S. 1428

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1428, a bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare program.

S. 1451

At the request of Mr. WHITEHOUSE, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1451, a bill to encourage the development of coordinated quality reforms to improve health care delivery and reduce the cost of care in the health care system.

S. 1577

At the request of Mr. KOHL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1577, a bill to amend titles XVIII and XIX of the Social Security Act to require screening, including national criminal history background checks, of direct patient access employees of skilled nursing facilities, nursing facilities, and other long-term care facilities and providers, and to provide for nationwide expansion of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers.

S. 1607

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1607, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

S. 1621

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1621, a bill to amend the Internal Revenue Code of 1986 to treat certain farming business machinery and equipment as 5-year property for purposes of depreciation.

S. 1675

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1675, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

S. 1693

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1693, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1709

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1709, a bill to amend the National Underground Railroad Network to Freedom Act of 1998 to provide additional staff and oversight of funds to carry out the Act, and for other purposes.

S. 1741

At the request of Mr. BAYH, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1741, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

S. 1780

At the request of Mr. ROCKEFELLER, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1780, a bill to require the FCC, in enforcing its regulations concerning the broadcast of indecent programming, to maintain a policy that a single word or image may be considered indecent.

S. 1886

At the request of Mr. BURR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1886, a bill to provide a refundable and advanceable credit for health insurance through the Internal Revenue Code of 1986, to provide for improved private health insurance access and affordability, and for other purposes.

S. 1894

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1894, a bill to amend the Family and Medical Leave Act of 1993 to provide family and medical leave to primary caregivers of servicemembers with combat -related injuries.

S. 1898

At the request of Mrs. CLINTON, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from North Dakota (Mr. CONRAD) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1898, a bill to amend the Family and Medical Leave Act of 1993 to expand family and medical leave for spouses, sons, daughters, and parents of servicemembers with combat-related injuries.

S. 1903

At the request of Mr. REED, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1903, a bill to extend the temporary protected status designation of Liberia under section 244 of the Immigration and Nationality Act so that Liberians can continue to be eligible for such status through September 30, 2008.

S. RES. 196

At the request of Mr. CRAPO, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 196, a resolution commending Idaho on winning the bid to host the 2009 Special Olympics World Winter Games.

AMENDMENT NO. 2552

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 2552 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

AMENDMENT NO. 2560

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Washington (Mrs. MURRAY) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 2560 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

AMENDMENT NO. 2588

At the request of Mr. OBAMA, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 2588 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. DURBIN, Mr. KENNEDY, Mr. FEINGOLD, and Mr. CASEY):

S. 1914. A bill to require a comprehensive nuclear posture review, and for other purposes; to the Committee on Armed Services.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator COLLINS, Senator DURBIN, Senator FEINGOLD, Senator KENNEDY, and Senator CASEY to introduce legislation to authorize a comprehensive review of our nuclear weapons policy and posture.

Before we ramp up funding for the Reliable Replacement Warhead program as the administration has requested, we should have a clear, bipartisan consensus on the role nuclear weapons will play in our national security strategy and the impact they will have on our nuclear nonproliferation efforts.

The Nuclear Policy and Posture Review Act of 2007 does three things.

First, it authorizes the President to conduct a nuclear policy review to consider a range of possible roles of nuclear weapons in U.S. security policy. The administration may reach out to outside experts and conduct public hearings to get a wide range of views. The policy review will provide options and recommendations for a nuclear posture review.

This report is due on September 1, 2009.

Second, following the completion of the nuclear policy review, it authorizes the Secretary of Defense to conduct a comprehensive review of the nuclear posture of the U.S. to clarify U.S. nuclear deterrence policy and strategy. This report is due March 1, 2010.

Finally, it zeros out funding for the Reliable Replacement Warhead program until the policy review and posture review reports have been submitted to Congress.

In his testimony on March 29, 2007, before the House Energy & Water Appropriations Subcommittee, former Senator Sam Nunn, Chairman of Nuclear Threat Initiative, noted that:

On the [Reliable Replacement Warhead] itself, if Congress gives a green light to this program in our current world environment, I believe that this will be: misunderstood by our allies; exploited by our adversaries; complicate our work to prevent the spread and use of nuclear weapons and . . . make resolution of the Iran and North Korea challenges all the more difficult.

I could not agree more.

Indeed, I remain deeply concerned about this administration's nuclear weapons policy.

As a U.S. Senator, I have worked with colleagues in the House and Senate to stop the re-opening of the nuclear door and the development of new nuclear weapons.

Together, we have eliminated funding for the Advanced Concepts Initiative, the Robust Nuclear Earth Penetrator, and the Modern Pit Facility.

These were consequential victories but the fight is far from over.

For fiscal year 2008, the administration requested $118 million for the Reliable Replacement Warhead program; $88 million in the National Nuclear Security administration's budget and $30 million in the Department of Defense's budget.

These funds would be used for Phase 2A activities: design definition and cost study.

This would represent approximately a four-fold increase over fiscal year 2007 funding of $24.7 million.

The House, however, rejected the administration's request and zeroed out funding for RRW in its fiscal year 2008 Energy and Water Development Appropriations bill. In its report accompanying the legislation, the House cited the lack of a definitive nuclear weapons policy review as a key reason for withholding funding for what will be a costly new nuclear warhead program. It stated:

The lack of any definitive analysis or strategic assessment defining the objectives of a future nuclear stockpile makes it impossible to weigh the relative merits of investing billions of taxpayer dollars in new nuclear weapon production activities when the United States is facing the problem of having too large a stockpile as a Cold War legacy. Currently, there exists no convincing rationale for maintaining the large number of existing Cold War nuclear weapons, much less producing additional warheads, or for the DoD requirements that drive the management of the DOE nuclear weapons complex.

While the Senate bill did not follow suit, it did cut $22 million from the administration's request, for a total of $66 million, and restricted activities to Phase 2A.

I believe we can match the House's action and this bill would do just that.

The administration is clearly getting nervous about the prospects for funding for RRW.

On Wednesday, the Secretaries of Energy, Defense, and State released a 4-page white paper on nuclear weapons strategy: ''National Security and Nuclear Weapons: Maintaining Deterrence in the 21st Century''. It affirmed the importance of maintaining a credible nuclear deterrent and sought to justify funding for the Reliable Replacement Warhead program. Among other things, it stated that the Reliable Replacement Warhead program is critical to sustaining long-term confidence in the nuclear stockpile and will help reduce the stockpile and move us away from nuclear testing; and any delay to the program will force the U.S. to maintain a larger stockpile, invest in costly and risky Life Extension Programs, and increase the likelihood that we will have to resume nuclear testing.

These arguments simply do not stand up to scrutiny.

Indeed the evidence clearly shows that there is no need to rush forward with increased funding for RRW. Let us take a close look at the status of our nuclear weapons arsenal.

Are there currently problems with the safety and reliability of our nuclear arsenal?

No, for each of the past 11 years the Secretary of Energy and Secretary of Defense have certified that the nuclear stockpile is safe and reliable.

Has the Pentagon asked for a new warhead for new missions?

No, there is no new military requirement to replace existing, well-tested warheads.

What about the plutonium pit, the ''trigger'' of a nuclear weapon? In past years, the administration requested funding for a Modern Pit Facility that could build up to 450 pits a year arguing that the pits in our current stockpile were reaching the end of their lifespan.

Is our stockpile at risk due to aging pits?

No, a December 2006 report by the National Laboratories showed that plutonium pits have a life-span of at least 85 years, and possibly up to 100 years.

That report validated Congressional action to eliminate funding for the Modern Pit Facility. I am pleased that the administration listened and did not request funding for the facility in fiscal year 2007 and fiscal year 2008.

Are we at risk for resuming nuclear testing?

No, as I have argued our stockpile is safe and secure and will clearly remain so for the foreseeable future.

If the likelihood of resuming nuclear testing is increasing it is due to the fact that the administration has, in past years, requested funding to lower the time to test readiness at the Nevada test site from 24–36 months to 18 months and, above all, refused to support ratification of the Comprehensive Test Ban Treaty, CTBT.

What about costs? I find it interesting that the administration would cite the costs of successful Life Extension Programs as a reason to ramp up funding for the RRW.

Has the administration shared with us what it will cost to replace the warhead on our deployed nuclear arsenal with a new Reliable Replacement Warhead?

The answer is no. The administration has remained silent about when the supposed cost savings from RRW will ultimately kick in.

In fact, the development of a new nuclear warhead will likely add billions of dollars to the American taxpayer's bill at a time when, as noted above, the stockpile is safe and reliable. As the House Energy and Water Appropriations report argued:

Under any realistic future U.S. nuclear defense scenario, the existing legacy stockpile will continue to provide the nation's nuclear deterrent for well over the next two to three decades. The effort by the NNSA to apply urgency to developing a significant production capacity for the RRW while lacking any urgency to rationalize an oversized complex appears to mean simply more costs to the American taxpayer.

