilitate the activities of the committee.

(a) ESTABLISHMENT.—There is established in the Department of Commerce a commission where sources receive money for the total number of tons certified.

(b) ASSIGNMENT.—The standards promulgated by the Secretary of Commerce and the implementing panel to—

(A) measure, verify, and record greenhouse gas emissions reductions, taking into account—

(1) boundary issues such as leakage and shifting utilization; and

(B) such other factors as the panel determines to be appropriate;

(2) ensuring that certified registries do not have any conflicts of interest, including standards that prohibit a certified registry from—

(1) receiving compensation in the form of a percentage where sources receive money for the total number of tons certified;

(2) standards for authorizing certified registries to enter into agreements with for-profit companies engaged in 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.

SEC. 292. 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 Transportation; and

(F) the Department of Transportation.

(a) ESTABLISHMENT OF REGISTRY FOR VERIFICATION AND TRADE OF REDUCTIONS.—The Secretary of Commerce shall establish a national registry for greenhouse gas trading among industries and economic sectors. 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 vehicles;

(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 provide a register, publicly, and promote registrants making voluntary and mandatory reductions;
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:

SEC. 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. 110. Whistleblower protection program. Sec. 111. High hazard material security threat mitigation plans.


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 III—IMPROVED RAIL SECURITY

SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL. (1) SECURITY 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 202(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) the identification and evaluation of critical assets and infrastructures;

(C) an identification of vulnerabilities and risks to those assets and infrastructures;

(D) an identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad;

(E) an identification of security weaknesses in passenger and freight rail systems, including 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 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 that any new 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 rail service employee 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 systems 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 modal and intercity passenger railroads, and State and local governments, for the Federal government to provide rail 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 the modal and intercity passenger railroads and other appropriate public agencies, to address those risks.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of transportation facilities, hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

(2) 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 and Senate Committees 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.

(3) 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 (Transportation Security Administration) to carry out this section—

(1) $65,500,000 for fiscal year 2008;

(2) $30,000,000 for fiscal year 2009; and

(3) $30,000,000 for fiscal year 2010.

(f) 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 by section 101, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(g) 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) $150,000,000 for fiscal year 2008;

(2) $100,000,000 for fiscal year 2009;

(3) $100,000,000 for fiscal year 2010; and

(4) $100,000,000 for fiscal year 2011.

Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 102. 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 114(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 life safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers:

(A) $30,000,000 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 Baltimore & Potomac tunnel 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 115(b) of this title, shall be made available pursuant to this section—

(1) to the Secretary of Transportation for the purposes of this title and shall be expended in accordance with the terms and conditions of this Act; and

(2) to the Secretary of Homeland Security to carry out this section, the term ‘high hazard materials’ means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 infectious substances (as defined in section 114(u) of title 49, United States Code), radioactive substances; and

(3) $100,000,000 for fiscal year 2010

Amounts made available pursuant to this subsection shall remain available until expended.

(b) 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 infectious substances (as defined in section 114(u) of title 49, United States Code), radioactive substances; and

(c) SEC. 105. RAIL SECURITY RESEARCH AND DEVELOPMENT PROGRAM.—(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 radiological agents;

(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 tank car that contain hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher; and

(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

(6) to support R&D 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 the research and development program authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation agrees to—

(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.

3. SEC. 106. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—(a) SEC. 106. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration), may make grants to projects that address the need for resolving the remaining portions of the plans required by paragraphs (1) and (2) of subparagraphs (A) and (B) of section 105(b)(1) of this Act; and

(b) sec. 110. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—The Secretary of Homeland Security shall ensure that the rail security 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 the research and development program authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation agrees to—

(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) SEC. 115. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—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.

(b) sec. 115. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—The Secretary of Homeland Security shall ensure that the rail security 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 the research and development program authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation agrees to—

(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) sec. 115. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as

(b) sec. 115. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as

(c) SEC. 115. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.—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 implementation plans for 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 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 70108 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 rail passenger service, to be submitted in a form that is reasonably, easily readable, and understandable.

‘’(b) CONTENTS OF PLAN.—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 identifying 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 all railroad passengers, that number;

‘’(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitable means of notification;

‘’(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 description of the process of 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 what disposition is made shall be within the control of the family; and that the family’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 possessions 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 training and provide appropriate training and certification to its employees and agents to meet the needs of survivors and family members following an accident.