Before we move any further with this program which would add a new warhead to the stockpile, we should have a better understanding of the role nuclear weapons will play in our security policy in a post-Cold War and post 9/11 world.

If we as a country are going to move away from massive stockpiles of nuclear weapons and explore more conventional alternatives, does it make sense to add a new warhead to the stockpile?

If we are committed to strengthening the Nuclear Nonproliferation Treaty and stopping the proliferation of nuclear weapons, what impact would a Reliable Replacement Warhead have on those efforts?

If the Stockpile Stewardship Program and the Life Extension Program can certify the safety and the reliability of our existing nuclear stockpile, should we shift resources from RRW to more pressing concerns?

It is common sense to ask these questions and engage in comprehensive review and debate about these options before we make the decision on manufacturing new warheads.

As it stands now, we are addressing this issue backwards and behind closed doors.

That is, we are rushing to develop a new warhead without an understanding of the role it will play in our nuclear weapons policy and national security strategy and without public input that will lead to a bipartisan policy.

Let us be clear: a rushed, four page white paper is simply not sufficient to answer these questions and make decisions about developing new nuclear warheads.

The administration has promised a more detailed report but its haste to put out this paper suggests that it is more intent on rushing the development of the Reliable Replacement Warhead program than in taking a sober,

unbiased look at our nuclear weapons policy and posture.

A lack of a substantive debate and review means we are not paying sufficient attention to the potential negative consequences of RRW.

Speeding up the development of a new nuclear warhead may send the wrong message to Iran; North Korea; and other would-be nuclear weapon states and encourage the very proliferation we are trying to prevent.

What to us may appear to be a safer, more reliable weapon could appear to others to be a new weapon with new missions and a violation of the Nuclear Nonproliferation Treaty.

The American Association for the Advancement of Science issued a report last month acknowledging that a Reliable Replacement Warhead ''could lead to a final selected design that is certifiable without a nuclear test.''

Yet, the report also concluded that absent a comprehensive review of nuclear policy and stockpile needs, the purpose and intention of RRW could be widely misinterpreted abroad.

Pointing out that there has been no high level statement about nuclear weapons policy since the 2001 Nuclear Posture Review, it called on the administration to develop a bipartisan policy on the future of nuclear weapons and nuclear weapons policy before moving ahead with RRW. It stated:

> In the absence of a clear nuclear posture, many interpretations are possible [about U.S. nuclear weapons policy] and the lack of a national understanding and consensus on the role of U.S. nuclear weapons puts any new approach at considerable risk at home and abroad. For example, an RRW plan that emphasizes the goal of sustaining the deterrent without nuclear testing could be perceived quite differently from one that focuses on future flexibility to develop and deploy nuclear weapons for new military mission.

It goes on to state:

> . . . nuclear weapons are ultimately an instrument of policy and strategy rather than of war fighting, and only with the leadership of the president can there be major changes in that instrument.

Unfortunately we have not seen such leadership from this administration.

Because it pursued the development of low-yield nuclear weapons and a Robust Nuclear Earth Penetrator, because it sought to lower the time-to-test readiness at the Nevada test site from 24–26 months to 18 months, because it sought to build a Modern Pit Facility that could produce up to 450 pits a year, this administration has lost the credibility to take a fresh and open look at nuclear weapons policy and posture.

Only a new administration, free from the constraints of the heated debates of the past, will have the authority to conduct a comprehensive review of our nuclear weapons policy and posture.

A bipartisan consensus on this policy is essential. It will let the world know exactly where we stand on these important issues and help clear up any confusion about our intentions.

Friend and foe alike will know that regardless of who holds power in Congress or the White House, the role of nuclear weapons in our security strategy will not change.

It will strengthen our efforts to convince other states to forego the development of nuclear weapons and make the world safer from the threat of nuclear war.

I believe that bipartisan policy is beginning to emerge.

In a January 4, 2007 op-ed in the Wall Street Journal, ''A World Free of Nuclear Weapons'', George Schultz, William Perry, Henry Kissinger, and Sam Nunn laid out a compelling vision for a world free of the threat of nuclear war.

They laid a set of common sense steps the U.S. and other nuclear weapon states can take to make this happen including: taking nuclear weapons off high-alert status; substantially reducing the size of nuclear stockpiles; eliminating short-ranged nuclear weapons; ratifying the Comprehensive Test Ban Treaty; securing all stocks of weapons, weapons-usable plutonium, and highly enriched uranium around the world; getting control of the uranium enrichment process; stopping production of fissile material for nuclear weapons globally; resolving regional confrontations that encourage the development of nuclear weapons.

They conclude:

> Reassertion of the vision of a world free of nuclear weapons and practical measures toward achieving that goal would be, and would be perceived as, a bold initiative consistent with America's moral heritage. The effort could have a profoundly positive impact on the security of future generations. Without that bold vision, the actions will not be perceived as fair or urgent. Without the actions, the vision will not be perceived as realistic or possible.

We should pay close attention to these words.

In conclusion, let me say that there is a big difference between an RRW program that increases the reliability of the existing stockpile and one that leads to a resumption of nuclear testing.

Congress should ask the tough questions to ensure that this is not a back door to new nuclear weapons with new missions and new rounds of testing.

I firmly believe we should zero out for the Reliable Replacement Warhead program until the next administration takes a serious look at our nuclear weapons programs and issues a bipartisan policy on the size of the future stockpile, testing, and nuclear nonproliferation efforts.

I look forward to working with my colleagues and the administration to craft that sensible, bipartisan nuclear weapons policy that will make Americans safe and allow us to reclaim a leadership role in the fight against nuclear proliferation.

I urge my colleagues to support this legislation.

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

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

S. 1914

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 ''Nuclear Policy and Posture Review Act of 2007''.

SEC. 2. REVISED NUCLEAR POLICY REVIEW AND NUCLEAR POSTURE REVIEW.

(a) NUCLEAR POLICY REVIEW.—

(1) IN GENERAL.—The President shall conduct a nuclear policy review to consider a range of options on the role of nuclear weapons in United States security policy. The policy review shall be coordinated by the National Security Advisor and shall include the Secretary of State, the Secretary of Energy, the Secretary of Defense, the Director of National Intelligence, the Director of the Office of Management and Budget, and the Director of the Office of Science and Technology Policy.

(2) SCOPE OF REVIEW.—The nuclear policy review conducted under paragraph (1) shall—

(A) address the role and value of nuclear weapons in the current global security environment;

(B) set forth short-term and long-term objectives of United States nuclear weapons policy;

(C) consider the contributions of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (commonly referred to as the ''Nuclear Non-Proliferation Treaty''), to United States national security, and include recommendations for strengthening the Treaty;

(D) explore the relationship between the nuclear policy of the United States and nonproliferation and arms control objectives and international treaty obligations, including obligations under Article VI of the Nuclear Non-Proliferation Treaty;

(E) determine the role and effectiveness of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow July 31, 1991 (commonly referred to as the ''START I Treaty''), and the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow May 24, 2002 (commonly referred to as the ''Moscow Treaty''), in achieving the national security and nonproliferation goals of the United States and in implementing United States military strategy, and describe the elements of a recommended successor treaty, including verification provisions; and

(F) provide policy guidance and make recommendations for the nuclear posture review to be conducted under subsection (b).

(3) OUTSIDE INPUT.—The policy review shall include contributions from outside experts and, to the extent possible, shall include public meetings to consider a range of views.

(b) NUCLEAR POSTURE REVIEW.—

(1) IN GENERAL.—Following completion of the nuclear policy review under subsection (a), the Secretary of Defense shall conduct a comprehensive review of the nuclear posture of the United States to clarify United States nuclear deterrence policy and strategy. The Secretary shall conduct the review in collaboration with the Secretary of Energy, the Secretary of State, the Director of National Intelligence, and the National Security Advisor.

(2) ELEMENTS OF REVIEW.—The nuclear posture review conducted under paragraph (1) shall include the following elements:

(A) The role of nuclear forces in United States military strategy, planning, and programming, including the extent to which conventional forces can assume roles previously assumed by nuclear forces.

(B) The policy requirements and objectives for the United States to maintain a safe, reliable, and credible nuclear deterrence posture, in light of the guidance provided by the nuclear policy review conducted under subsection (a).

(C) The targeting strategy required to implement effectively the guidance provided by the nuclear policy review conducted under subsection (a).

(D) The levels and composition of the nuclear delivery systems that will be required for implementing the United States national and military strategy, including any plans for removing, replacing, or modifying existing systems.

(E) The nuclear weapons complex that will be required for implementing the United States national and military strategy, including any plans to consolidate, modernize, or modify the complex.

(F) The active and inactive nuclear weapons stockpile that will be required for implementing the United States national and military strategy, including any plans for replacing or modifying warheads.

(G) An account of the different nuclear postures considered in the review and the reasoning for the selection of the nuclear posture.

(c) REPORTS REQUIRED.—

(1) NUCLEAR POLICY REVIEW.—Not later than September 1, 2009, the President shall submit to Congress a report on the results of the nuclear policy review conducted under subsection (a).

(2) NUCLEAR POSTURE REVIEW.—Not later than March 1, 2010, the President shall submit to Congress a report on the results of the nuclear posture review conducted under subsection (b).

(3) FORM.—Each report required under this subsection shall be submitted in unclassified form, but may contain a classified annex.

(d) SENSE OF CONGRESS ON USE OF NUCLEAR POSTURE REVIEW.—It is the sense of Congress that the nuclear policy review conducted under subsection (a) should be used as the basis for establishing future strategic arms control objectives and negotiating positions of the United States.

(e) RESTRICTION ON FUNDING OF RELIABLE REPLACEMENT WARHEAD PROGRAM.—Notwithstanding any other provision of law, no funds may be appropriated or otherwise made available for the Reliable Replacement Warhead Program for fiscal years 2008, 2009, or 2010 until the reports required under subsection (c) have been submitted to Congress.

By Mr. SPECTER (for himself, Mr. LEAHY, and Mr. CASEY):

S. 1918. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Christopher Kangas Fallen Firefighter Apprentice Act, a bill designed to correct a flaw in the current definition of ''firefighter'' under the Public Safety Officer Benefits Act.

On May 4, 2002, 14-year-old Christopher Kangas was struck by a car and killed while he was riding his bicycle in Brookhaven, PA. The local authorities later confirmed that Christopher was out on his bike that day for an important reason: Chris Kangas was a junior firefighter, and he was responding to a fire emergency.

Under Pennsylvania law, 14- and 15-year-olds such as Christopher are permitted to serve as volunteer junior firefighters. While they are not allowed to operate heavy machinery or enter burning buildings, the law permits them to fill a number of important support roles, such as providing first aid. In addition, the junior firefighter program is an important recruitment tool for fire stations throughout the Commonwealth. In fact, prior to his death Christopher had received 58 hours of training that would have served him well when he graduated from the junior program.

It is clear to me that Christopher Kangas was a firefighter killed in the line of duty. Were it not for his status as a junior firefighter and his prompt response to a fire alarm, Christopher would still be alive today. Indeed, the Brookhaven Fire Department, Brookhaven Borough, and the Commonwealth of Pennsylvania have all recognized Christopher as a fallen public safety officer and provided the appropriate death benefits to his family.

Yet, while those closest to the tragedy have recognized Christopher as a fallen firefighter, the Federal Government has not. The U.S. Department of Justice, DOJ, determined that Christopher Kangas was not eligible for benefits because he was not acting within a narrow range of duties at the time of his death that are the measured criteria to be considered a ''firefighter,'' and therefore, was not a ''public safety officer'' for purposes of the Public Safety Officer Benefits Act. In order to be eligible for benefits under the Public Safety Officer Benefits Act, an officer's death must be considered the ''direct and proximate result of a personal injury sustained in the line of duty.'' Although the United States Code includes firefighters in the definition of ''public safety officer'' and specifies a firefighter as ''an individual serving as an officially-recognized or designated member of a legally-organized volunteer fire department;'' it offers no definition of ''line of duty''. DOJ had to defer to an arbitrarily narrow definition of ''line of duty,'' as described in the Code of Federal Regulations that restricts activities to the ''suppression of fires.'' DOJ decided that the only people who qualify as firefighters are those who play the starring role of operating a hose on a ladder or entering a burning building. According to this interpretation, those, such as junior firefighters, who play the essential supporting roles of directing traffic, performing first aid, or dispatching fire vehicles do not contribute to the act of suppressing the fire.

Furthermore, Christopher's family has been pursuing this benefit through our court system. The U.S. Federal Claims Court ruled in favor of the Kangas family ordering the Department of Justice to pay $250,000. However, the Department appealed the decision which the Appeals Court for the Federal Circuit upheld by concluding the Court of Federal Claims' decision failed to defer to DOJ's interpretation of ''firefighter.''

Any firefighter will tell you that there are many important roles to play in fighting a fire beyond operating the hoses and ladders. Firefighting is a team effort, and everyone in the Brookhaven Fire Department viewed young Christopher as a full member of their team.

As a result of this DOJ determination, Christopher's family cannot receive a $267,000 Federal line-of-duty benefit. In addition, Christopher is barred from taking his rightful place on the National Fallen Firefighters Memorial in Emmitsburg, MD. For a young man who dreamed of being a firefighter and gave his life rushing to a fire, keeping him off of the memorial is a grave injustice.

The bill I introduce today will ensure that the Federal Government will recognize Christopher Kangas and others like him as firefighters. The bill clarifies that all firefighters will be recognized as such ''regardless of age, status as an apprentice or trainee, or duty restrictions imposed because of age or status as an apprentice or trainee.'' The bill applies retroactively back to May 4, 2002, the date of Christopher Kangas' death.

I urge my colleagues to support this important legislation and I yield the floor.

By Mr. BAUCUS (for himself, by Mr. HATCH, and Ms. STABENOW):

S. 1919. A bill to establish trade enforcement priorities for the United States, to strengthen the provisions relating to trade remedies, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am proud to join with Senator HATCH to introduce the Trade Enforcement Act of 2007. This bill will provide the administration additional tools, resources, and accountability to enforce international trade agreements abroad and domestic trade remedy laws here at home.

Over 400 years ago, William Shakespeare wrote ''The law hath not been dead, though it hath slept.'' The same could be said of our trade enforcement laws today.

The administration has many tools at its disposal to enforce international trade agreements. It can file dispute settlement cases in the World Trade Organization, WTO. It has Section 301 to fight market access barriers. It has Special 301 to address intellectual property violations abroad. It has Section 421 to remedy Chinese import surges that cause injury here at home.

But having these rules on the books is not enough. We need to enforce them.

There is a very real sense among Americans that our trading partners do not play by the rules. And there is a very real sense that the U.S. Government is allowing them to get away with it.

That is why I am introducing the Trade Enforcement Act of 2007—to ensure that the administration has the resources to enforce our existing trade laws, to provide political accountability when it does not, and to create new tools that address the enforcement priorities of American farmers, ranchers, manufacturers, and service suppliers.

This legislation bolsters enforcement of U.S. trade agreements in three important ways.

First, it requires the U.S. Trade Representative, USTR, to dedicate more time to enforcement. The bill requires USTR to provide an annual report to Congress identifying the most significant barriers to U.S. companies abroad and to take enforcement action to resolve them. It also makes trade enforcement more accountable to Congress. The bill allows the Senate Finance Committee or the House Ways and Means Committee to require USTR to identify a specific barrier in its annual report. And, significantly, the bill creates a Senate-confirmed Chief Enforcement Officer at USTR to investigate and prosecute trade enforcement cases.

Second, the bill addresses serious concerns that have been raised about the quality of recent World Trade Organization dispute settlement decisions. It does so by establishing a commission of retired judges and international trade law experts to review the decisions and determine whether they impose obligations on the U.S. that are not found in the text of the WTO agreements. The bill also prevents the administration from changing a regulation to comply with an adverse WTO decision until Congress receives the commission's report.

Third, the bill ensures that other U.S. government agencies do not use foreign policy and other noneconomic rationales to block USTR from taking tough enforcement actions. It clarifies that while USTR must carefully consider any advice provided by the interagency trade organization established under the Trade Expansion Act of 1962, it need not, and shall not, seek approval of its actions from the organization.

The bill also bolsters enforcement of U.S. trade remedy laws in four important ways.

First, the bill limits the President's discretion to deny relief in Section 421 cases to address Chinese import surges. This administration has utterly failed to use this trade remedy as Congress intended. It has denied relief in every case where the International Trade Commission, ITC, determined that relief was warranted. Our bill remedies this deficiency by requiring the President to proclaim any import relief that the ITC recommends unless the President finds, in extraordinary cases, that the relief would seriously harm our national security or would have an adverse impact on our economy that clearly and significantly outweighs the benefits. Congress may override the economic determination and reinstate the ITC's decision if it enacts a joint resolution of disapproval.

Second, the bill makes it easier for U.S. companies to obtain relief from subsidized imports from certain countries. It clarifies that the Commerce Department may apply countervailing duties to nonmarket economies like China. The Commerce Department has long taken the position that our countervailing duty laws do not apply to nonmarket economies, and it has refused to do so until very recently. The bill closes this loophole and eliminates any remaining uncertainty.

Third, the bill makes it easier for U.S. companies to obtain relief from subsidized and dumped imports from all countries by overriding the Federal Circuit's recent Bratsk decision. The bill provides that the ITC must make its injury determinations in antidumping and countervailing duty cases without regard to whether imports from other countries are likely to replace imports from the country under investigation.

Fourth, the bill increases intellectual property expertise at the ITC. It authorizes the ITC to appoint hearing officers, rather than administrative law judges, ALJs, to take evidence and make initial decisions in intellectual property investigations under Section 337 of the Tariff Act of 1930. Unlike the current ALJs, the hearing officers would be required to have technical expertise and experience in intellectual property law.