‘’(8) A process by which the Secretary of Transportation and Rail Security Administration, the Secretary of Transportation, and the House of Representatives Committee on Transportation and Infrastructure, and the Senate of Representatives Committee on Homeland Security, in consultation with the Assistant Secretary of Homeland Security, the Assistant Secretary of Transportation, and the Secretary of Transportation and Rail Security Administration, the Secretary of Transportation, and the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that represent rail workers, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue guidance for rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration, as appropriate, rail worker security training requirements or best practices.

‘’(9) The Secretary shall make available to the families of nonrevenue passengers, or to the family of a nonrevenue passenger, a consultation service, in consultation with the National Railroad Passenger Corporation, that provides information as to the identification and contact information for such families. The Secretaries shall provide assistance and provide a process by which the Secretary of Homeland Security and the Secretary of Transportation shall jointly consult with the actual or potential family of a nonrevenue passenger, to determine the needs of the family and to determine appropriate assistance for such family.

(b) 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.

SEC. 108. NORTHERN BORDER RAIL PASSENGER REPORT

Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, 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 Representa- tives Committee on Transportation and Infrastructure, and the House of Representa- tives 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 clearance 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 April 2, 2003; and

(3) an assessment of the current program to provide clearance of freight railroad traffic between the United States and Canada.

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 the appropriate law enforcement, immigration, 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, as appropriate, rail worker security training requirements or best practices.

(b) PROGRAM ELEMENTS.—The guidance de- veloped under subsection (a) shall include each of the following:

(1) A description of the seriousness of the threat of terrorism.

(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) Training in preparedness exercises regarding various threat conditions.

(8) Any other subject the Secretary considers appropriate.

(b) 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 sub- section, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary before the railroad carrier program to meet the guidance requirements. A rail- road 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 the program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Homeland Security and Governmental Affairs, and the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Oversight and Government Reform, and the Senate Committee on Homeland Security and Governmental Affairs, the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

(e) UPDATES.—In this section, the term “front-line workers” means security personnel, dispatchers, train operating employees, yard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.

(g) OTHER EMPLOYERS.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (a) as appropriate.

SEC. 110. WHISTLEBLOWER PROTECTION PROVISIONS.

(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 EMPLOYER.—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, in good faith, to homeland security information that the employee reasonably believes the lack of which would interfere with the fulfillment of the responsibilities of the Department of Homeland Security related to homeland 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, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited, and the Board, or another board of adjustment established under section 3 to resolve 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, refusal to hire, or other adverse employment actions, including punitive damages, of not more than $20,000.

“(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 4212(b)(2)(B) of this title, including the burdens of proof, applies to any action under this section.

“(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under this section and another provision of law that is the same unlawfully attributable to the carrier.

“(e) DISCLOSURE OF IDENTITY.—

“(1) Except as provided in paragraph (2) of this subsection, in 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 protection, in a manner that ensures that the disclosure does not result in an identifiable disclosure of a confidential business record, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(a) of title 49, United States Code.

“(f) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect 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 specific to rail security threat mitigation plans for high hazardous materials is not less than every 2 years.

“(1) The Secretary may develop and submit a high hazard material security threat mitigation plan to the railroad carrier for its review and approval not later than 9 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with 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, 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.—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 that have a significant impact on rail safety, including emergency preparedness and response, to improve rail transportation security matters. The Secretary shall, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), amend or modify existing rail regulations to improve rail transportation security matters.

“(c) 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 outline outreach programs that railroads and their employees can use to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding programs to improve security. Not less than 9 months after the date of enactment of this Act, the Secretary of Homeland Security...
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Security shall implement the plan developed under this section.

SEC. 115. RAILROAD HIGH HAZARDOUS MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—

(1) GENERAL.—In general, with the research and development program established under section 105 and consistent with the results of research relating 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 title) 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;

(B) require the program to be consistent with the Homeland Security Strategic Plan; and

(C) require that the program be 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.

(3) 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.

(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 required and the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such requirements;

(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 this Act that is 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 carry out the following:

(a) prepare a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure, which assesses the findings and conclusions of the assessment.

(b) 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, for explosives and radioactive materials 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 safety and national security of the nation without imposing unreasonable costs or burdens upon motor carriers.