The overarching goal of this bill is, as Shakespeare might say, to ''wake up'' our trade laws from their current slumber and ensure that the administration enforces them to the fullest extent. Our farmers, ranchers, and companies deserve nothing less.

I therefore hope that my colleagues will support the Trade Enforcement Act of 2007.

By Mr. REID:

S. 1920. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

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. 1920

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 ''Getting Retention and Diplomas Up Among Today's Enrolled Students Act'' or the ''GRADUATES Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since almost 90 percent of the fastest growing and best paying jobs now require some postsecondary education, a secondary school diploma and the skills to succeed in higher education and the modern workplace are essential.

(2) Only ⅓ of all high school students in the United States graduate in 4 years prepared for a 4-year institution of higher education. Another ⅓ graduate, but without the skills and qualifications necessary for success in higher education or the workplace, and the rest will not graduate from high school in 4 years, if at all.

(3) Dropouts from the class of 2006 will cost the United States more that $309,000,000,000 in reduced earnings.

(4) The Nation's failure to meet the increasing demand for skilled workers means that American companies cannot fill a large number of jobs. 81 percent of American manufacturing companies report experiencing a moderate to severe shortage of qualified workers.

(5) International competition has made education a national security issue. For example, the United States currently runs a $30,000,000,000 advanced technology trade deficit with China. Many other countries are developing the technology, infrastructure, and knowledge base to export quality products with inexpensive labor. The education system of the United States should support critical thinking, creativity, and innovative approaches to new opportunities, which are commodities that cannot be outsourced.

(6) As the bar for success continues to be raised, the responsibility to engender these attributes with progressive programs and original models lies squarely with the education system. It is imperative that the United States develop and implement new, innovative approaches to fully prepare every student for the 21st century.

(7) Realigning the education system to meet new, demanding requirements and face intensifying competition requires effective, systemic reform. Identifying effective, replicable models that achieve this goal is a critical step towards enhancing the prospects of all students entering the modern workforce.

SEC. 3. SECONDARY SCHOOL INNOVATION FUND.

(a) SECONDARY SCHOOL INNOVATION FUND.—Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part I as part J; and

(2) by inserting after section 1830 the following:

''PART I—SECONDARY SCHOOL INNOVATION FUND

''SEC. 1851. PURPOSES.

''The purposes of this part are—

''(1) to improve the achievement of at-risk secondary school students and prepare such students for higher education and the workforce;

''(2) to create evidence-based, replicable models of innovation in secondary schools at the State and local level; and

''(3) to support partnerships to create and inform innovation at the State and local level to improve learning outcomes and transitions for secondary school students.

''SEC. 1852. DEFINITIONS.

''In this part:

''(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that includes—

''(A) not less than 1—

''(i) State educational agency; or

''(ii) local educational agency that is eligible for assistance under part A; and

''(B) not less than 1—

''(i) institution of higher education;

''(ii) nonprofit organization;

''(iii) community-based organization;

''(iv) business; or

''(v) school development organization or intermediary.

''(2) ELIGIBLE SCHOOL.—The term 'eligible school' means a public secondary school served by a local educational agency that is eligible for assistance under part A.

''(3) HIGH SCHOOL.—The term 'high school' means a public school, including a public charter high school, that provides education in any grade beginning with grade 9 and ending with grade 12, as determined under State law.

''(4) MIDDLE SCHOOL.—The term 'middle school' means a public school, including a public charter middle school, that provides middle education in any grade beginning with grade 5 and ending with grade 8, as determined under State law.

''(5) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 9101.

''SEC. 1853. SECONDARY SCHOOL INNOVATION FUND.

''(a) PROGRAM AUTHORIZED.—

''(1) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of implementing innovative strategies described in subsection (f) to improve the achievement of at-risk students in secondary schools.

''(2) SUBGRANTS TO ELIGIBLE SCHOOLS.—An eligible partnership that receives a grant under this part may use the grant funds to award a subgrant to an eligible school to enable the eligible school to implement innovative strategies described in subsection (f) to improve the achievement of at-risk students at the eligible school.

''(b) RESERVATION OF FUNDS.—The Secretary shall reserve 5 percent of the amounts appropriated under this part for a fiscal year for the evaluation described in subsection (h).

''(c) APPLICATION.—

''(1) IN GENERAL.—An eligible partnership desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) CONTENTS.—The application described in paragraph (1) shall include—

''(A) a description of the eligible partnership, the partners forming the eligible partnership, and the roles and responsibilities of each partner, and a demonstration of each partner's capacity to support the outlined roles and responsibilities;

''(B) a description of how funds will be used to improve the achievement of at-risk students in secondary schools;

''(C) a description of how the activities funded by the grant will be innovative, systemic, evidence-based, and replicable;

''(D) a description of each subgrant the eligible partnership will award to an eligible school, including a description of the eligible school; and

''(E) a description of how the eligible partnership will measure and report improvement using the data collected under subsection (g) and additional indicators of improvement proposed by the partnership, such as student attendance or participation, credit accumulation rates, core course failure rates, college enrollment and persistence rates, or number or percentage of students taking Advanced Placement (AP), International Baccalaureate (IB), or other postsecondary education courses, rigorous postsecondary education preparatory courses, or workforce apprenticeship and training programs.

''(d) APPLICATION REVIEW AND AWARD BASIS.—

''(1) GRANT REVIEW AND APPROVAL.—The Secretary shall—

''(A) establish a peer review process to assist in the review of the grant applications and approval of the grants under this section; and

''(B) appoint to the peer review process—

''(i) individuals who are educators and experts in—

''(I) secondary school reform;

''(II) accountability;

''(III) secondary school improvement;

''(IV) innovative education models; and

''(V) other educational needs of secondary school students; and

''(ii) not less than 1 parent or community representative; and

''(C) ensure that each grant award is of sufficient size and scope to carry out the activities proposed in the grant application, including the evaluation required under subsection (g)(3).

''(2) AWARD BASIS.—In awarding grants under this part, the Secretary shall ensure, to the extent practicable—

''(A) diversity in the type of activities funded under the grants;

''(B) an equitable geographic distribution of the grants, including urban and rural areas; and

''(C) that the grants support activities—

''(i) that target different grade levels of students at the secondary school level; and

''(ii) in a variety of types of secondary schools, including middle schools and high schools.

''(e) FEDERAL SHARE, NON-FEDERAL SHARE.—

''(1) FEDERAL SHARE.—The Federal share of a grant under this part shall be not more than 75 percent of the costs of the activities assisted under the grant.

''(2) NON-FEDERAL SHARE.—The non-Federal share shall be not less than 25 percent of the costs of the activities assisted under the grant, of which not more than 10 percent of the costs of the activities assisted under the grant may be provided in-kind, fairly evaluated.

''(f) USE OF FUNDS.—An eligible partnership receiving a grant under this part, or an eligible school receiving a subgrant under this part, shall use grant or subgrant funds, respectively, to carry out 1 or more of the following activities:

''(1) Creating multiple pathways, including the creation of new public schools, that offer students a range of educational options designed to meet the students' needs and interests and to lead to a secondary school diploma consistent with readiness for postsecondary education and the workforce, which pathways may include—

''(A) alternative public schools that—

''(i) use innovative strategies such as flexible hours;

''(ii) provide competency-based instruction and performance-based assessment to improve educational outcomes for various populations of overaged and undercredited students or dropouts, such as—

''(I) students not making sufficient progress to graduate with a regular secondary school diploma in the standard number of years;

''(II) students who need to work to support themselves or their families;

''(III) pregnant and parenting teens; and

''(IV) students returning from the juvenile justice system;

''(B) career and technical education programs;

''(C) career academies;

''(D) early college and dual enrollment learning opportunities; and

''(E) creating more personalized and engaging learning environments for secondary school students, such as—

''(i) establishing smaller learning communities;

''(ii) creating student advisories and developing peer engagement strategies in which students lead guidance activities, mentoring, or tutoring efforts;

''(iii) involving students and parents in the development of individualized student plans for secondary school success and graduation and postsecondary transition;

''(iv) creating mechanisms for increased student participation in school improvement efforts and in decisions affecting the students' own learning; and

''(v) creating new opportunities to better utilize the grade 11 and grade 12 years and creating better connectivity to postsecondary education.

''(2) Creating expanded learning time opportunities, which may include—

''(A) establishing a mandatory expanded day, for all students transitioning into the first year of high school, for academic catch-up and enrichment;

''(B) providing arts or service learning opportunities with community-based cultural and civic organizations; and

''(C) providing higher education and work-based exposure, experience, and credit-bearing learning opportunities in partnership with postsecondary institutions and the workforce.

''(3) Improving student transitions from middle school to high school and ensuring successful entry into high school, which may include—

''(A) establishing summer transition programs for secondary school students transitioning from middle school to high school to ensure the students' connection to the students' new high school and to orient the students to the study skills and social skills necessary for success in the high school;

''(B) providing for the sharing of data between high schools and feeder middle schools;

''(C) establishing quick response and recovery programs in high school for secondary school students transitioning into the students' first year of high school so that such students do not become truant or fall too far behind in academics;

''(D) increasing the level of student supports, including academic and social-emotional supports, especially for struggling students; and

''(E) aligning academic standards, curricula, and assessments between middle and high schools.

''(4) Improving student transitions from secondary school to postsecondary education and the workforce, which may include—

''(A) providing for the sharing of data between secondary schools and institutions of higher education;

''(B) enabling dual enrollment and credit-bearing learning opportunities;

''(C) establishing one or more early college secondary schools that offer students a secondary school diploma and not more than 2 years of college credit within a 4- or 5-year program;

''(D) providing enhanced higher education and financial aid counseling; and

''(E) aligning the academic standards of secondary school with the academic standards of postsecondary education and the requirements and expectations of the workforce.

''(5) Increasing the autonomy and flexibility of secondary schools, which may include—

''(A) establishing a process whereby existing schools can apply for flexibility in such areas as scheduling, curricula, budgeting, and governance; and

''(B) starting new small public secondary schools that are guaranteed such autonomies.

''(6) Improving learning opportunities for secondary school students in rural schools, including through the use of distance-learning opportunities and other technology-based tools.

''(7) Redesigning a middle school—

''(A) to prevent student disengagement and improve achievement; and

''(B) to better respond to early warning signs that students are at risk of dropping out of school, such as poor attendance, poor behavior, or course failure.

''(8) Improving teaching and increasing academic rigor at the secondary school level, which may include—

''(A) improving the alignment of academic standards with the requirements and expectations of postsecondary education and the workforce;

''(B) improving the teaching and assessment of 21st century skills, including through the development of formative assessment models;

''(C) increasing community involvement, including leveraging community-based services and opportunities to provide every student with the academic and nonacademic supports necessary for academic success;

''(D) increasing parental involvement, including providing parents with the tools to navigate, support, and influence their child's academic career and choices through secondary school graduation and into postsecondary education and the workforce; and

''(E) addressing the learning needs of various student populations, including students who are limited English proficient, late entrant English language learners, and students with disabilities.

''(g) DATA COLLECTION AND EVALUATION.—

''(1) COLLECTION OF DATA.—Each eligible partnership receiving a grant under this part shall collect and report annually to the Secretary such information on the results of the activities assisted under the grant as the Secretary may reasonably require, including information on—

''(A) the number and percentage of students who—

''(i) are served by the eligible partnership;

''(ii) are assisted under this part; and

''(iii) graduate from secondary school with a regular secondary school diploma in the standard number of years;

''(B) the number and percentage of students, at each grade level, who are—

''(i) served by the eligible partnership;

''(ii) assisted under this part; and

''(iii) on track to graduate from secondary school with a regular secondary school diploma in the standard number of years;

''(C) the number and percentage of students, at each grade level, who—

''(i) are served by the eligible partnership;

''(ii) are assisted under this part; and

''(iii) meet or exceed State challenging student academic achievement standards in mathematics, reading or language arts, or science, as measured by the State academic assessments under section 1111(b)(3);

''(D) information consistent with the additional indicators of improvement proposed by the eligible partnership in the grant application; and

''(E) other information the Secretary may require as necessary for the evaluation described in subsection (h).

''(2) REPORTING OF DATA.—Each eligible partnership receiving a grant under this part shall disaggregate the information required under paragraph (1) in the same manner as information is disaggregated under section 1111(h)(1)(C)(i).

''(3) EVALUATION.—

''(A) IN GENERAL.—Each eligible partnership receiving a grant under this part shall enter into a contract with an outside evaluator to enable the evaluator to conduct—

''(i) an evaluation of the effectiveness of the grant after the third year of implementation of the grant; and

''(ii) an evaluation of the effectiveness of the grant after the final year of the grant period.

''(B) DISTRIBUTION.—Upon completion of an evaluation described in subparagraph (A), the eligible partnership shall submit a copy of the evaluation to the Secretary in a timely manner.

''(h) EVALUATION; BEST PRACTICES.—

''(1) IN GENERAL.—From amounts reserved under subsection (b), the Secretary shall—

''(A) enter into a contract with an outside evaluator to enable the evaluator to conduct—

''(i) a comprehensive evaluation after the third year of implementation on the effectiveness of all grants awarded under this part; and

''(ii) a final evaluation following the final year of the grant period with a focus on improvement in student achievement as a result of innovative strategies; and

''(B) disseminate best practices in improving the achievement of secondary school students.

''(2) PEER REVIEW.—

''(A) IN GENERAL.—An evaluator receiving a contract under this subsection shall—

''(i) establish a peer-review process to assist in the review and approval of the evaluations conducted under this subsection; and

''(ii) appoint individuals to the peer-review process who are educators and experts in—

''(I) research and evaluation; and

''(II) the areas of expertise described in subclauses (I) through (V) of subsection (d)(1)(B)(i).

''(B) RESTRICTIONS ON USE.—The Secretary shall not distribute or use the results of any evaluation described in paragraph (1)(A) until the results are peer-reviewed in accordance with subparagraph (A).

''(i) CONTINUATION OF FUNDING.—An eligible partnership that receives a grant under this part shall only be eligible to receive a grant payment for a fourth or fifth year of the grant if the Secretary determines, on the basis of the evaluation of the grant under subsection (h)(1)(A)(i), that the performance of the eligible partnership under the grant has been satisfactory.

''(j) RULE OF CONSTRUCTION REGARDING DISCRIMINATION.—Nothing in this section shall be construed to permit discrimination on the basis of race, color, religion, sex, national origin, or disability in any program or activity funded under this part.

''SEC. 1854. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2008 and for each of the succeeding 5 years.''.

(b) CONFORMING AMENDMENTS.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 note) is amended—

(1) by striking the item relating to Part I and inserting the following:

''PART J—GENERAL PROVISIONS''; AND

(2) by inserting after the item relating to section 1830 the following:

''PART I—SECONDARY SCHOOL INNOVATION FUND

''Sec. 1851. Purposes.

''Sec. 1852. Definitions.

''Sec. 1853. Secondary school innovation fund.

''Sec. 1854. Authorization of appropriations.''.

By Mr. WEBB (for himself, Mr. SESSIONS, Ms. LANDRIEU, Mr. PRYOR, Mr. CORNYN, Mr. BUNNING, Mr. LOTT, Mr. CARDIN, Mr. WARNER, Mrs. LINCOLN, Mr. BURR, Mrs. LINCOLN, Mr. BURR, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. DURBIN, Mrs. MCCASKILL, and Mrs. CLINTON):

S. 1921. A bill to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WEBB. Mr. President, I rise today to join with my colleague Senator JEFF SESSIONS and 14 of our Senate colleagues to introduce the Civil War Battlefield Preservation Act of 2007. This bipartisan legislation was recently introduced in the House by Congressmen GARY MILLER of California and BART GORDON of Tennessee and presently enjoys the support of 26 Members of Congress.

Our bill is a straightforward, 5 year extension of the 2002 Civil War Battlefield Preservation Act. The purpose of this legislation remains the same as when Congress first passed it: to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of battlefield sites. In addition, the legislation fosters partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields.

The legislation continues to protect private property rights by limiting land acquisitions to willing sellers only. It also requires a 50–50 match in order for projects to be eligible to receive Federal funds. Finally, the program limits the effect on the burgeoning National Park Service's maintenance backlog because non-Federal entities are responsible for the long-term maintenance of sites not within National Park Service boundaries.

In 1990, Congress established the Civil War Sites Advisory commission, a blue-ribbon panel empowered to investigate the status of America's remaining Civil War battlefields. Congress tasked the commission with the mission of prioritizing these battlefields according to their historic importance and the threats to their survival. The commission ultimately looked at the 10,000-plus battles and skirmishes of the Civil War and determined that 384 priority sites should be preserved. The results of the report were released in 1993 and they were not encouraging.

The 1993 commission report recommended that Congress create an emergency program to save threatened Civil War battlefield land. The result was the Civil War Battlefield Preservation Program, which was first funded

in fiscal year 1999 and originally authorized in 2002. To date, the preservation program has saved over 14,000 acres of land in 15 States.

The key to the success of the preservation program is that it achieves battlefield preservation through collaborative partnerships between State and local governments, the private sector and nonprofit organizations, such as the Civil War Preservation Trust.

But for the preservation program and its non-Federal partners, we would have lost key sites from national shrines at Antietam. Chancellorsville. Fredericksburg. Manassas. Harpers Ferry. Bentonville. Mansfield. Champion Hill. Their names of these legendary battlegrounds continue to haunt us to this day. Had the Civil War Battlefield Preservation Program not been available as a tool to preserve threatened battlefield land, these sites and others like them would have surely been lost forever to commercial and residential development.