SEC. 202. MOTOR CARRIER HIGH HAZARDOUS MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—

(1) 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 Transportation, 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 paragraph (1) of section 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;

(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 in 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; and

(iii) the cost and benefits of truck tracking technology to collect, display, and store information regarding the movements of shipments of high hazard materials by commercial motor vehicles;

(d) expand the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials; and

(e) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that may be activated by Coast Guard 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, in consultation with the Secretary of Transportation, $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, for conducting inspections and investigations related to the transportation of hazardous materials, 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—
SEC. 205. NATIONAL PUBLIC SECTOR RESPONSE

(a) PROVISIONS.—The Secretary shall study to what extent the insurance under title 49, United States Code, shall coordinate with private sector response centers; and
(b) ANNUAL REPORT.—Within 1 year 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 security issues related to the trucking industry that includes—
(1) an assessment already taken to address identified critical issues by both public and private entities;
(2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities have on the trucking industry and its employees, including independent owner-operators;
(3) ongoing research and the need for additional research on truck security; and
(4) an assessment of industry best practices to enhance security.

SEC. 206. OVER-THE-ROAD BUS SECURITY ASSISTANCE

(a) DEVELOPMENT.—The Secretary of Homeland Security, in consultation 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 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 materials shippers, motor carriers, railroads, organizations representing hazardous materials employees, State transportation and hazardous materials regulatory agencies, and non-profit and non-competitive emergency response organizations, and commercial motor vehicle and hazardous materials safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response centers for the Transportation Security Administration and the Federal Motor Carrier Safety Administration 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 established shall be capable of—
(1) providing a common set of standards to be used by all public sector response centers; and
(2) being integrated with other public and private sector response and emergency communication systems, and other private and public sector response systems and emergency communication systems, that are in place.

SEC. 207. FUNDING.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security—
(1) $2,000,000 for fiscal year 2008; and
(2) $2,000,000 for fiscal year 2009; and
(3) $2,000,000 for fiscal year 2010.

SEC. 209. OVER-THE-ROAD BUS SECURITY ASSISTANCE

(a) DEVELOPMENT.—The Secretary shall develop a preliminary report in accordance with the requirements of this section.

(b) BUS SECURITY ASSESSMENT.—In this section, the term ‘‘over-the-road bus’’ means a bus characterized by an elevated passenger deck located over a baggage compartment.
granting access to pipeline operators for public health or national defense uses in the development of protocols to ensure the continued reliability of pipeline operators connected to pipelines, to developed in conjunction with interstate and intrastate gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 206; 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 liquid transmission pipeline infrastructure, if needed, for public health and national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline systems, 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. The Secretary 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 and local emergency management officials, 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 Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives, a plan required by 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 formats are 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 operators, established in accordance with the memorandum of understanding annex executed on the date of enactment of this Act, to include a 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, Department of Transportation Research and Special Programs Administration Information Circular, including the review of pipeline security plans and critical facility inspections.

(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 inspections and enforcement actions to the most vulnerable facilities.

(d) REGULATIONS.—(1) General.—Within 1 year after the date of enactment of this Act, the Secretary shall issue regulations to the Secretary of Transportation and the Secretary of Transportation security regulations that are appropriate, the Secretary shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations shall incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration 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 $2,000,000 for fiscal year 2008; $2,500,000,000 for fiscal year 2009; and $2,500,000,000 for fiscal year 2010.

Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 209. TECHNICAL CORRECTIONS.

(a) HAZMAT LICENSES.—Section 5103a of title 49, United States Code, is amended—

(1) by inserting "Securities and Exchange Commission" after "Secretary" each place it appears in subsections (a)(1), (d)(1)(b), and (e); and (b) by redesigning subsection (b) as subsection (i) and inserting the following after subsection (g): “(b) RELATIONSHIP TO TRANSPORTATION SECURITY ADMINISTRATION.—Any regulations required by this section that are not inconsistent with this section shall be deemed to be regulations of 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 not responsible for implementing the provisions of this Act.”

Mr. LAUTENBEG. Mr. President, over five years since 9/11, much of our Nation’s transportation systems remain vulnerable to 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 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 leadership, instead enacting a ban on internet gambling, is yet another example of the delays and 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 important 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-chairman, 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 metropolitan area.
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, in freight cars, buses, trucks, neighborhods, 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 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, so we can begin to address any further these vital security improvements to our country.