It is not every day you can visit battlefield sites and have an immediate, direct connection with your ancestors. We must preserve these sites so that future generations might see and touch the very places where so many sacrifices were made, by soldiers and civilians alike. We are a stronger, more diverse and free Nation because of these sacrifices.

I would remind my colleagues that the preservation program has enjoyed bipartisan, bicameral support since its inception. In 2002, program funding was authorized through the Civil War Battlefield Preservation Act at the level recommended by the Civil War Sites Advisory Commission, $10 million a year. These Federal funds have, and will continue to, leverage millions more in private and other charitable donations; thereby increasing our ability to preserve more threatened battlefield sites.

The Civil War Battlefield Preservation Act has become an essential tool for protecting our nation's Civil War battlefields. I would urge my colleagues in the Senate to reauthorize this important federal program. The clock is ticking against these threatened historical sites and we must keep the Civil War Battlefield Preservation Program as a valuable tool to preserve them.

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. 1921

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 ''Civil War Battlefield Preservation Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Civil War battlefields provide a means for the people of the United States to understand a tragic period in the history of the United States.

(2) According to the Report on the Nation's Civil War Battlefields, prepared by the Civil War Sites Advisory Commission, and dated July 1993, of the 384 principal Civil War battlefields—

(A) almost 20 percent are lost or fragmented;

(B) 17 percent are in poor condition; and

(C) 60 percent have been lost or are in imminent danger of being fragmented by development and lost as coherent historic sites.

(b) PURPOSES.—The purposes of this Act are—

(1) to act quickly and proactively to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of those battlefields from willing sellers at fair market value;

(2) to create partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields; and

(3) to prepare our Nation for the upcoming sesquicentennial commemoration of the Civil War, 2011 through 2015, which is expected to stimulate renewed interest in the conflict and generate unprecedented visitation to preserved Civil War battlegrounds.

SEC. 3. AUTHORIZATION EXTENDED.

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k) is amended—

(1) in subsection (d)(7)(A), by striking ''fiscal years 2004 through 2008'' and inserting ''fiscal years 2009 through 2013''; and

(2) in subsection (e), by striking ''September 30, 2008'' and inserting ''September 30, 2013''.

By Mr. KERRY (for himself and Ms. SNOWE):

S. 1922. A bill to apply basic contracting laws to the Transportation Security Administration; to the Committee on Commerce, Science, and Transportation.

Mr. KERRY. Mr. President, today Senator SNOWE and I are introducing the TSA Acquisition Reform Act of 2007 to repeal exemptions from Federal contracting laws that were granted to the Transportation Security Administration, TSA, after 9/11 in the rush to secure airports. Representative CARNEY has introduced identical legislation in the House and I look forward to working with him to improve contracting at TSA.

TSA is one of the few Federal agencies and the only agency within the Department of Homeland Security that is not subject to the same procurement rules that every other Federal agency, including the Department of Defense, must abide.

Specifically, it is exempt from the Federal Acquisition Regulation, FAR, which covers every major procurement law and requires Federal agencies to provide for an open and competitive bidding process and submit contract information to the Federal Procurement Data System. TSA's exemption from the FAR was never meant to be permanent, and this amendment would bring the agency in line with normal Federal contracting rules.

TSA has a record of mismanaging contracts and wasting taxpayer dollars, and has been the subject of several DOT and DHS Inspector General reports. For instance, in 2002, TSA, despite using FAR guidelines, issued a federally prohibited cost-plus-a-percentage contract to Boeing to install explosive detection systems in airports. In September 2004, the IG found that the initial $508 million contract ballooned to $1.2 billion, that Boeing was paid $49 million in excess profit, received $82 million to cover $39 million in costs, and ultimately received a 210 percent return on its investment.

In 2005, the Washington Post reported on an audit by the Defense Contract Audit Agency which showed that a contract issued to the Pearson government solutions firm to recruit Federal passenger screeners increased in cost from $104 million to $741 million in 9 months in part because TSA changed the scope of the contract to require Pearson to use posh hotels, including the Waldorf Astoria, as recruitment centers. TSA disputes this account, but cannot provide any paperwork to back it up. The article quoted Deputy DHS Secretary Michael Jackson as saying, ''Honestly, I have no memory of it.''

In 2004, the when the GAO wanted to review 21 TSA contracts, it literally had to send staff to rummage through boxes of files to retrieve information that would otherwise have been in the Federal Procurement Data System.

As Chairman of the Small Business Committee, I am particular concerned about TSA's inability to meet its small business contracting goals. I am pleased that the 2007 DHS Appropriations bill applied the Small Business Act to TSA, but small business owners won't truly benefit because TSA is still exempt from basic contracting rules under the FAR that helps them compete for Federal contracts. Although TSA's small business contracting goal is 23 percent annually, only 10.7 percent of its contracts went to small businesses in 2005. Analysis conducted by my staff suggest that the true figure is closer to 6 percent because many of the large corporations that contract with TSA set up subsidiaries that technically qualify as small businesses but are in fact part of a larger corporation. I am concerned about this and I know that my colleague, Senator SNOWE, the ranking member of the Small Business Committee, is concerned as well.

There is another important reason to require TSA to follow the FAR. DHS, which encompasses 22 different agencies, is trying to create a unified procurement system and a common culture within the department. The Comptroller General noted last year before the House Homeland Security Committee that ''the various acquisition organizations within DHS are still operating in a disparate manner, with oversight of acquisition activities left primarily up to each individual component.'' How can DHS create a common contracting system when the agency that spends the most money on contracts within the department is exempt from the department's own rules?

It would be wrong to suggest that exemption from FAR is the main reason that TSA has mismanaged contracts. Its acquisition office was understaffed after 9/11, and there was a rush to meet Congressional deadlines that led to sloppy oversight. I understand that TSA has spent millions to improve its contracting office and I commend it for doing so. However, it is far from clear that TSA has a functional procurement system. A 2006 GAO review of the ongoing Boeing contract suggests that poor contracting oversight continues to plague TSA. The report states that ''TSA officials provided no evidence that they are reviewing required contractor submitted performance data,'' and that they ''do not document their activities because there are no TSA policies and procedures requiring them to do so. I know all Members would agree that this is a problem.

Unfortunately, lack of transparency and accountability are common themes in TSA's procurement history. Former DHS IG Kent Ervin has said that ''TSA is rapidly becoming the poster child for contracting dysfunction.'' Citizens Against Government Waste, which has endorsed this amendment, said in a letter to my office that ''TSA has a record of wasteful spending and mismanagement in its acquisition process and a continued exemption will only lead to more abuse.'' I think we would be remiss in our oversight responsibilities if we did not repeal these exemptions. TSA should not be policing itself.

I am not alone with these concerns. Just ask the Professional Services Council, the Nation's largest trade association representing Government contractors. In a letter to sent to my office yesterday, the PSC stated that my amendment will ''increase competition, expand opportunities for small businesses, provide greater accountability and transparency in their procurement process.'' This judgment comes from the association representing the contractors that do business with TSA.

Last year, TSA sent a letter to my office saying that it follows the FAR as a general rule but that its exemption ''benefits taxpayers.'' Amazingly, TSA criticized the FAR's requirement that Federal agencies consider all interested companies in the bidding process, saying that ''negatively impacts the limited resources of the government.'' It is hard to see how taxpayers benefit when an agency has the ability to opt out of the competitive bidding process at its choosing. The Army, Marines, Navy, Air Force, none of these agencies can simply decide to opt out of the FAR unless they meet the criteria for an exemption which is already provided for under the law.

This legislation is simple: apply the same rules to TSA that every other agency has to follow. There is no legitimate reason to maintain these exemptions—not for efficiency, not for national security. If it is good enough for the Department of Defense, it is good enough for TSA.

I look forward to working with Senator SNOWE and Representative CARNEY to pass this important legislation.

By Mr. KOHL (for himself, Mr. SANDERS, Mrs. MCCASKILL, Mr. DURBIN, and Mr. SMITH):

S. 1925. A bill to amend the Truth in Lending Act, to prevent credit card issuers from taking unfair advantage of college students and their parents, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I rise today to introduce the Student Credit Card Protection Act of 2007 with my colleagues Senators SMITH, MCCASKILL, SANDERS, and DURBIN. This legislation will help prevent college students from compiling massive credit card debt while in school.

College students have become the target of credit card companies advertising campaigns over the past 15 years. Many universities allow credit card companies to set up tables on campus and offer students free gifts in exchange for filling out a credit card application. Additionally, students receive card solicitations through mail to their on-campus mailbox or at their home address even before they arrive at the university in the fall. These aggressive marketing strategies have worked and now close to 96 percent of college graduates hold a credit card, compared to 1994, when only half had one. The average college student graduates with close to $3,000 in credit card debt, double the amount in 1994. In some very extreme cases, students are leaving school with multiple credit cards and debts amounting upwards of $10,000.

Credit card debt can make it harder for graduates to rent an apartment, receive a car loan, or obtain a job after college. Due to the lack of financial education and complicated terms and conditions, many students find themselves in over their heads. The Student Credit Card Protection Act will help students avoid large credit card debt while forcing issuers to make more responsible loans. The bill requires credit card issuers to verify annual income of a full-time student and then extends a line of credit based on the income. For a student without a verifiable income, a parent, legal guardian or spouse must co-sign the credit card and approve any increase in the credit limit. These simple underwriting requirements will make it more difficult for credit card companies to approve loans that are beyond a students' ability to repay and return to a more responsible lending policy.

It is imperative that we help minimize the amount of debt young consumers incur before entering into the workforce. On average, a student with a bachelors degree will leave school with $18,000 in student loan debt. Paying for housing, healthcare, and student loans already place a financial strain on a recent college graduate. A huge credit card payment on top of all card of the other bills can lead to financial ruin before young people even have a chance to get on their feet. This bill gives students the protection they deserve from irresponsible lending that can trap them in years of crushing debt repayment.

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

S. 1926. A bill to establish the National Infrastructure Bank to provide funding for qualified infrastructure projects, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise to introduce bipartisan legislation with my colleague from Nebraska, Senator HAGEL. The bill addresses an issue of paramount importance to our country and its quality of life: the deteriorating condition of our infrastructure systems.

I do not believe there is one person present in this chamber, funding myself, who has not taken our Nation's infrastructure systems for granted at some point. Indeed, our roads, bridges, mass transit systems, drinking water systems, wastewater systems, and public housing properties, collectively comprise the overlooked but critically important adhesive that holds our society together. These systems allow for the continuous passage of people and goods across the country; they allow people to communicate with each other here and around the world; they allow business and Government to function; and they allow goods to be consumed and services to be rendered. All in all, our infrastructure systems are directly responsible for providing the high quality of life that we Americans have come to enjoy in a free society.

Yet, it is precisely because we have taken our infrastructure systems for granted that we find ourselves in a precarious position today concerning their future viability. One does not have to look far to comprehend the extensive problems plaguing many of our infrastructure systems and facilities.

According to the American Society of Civil Engineers in their seminal 2005 Infrastructure Report Card, the current condition of our Nation's major infrastructure systems earns a grade point average of D and jeopardizes the prosperity and quality of life of all Americans.

According to the Federal Highway Administration, 33 percent of all urban and rural roads are in poor, mediocre or fair condition. 27.1 percent of all bridges are structurally deficient or functionally obsolete. Data from the Federal Transit Administration shows our mass transit systems are becoming increasingly unable to handle the growing demands passengers in a safe and efficient manner. According to the Texas Transportation Institute, the average traveler is delayed 51.5 hours annually due to traffic and infrastructure-related congestion in the Nation's

20 largest metropolitan areas. The delays range from 93 hours in Los Angeles to 14 hours in Pittsburgh. Combined, these delays waste 1.78 billion gallons of fuel each year and waste almost $50.3 billion in congestion costs. Furthermore, the average delay in these metropolitan areas has increased by almost 35.3 hours since 1982.

A significant percentage of our Nation's drinking water and wastewater systems are obsolete; the average age of these systems range in age from 50 years in smaller cities to 100 years in larger cities. Finally, the Department of Housing and Urban Development reports there are 1.2 million units of public housing with critical capital needs totaling $18 billion. Clearly, these statistics are alarming and they are not getting any better.

In their Infrastructure Report Card, the American Society of Civil Engineers estimates that $1.6 trillion is needed over a 5-year period to bring our Nation's infrastructure systems to a good condition.

Regrettably, our current infrastructure financing mechanisms, such as formula grants and earmarks, are not equipped by themselves to absorb this cost or meet fully these growing needs. They largely do not address capacity-building infrastructure projects of regional or national significance; they largely do not encourage an appropriate pooling of Federal, State, local and private resources; and they largely do not provide transparency to ensure the optimal return on public resources.

This is why I rise with my colleague from Nebraska today. We are introducing the National Infrastructure Bank Act of 2007, a bipartisan measure that addresses the critical needs of our Nation's major infrastructure systems. Our legislation establishes a new method through which the Federal Government can finance infrastructure projects of substantial regional or national significance more effectively with public and private capital.

Our legislation establishes the National Infrastructure Bank, which, as an independent entity of the Government, is tasked with evaluating and financing capacity-building infrastructure projects of substantial regional and national significance. Infrastructure projects that come under the bank's consideration are publicly-owned mass transit systems, housing properties, roads, bridges, drinking water systems, and wastewater systems.

Modeled after the Federal Deposit Insurance Corporation, the bank is led by a 5 member Board of Directors, each whom are appointed by the Prsident and confirmed by the Senate. The bank's board has flexibility to develop an organization of professional civil service staff to carry out the bank's authorized activities. An Inspector General oversees the bank's daily operations and reports on those operations to Congress.

Infrastructure projects with a potential Federal investment of at least $75 million are brought to the bank's attention by a project sponsor, State, locality, tribe, infrastructure agency, e.g. transit agency, a consortium of these entities. To determine a level of Federal investment, the bank uses a sliding-scale method that incorporates conditions such as the type of infrastructure system or systems, project location, project cost, current and projected usage, non-Federal revenue, regional or national significance, promotion of economic growth and community development, reduction in traffic congestion, environmental benefits, land use policies that promote smart growth, and mobility improvements.

Once a level of investment is determined for a project, the bank develops a financing package with full faith and credit from the government. The financing package could include direct subsidies, direct loan guarantees, long-term tax-credit general purpose bonds, and long-term tax-credit infrastructure project specific bonds. The initial ceiling to issue bonds is $60 billion.

The bank is tasked to report annually to Congress on the projects it reviews and finances. A public database is created to catalog what projects were funded and what financing packages were provided. The bank is also tasked to report every 3 years on the economic efficacy and transparency of all current Federal infrastructure financing methods, and how those methods could be improved. After 5 years, the Government Accountability Office would be tasked with evaluating the bank's operations and efficacy.

It is important to note that our legislation does not displace or supplant any existing infrastructure finance mechanisms, such as formula grants and earmarks. Instead, the bank targets large-scale projects that are currently underserved by these existing financing mechanisms.

I would like to take a moment to thank the Centers for Strategic and International Studies, CSIS, and the work undertaken by Dr. John Hamre in infrastucture finance. CSIS, Ambassador Felix Rohatyn, and former Senator Warren Rudman have provided valuable assistance and support in the development of our legislation.

I would also like to thank the American Society of Civil Engineers and the National Construction Alliance for their support of our bill.

It is my intent to take up this legislation in the Banking Committee after the August recess. This is an issue that cannot be neglected or deferred any further. Restoring our Nation's infrastructure demands our immediate attention and commitment in the Senate. The quality of life in our country hangs in the balance.

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

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

S. 1926

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Infrastructure Bank 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.
Sec. 3. Definitions.
Sec. 4. Authorization of appropriations.

TITLE I—NATIONAL INFRASTRUCTURE BANK

Sec. 101. Establishment of Bank.
Sec. 102. Management of Bank.
Sec. 103. Staff and personnel matters.

TITLE II—POWERS AND DUTIES OF THE BANK

Sec. 201. Powers of the Bank Board.
Sec. 202. Qualified infrastructure project ratings.
Sec. 203. Development of financing package.
Sec. 204. Coupon notes for holders of infrastructure bonds.
Sec. 205. Exemption from local taxation.

TITLE III—STUDIES AND REPORTS

Sec. 301. Report; database.
Sec. 302. Study and report on infrastructure financing mechanisms.
Sec. 303. GAO report.

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the American Society of Civil Engineers, the current condition of the infrastructure of the United States earns a grade point average of D and jeopardizes the prosperity and quality of life of the citizens of the United States;

(2) according to the Federal Transit Administration—

(A) approximately $15,800,000,000 must be expended each year for a period of not less than 20 years to maintain the operational capacity of the transit systems of the United States; and

(B) approximately $21,800,000,000 must be expended each year for a period of not less than 20 years to improve the operational capacity of the transit systems of the United States to meet the growing demands of passengers in a safe and adequate manner;

(3) according to the Millennial Housing Commission, there remains a critical shortage of affordable public housing for extreme low-income individuals;

(4) there are over 1,200,000 units of public housing nationwide, with an accumulated capital needs backlog of approximately $18,000,000,000, with an additional $2,000,000,000 accruing each year;

(5) according to the Federal Highway Administration—

(A) 33 percent of all urban and rural roads in the United States are in poor, mediocre, or fair condition;

(B) approximately $131,700,000,000 must be expended each year for a period of not less than 20 years to improve the conditions of those urban and rural roads;

(C) 27.1 percent of all bridges in the United States are—

(i) structurally deficient; or

(ii) functionally obsolete; and

(D) approximately $9,400,000,000 must be expended each year for a period of not less than 20 years to eliminate the deficiencies of those bridges;

(6) according to the Environmental Protection Agency—

(A) $151,000,000,000 must be expended during the next 20 years to make necessary repairs, replacements, and upgrades to the approximately 55,000 community drinking water systems of the United States; and

(B) approximately $390,000,000,000 must be expended during the next 20 years to eliminate the deficiencies of the wastewater systems of the United States;

(7) the infrastructure financing mechanisms of the United States do not adequately—

(A) address infrastructure projects of regional or national significance;

(B) encourage an appropriate pooling of Federal, State, local, and private resources; or

(C) provide transparency to ensure the optimal return on public resources;

(8) there are no Federal financing notes, credits, or bonds which allow investors to fund only infrastructure projects;

(9) there is a need to involve pension funds and other private investors who want to invest in infrastructure, but to whom tax credits have no value; and

(10) there are no federally guaranteed investment notes of greater than 30 years in duration, whereas many federally funded assets are of durations much longer than 30 years.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) BANK.—The term ''Bank'' means the ''National Infrastructure Bank'' established under section 101.