Mr. SPECKER (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. SPECKER. 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 down 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 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 non-citizens 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 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 preparation of a volume 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 of the front page, last Sunday, and containing an extensive article on this subject, starting on the front page, last Sunday, and continuing on a full page on the back page.

Mr. President, I ask unanimous consent that my prepared text be printed in the Record.

There being no objection, the material was, during debate on the Military Commissions Act, 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 51 to 48, the right to habeas corpus was denied to those detainees. The privilege of the writ of habeas corpus has thus been abrogated.

On December 5, with my colleague Senator Leahy, I introduced the “Habeas Corpus Restoration Act of 2006” to restore the right of habeas corpus and habeas back into compliance with the United States Constitution. After all, the United States Constitution is unambiguous in Article 1, Section 9, where 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. It restores habeas corpus rights and the U.S. Constitution draws no distinction between American citizens and aliens held in U.S. custody.

Through some arguments in the Combatant Status Review Tribunals, commonly referred to as “CSRTs,” there is an adequate and effective means to challenge detainee status.

I am reintroducing this important legislation, which I introduced the “Habeas Corpus Restoration Act of 2007” last September, and the Senate Commerce, Science, and Transportation Committee, which I chaired, contained an extensive statement, I cite an example of 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 of the front page, last Sunday, and containing an extensive article on this subject, starting on the front page, last Sunday, and continuing on a full page on the back page of the front page, last Sunday, and containing an extensive article on this subject, starting on the front page, last Sunday, and continuing on a full page on the back page

Mr. President, I ask unanimous consent that my prepared text be printed in the Record.

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, during debate on the Military Commissions Act.
In a letter directed to me as Judiciary Chair, to detainees has concerned Kenneth Starr, expose weaknesses at trial.

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 as a cornerstone 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 gives 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 year’s presidential elections through the 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. Of 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 say-so 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

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 could not 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 al Qaeda. While in pretrial detention, the tribunal would not provide the name of the alleged operative. Since the tribunal would not even provide the name of the prosecutor, the detainee could not answer even the most basic of allegations. While laughter filled the courtroom at the time the detainee could not answer the allegations. 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 former U.S. Attorney for the Northern District of Illinois, Thomas Sullivan, who has been to Guantanamo on many occasions and has represented many of these detainees. Mr. Sullivan was especially compelling when he made reference to a number of individual cases where the proceedings before the CSRT were completely inadequate. When 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 with which they were charged 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 Sibai, Mr. Sullivan described how his client had been returned to Saudi Arabia after several months of detainment and without a trial or any notice, comprehension, 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 is troubling 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 that 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 are denying them this avenue of review, how are detainees supposed to rebut facts that they are not allowed to contest? 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 situation involving detainees at Guantanamo Bay.

On the recent 5-year anniversary of 9/11, President Bush repeated his commitment to destroy terrorism. This will not be done by compounding the problem of bringing terrorists to justice. However, statistics tell us that most of the terrorists at Guantanamo will never see the inside of a courtroom. Instead, they 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 these are not the only ones that need to be taken into account; there is the remaining 323 or so detainees. How many will face trial? Media reports citing Pentagon sources suggest that only approximately 250 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.

The short history of the Military Commissions Act underscores the need for this legislation. The day after the Act became law, the Justice Department informed the tribunal that some of the 181 Guantanamo habeas cases pending before the United States District Court for the District of Columbia, highlighting the jurisdiction-stripping 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 right to habeas corpus review” because he was detained in Guantanamo rather than inside the United States, this conclusion demonstrates the lack of judicial recourse available to detainees under the Act. 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 dismissed 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 another 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 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.

The remedy that secures that most basic of freedoms is habeas corpus. It provides a check against arbitrary detentions and constitutional violations gives 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 year’s presidential elections through the passage of the Military Commissions Act.

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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

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 COMMISSIONS: Presumption of Lawfulness.—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 or filed after the date of enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including objections or 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. SPECTER. Mr. President, I seek recognition today to introduce the "Attorney-Client Privilege Protection Act of 2006."

Mr. SPECTER. Mr. President, I seek recognition today to introduce the "Attorney-Client Privilege Protection Act of 2006," which remains necessary despite Deputy Attorney General Paul McNulty's issuance of a 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 the government to request privileged information backed by the hammer of prosecution if the request is denied. This is the sanctity of the attorney-client relationship by prohibiting federal prosecutors and investigators from requesting waiver of attorney-client privilege and product privilege protections in corporate investigations. The bill would similarly prohibit the government from conditioning charging decisions or any adverse treatment of the corporation’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 Justice Department to make 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 Kreh, 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, in the same issue, 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, provides a framework 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 undermine the viability of the attorney-client privilege and makes it difficult for corporations or other business organizations to corporate internal legal dialogue, the McNulty memorandum still falls 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 attorney-client privilege and the related work product doctrine, which derives from it. —Martin Pinales, President, National Association of Criminal Defense Lawyers.


death penalty of a federal indictment.”—

Caroline Fredrickson, Director, ACLU Washington legislative office; George Landrith, President, Frontiers of Freedom; Stephanie A. Mozar, White Collar Crime Project, National Association of Criminal Defense Lawyers; Daniel J. Popeo, Chairman, Foundation for Community Protection, 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 from accepting in any crimi-

nall or civil case to demand, request or condi-
tion to the editor of USA Today.

tion is needed to ensure that basic protec-
tions of the attorney-client relationship are
preserved.

While I am glad that the Justice Depart-
ment 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 legisla-
tion is needed to ensure that basic protec-
tions of the attorney-client relationship are

preserved.

I am unanimous consent that the text of the bill be printed in the RE-
CORD.

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

S. 187

Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in Congres-
assumed, assembled,

This Act may be cited as the “Attorney-

Client Privilege Protection Act of 2007”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the fol-
lowing:

(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 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 com-
munications.

(4) The ability of an organization to have effective compliance programs and to con-
duct comprehensive internal investigations is enhanced when there is clarity and con-
sistency regarding the attorney-client privi-

lege.

(5) Prosecutors, investigators, enforcement officials, 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 orga-

nizations.

(6) Without the existence of these legiti-
mate tools, the Department of Justice and other agencies have increasingly employed tactics that undermine the adversarial sys-


em and, in some instances, as encouraging organiza-
tions to waive attorney-client privilege and work product protections to avoid indict-
ment or other sanctions.

(7) Unauthorized disclosure can have devastating consequences on an organization, potentially eli-
minating the ability of the organization to survive post-indictment or to dispute the charges if it is final.

(8) Waiver demands and other tactics of Government agencies are encroaching on the

constitutionsal rights and other legal protec-
tions of employees.

(9) The attorney-client privilege, work product doctrine, and payment of counsel fees are capable of compelling wrongdoing or to cloak advice on evading the law.

(b) PURPOSE.—It is the purpose of this Act to place enforceable 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 protec-
tions available to employees of such an or-

ganization.

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 in-
vestigations and enforcement matters re-

garding organizations

(1) DEFINITIONS.—In this section:

(1) ATTORNEY-CLIENT PRIVILEGE.—The term ‘attorney-client privilege’ means the privi-

lege enjoyed by the attorney-client relation-
ship 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 attor-

ney in anticipation of litigation, particu-

larly any such materials that contain a mental impression, opinion, or legal theory of that attorney.

(b) IN GENERAL.—In any Federal inves-
tigation or civil or criminal enforcement matter, an agent or attorney of the United States shall not—

(1) demand, request, or condition treat-
ment on the disclosure by an organization, or person affiliated with that organization, of any communication protected by the attor-

ney-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 organ-
ization, or person affiliated with that orga-

nization, is cooperating with the Govern-

ment—

(A) any valid assertion of the attorney-

client privilege or privilege for attorney work product;

(B) the provision of counsel to, or con-
tribution to the legal defense fees or ex-

penses of, an organization or person affiliated with that organization, or

(C) the entry into a joint defense, infor-

mation sharing, or common interest agree-

ment with an employee of that organization if the information is clear and practical limits designed to preserve the attorney-client privi-

lege and work product protections available to an organization and preserve the constitutional rights and other legal protec-
tions available to employees of such an or-

ganization.

(1) A TTORNEY-CLIENT PRIVILEGE .

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ship 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 attor-

ney in anticipation of litigation, particu-

larly any such materials that contain a mental impression, opinion, or legal theory of that attorney.

(c) VOLUNTARY DISCLOSURES.—Nothing in this Act is intended to prohibit an organiza-

tion from making, or an agent or attorney of the United States from accepting, a vol-

untary and unsolicited offer to share the in-

ternal investigation materials of such orga-

nization.

(d) CONFORMING AMENDMENT.—The table of sections for chapter 201 of title 18, United States Code, is amended by adding at the end of 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 re-

sources to permit electronic surveil-

lance of United States persons for for-
eign intelligence purposes to be con-
ducted pursuant to mutated court-issued orders for calls origi-

nating in the United States, to provide additional resources to enhance over-
sight and streamline the procedures of the Foreign Intelligence Surveillance Act of 1978, to ensure review of the Ter-

rorist Surveillance Program by the United States Supreme Court, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I am re-

introducing 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 intel-

ligence purposes to be conducted pur-

suant to individualized court-issued war-

rants for calls originating in the United

States, to provide additional re-

sources to enhance oversight and stream-

line the procedures of the For-

eign Intelligence Surveillance Act of 1978, and to ensure review of the Ter-

rorist Surveillance Program by the United

States Supreme Court.

I made a number of efforts in the 109th Congress to subject the Presi-
dent’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 his-

tory, 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 addi-

tional resources, which this bill pro-
vides, and if the time for retroactive approval is extended from 3 days to 7
days.

With respect to calls originating out-
side the United States and coming in,
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 Re-Source Enhancement Act of 2007.”

TITLE II—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;”
(3) by designating the second sentence as paragraph (4) and inserting that 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 Foreign Intelligence Surveillance Court, under paragraph (1) and in consultation with the Attorney General, the following additional judges:
“(A) The Chief Justice of the United States may designate as additional judges of the court, in consultation with the Attorney General, at least one judge of the United States Court of Federal Claims and at least one judge of the United States Court of Federal Claims.
“(B) The Chief Justice of the United States may designate as additional judges of the court, in consultation with the Attorney General, at least one judge of the United States Court of Federal Claims and at least one judge of the United States Court of Federal Claims.”

(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 subsection (f) or (s) of section 105 not later than 24 hours after the receipt of such application by the court.”.

SEC. 102. ADDITIONAL PERSONNEL FOR PREPAREDNESS AND TIMELINESS 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 such additional personnel under 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 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.—The Director for the Foreign Intelligence Surveillance Court such additional personnel (other than judges) as may be necessary to facilitate the prompt and timely consideration 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.

(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 FOR 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 section 104 and 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804 and 1805); and
(2) describe 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 “12 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 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 in, the United States.

(b) TREATMENT OF INTERRUPTED 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)).

(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 hereunder to be intercepted hereunder to be intercepted are subject to the following:

(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 paragraph (B), by striking “and” and adding “or” after “the”; and

(B) in subparagraph (C), by inserting 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 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 (f) 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 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 TERMINATION 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 to 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 on or before the date of enactment. The term includes all international communications between a person in the United States and any foreign location or between foreign locations, so long as at least one party is with the United States. Included are any wire or radio communication sent from the United States to a person outside the United States to a person who is reasonably believed to be inside the United States, any wire or radio communication sent from outside the United States to a person inside the United States, any communication in which at least one party is with the United States, and any 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)).

TITLED IV—OTHER MATTERS

SEC. 401. DEFINITION.

This Act, and the amendments made by this Act, take effect on the date the President notifies the committee of such decision.

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 Mr. FURSTENBERG)

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, straightforward measure to include the name of Cesar Chavez, a truly remarkable civil rights leader and American, into the title of the reauthorization of the Voting Rights Act of 1965.

With my bill, the title of this Act would be referred to as the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, and Cesar Chavez Voting Rights Act of 1965 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 in 2006 is a simple, straightforward measure to include the name of this American hero.

Cesar Chavez 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.

Cesar Chavez 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 that the right to vote is the most inclusive 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, Cesar Chavez 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 demanded to reauthorize the Voting Rights Act of 1965.

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 Cesar Chavez’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 ballot box.

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 sacrifices paved the way for today’s more inclusive democracy, and that it is fitting that the name of Cesar Chavez 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

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 made by lobbyists 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 interest. The bill 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 anticipated the response was even more 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 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 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. Nor would I 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.

Many 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 a 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 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 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 $46 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 the integrity of the budget process; 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 spoken to this issue. Today, in a new year and in a new Congress, Americans are eager to see a new direction in our spending. 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 they will allow us to build a system that is guided by the best thinking of our leaders. We must get 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 how we spend our money on 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 American people 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 deficit limit. In addition, it also 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 charter that 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.

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 (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 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.