(2) BOARD.—The term ''Board'' means the board of directors of the Bank, established under section 102.

(3) CHAIRPERSON; VICE CHAIRPERSON.—The terms ''Chairperson'' and ''Vice Chairperson'' mean the Chairperson and Vice Chairperson of the Board, respectively.

(4) FINANCING MECHANISM.—

(A) IN GENERAL.—The term ''financing mechanism'' means a method used by the Bank to pledge the full faith and credit of the United States to provide money, credit, or other capital to a qualified infrastructure project.

(B) INCLUSIONS.—The term ''financing mechanism'' includes—

(i) a direct subsidy;

(ii) a general purpose infrastructure bond; and

(iii) a project-based infrastructure bond.

(5) FINANCING PACKAGE.—The term ''financing package'' means 1 or more financing mechanisms used by the Bank to meet the Federal commitment for a qualified infrastructure project.

(6) GENERAL PURPOSE INFRASTRUCTURE BOND.—The term ''general purpose infrastructure bond'' means a bond issued as part of an issue in accordance with this Act, if—

(A) the net spendable proceeds from the sale of the issue may be used for expenditures incurred after the date of issuance with respect to any qualified infrastructure project or purpose, subject to the rules of the Bank;

(B) the bond is issued by the Bank, is in registered form, and meets the requirements of this Act and otherwise applicable law;

(C) the term of each bond which is part of the issue is greater than 30 years; and

(D) the payment of principal with respect to the bond is the obligation of the Bank.

(7) INFRASTRUCTURE PROJECT.—

(A) IN GENERAL.—The term ''infrastructure project'' means the building, improvement, or increase in capacity of a basic installation, facility, asset, or stock that is associated with—

(i) a mass transit system that meets the criteria in subparagraph (B);

(ii) a public housing property that is eligible to receive funding under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) and that meets the criteria in subparagraph (B);

(iii) a road or bridge that meets the criteria in subparagraph (B); or

(iv) a drinking water system or a wastewater system that meets the criteria in subparagraph (B).

(B) CRITERIA.—A project described in any of clauses (i) through (iv) of subparagraph (A) meets the criteria of this subparagraph if it serves any one or more of the objectives identified in paragraphs (1) through (9) of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)).

(8) PROJECT-BASED INFRASTRUCTURE BOND.—The term ''project-based infrastructure bond'' means any bond issued as part of an issue, if—

(A) the net spendable proceeds from the sale of the issue are to be used for expenditures incurred after the date of issuance only with respect to the qualified infrastructure project for which the bond is issued;

(B) the bond is issued by the Bank, meets the requirements of section 149(a) of title 26, United States Code, for registration, and otherwise meets the requirements of this Act and other applicable law;

(C) the term of each bond which is part of the issue is equal to the useful life of the qualified infrastructure project funded through use of the bond; and

(D) the payment of principal with respect to the bond is the obligation of the Bank.

(9) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' means an agency described in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(10) PUBLIC SPONSOR.—The term ''public sponsor'' includes a State or local government, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), a public transit agency, public housing agency, a public infrastructure agency, or a consortium of those entities, including a public entity that has partnered with a private nonprofit or for-profit entity.

(11) QUALIFIED INFRASTRUCTURE PROJECT.—The term ''qualified infrastructure project'' means an infrastructure project designated by the Board as a qualified infrastructure project in accordance with section 202.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Until such time as the Bank has received funds from the issuance of bonds sufficient to carry out this Act and the administration of the Bank, there are authorized to be appropriated to the Bank, such sums as may be necessary for such purposes, to remain available until expended.

TITLE I—NATIONAL INFRASTRUCTURE BANK

SEC. 101. ESTABLISHMENT OF BANK.

There is established the ''National Infrastructure Bank'', which shall be an independent establishment of the Federal Government, as defined in section 104 of title 5, United States Code.

SEC. 102. MANAGEMENT OF BANK.

(a) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The management of the Bank shall be vested in a Board of Directors consisting of 5 members, appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(2) MEMBER EXPERTISE.—Not fewer than 1 member of the Board shall have demonstrated expertise in—

(A) transit infrastructure;

(B) public housing infrastructure;

(C) road and bridge infrastructure;

(D) water infrastructure; or

(E) public finance.

(3) POLITICAL AFFILIATION.—Section 2(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(2) shall apply to members of the Board of Directors of the Bank in the same manner as it applies to the Board of Directors of the Federal Deposit Insurance Corporation.

(4) MEETINGS.—The Board shall meet not later than 90 days after the date on which all directors of the Board are first appointed, and otherwise at the call of the Chairperson.

(5) DATE OF APPOINTMENTS.—The initial nominations to the Board shall be made not later than 60 days after the date of enactment of this Act.

(b) CHAIRPERSON AND VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Board shall be appointed and shall serve in the same manner as is provided for members of the Federal Deposit Insurance Corporation under section 2(b) of the Federal Deposit Insurance Act (12 U.S.C. 1812(b)).

(c) TERMS.—

(1) APPOINTED MEMBERS.—Except as provided in paragraph (2), each member of the Board shall be appointed for a term of 6 years.

(2) INITIAL STAGGERED TERMS.—Of the initial members of the Board—

(A) the Chairperson and Vice Chairperson shall be appointed for a term of 6 years;

(B) 1 member shall be appointed for a term of 5 years;

(C) 1 member shall be appointed for a term of 4 years; and

(D) 1 member shall be appointed for a term of 3 years.

(3) INTERIM APPOINTMENTS.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(4) CONTINUATION OF SERVICE.—The Chairperson, Vice Chairperson, and each other member of the Board may continue to serve after the expiration of the term of office to which such member was appointed, until a successor has been appointed.

(d) VACANCY.—Any vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) INELIGIBILITY FOR OTHER OFFICES.—

(1) RESTRICTION DURING SERVICE.—No member of the Board may, during service on the Board—

(A) be an officer or director of, or otherwise be employed by, any entity engaged in or otherwise associated with an infrastructure project assisted or considered under this Act;

(B) hold stock in any such entity; or

(C) hold any other elected or appointed public office.

(2) POST SERVICE RESTRICTION.—

(A) IN GENERAL.—No member of the Board may hold any office, position, or employment in any entity engaged in or otherwise associated with an infrastructure project assisted under this Act during the 2-year period beginning on the date on which such member ceases to serve on the Board.

(B) EXCEPTION FOR MEMBERS WHO SERVE FULL TERM.—The limitation contained in subparagraph (A) does not apply to any member who has ceased to serve on the Board after serving the full term for which such member was appointed.

(3) CERTIFICATION.—Upon taking office, each member of the Board shall certify under oath that such member has complied with this subsection, and such certification shall be filed with the secretary of the Board.

SEC. 103. STAFF AND PERSONNEL MATTERS.

(a) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—The Chairperson may appoint and terminate, and fix the compensation of, an executive director of the Bank, in accordance with title 5, United States Code.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director

shall be subject to confirmation by the Board.

(3) QUALIFICATIONS OF EXECUTIVE DIRECTOR.—An individual appointed as the executive director under paragraph (1) shall have demonstrated expertise in—

(A) transit infrastructure;

(B) public housing infrastructure;

(C) road and bridge infrastructure;

(D) water infrastructure; or

(E) public finance.

(b) OTHER PERSONNEL.—The Board may appoint and terminate, and fix the compensation of, in accordance with title 5, United States Code, such personnel as are necessary to enable the Bank to perform the duties of the Bank.

(c) INSPECTOR GENERAL.—

(1) IN GENERAL.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting ''the Chairperson of the National Infrastructure Bank;'' after ''the Chairperson of the Federal Deposit Insurance Corporation;''; and

(B) in paragraph (2), by inserting ''the National Infrastructure Bank;'' after ''the Federal Deposit Insurance Corporation;''.

(2) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Federal Deposit Insurance Corporation, the following:

''Inspector General, National Infrastructure Bank.''.

(d) SUPPORT FROM OTHER AGENCIES.—The head of any other Federal agency may detail employees to the Bank for purposes of carrying out the duties of the Bank.

(e) COMPENSATION OF BOARD MEMBERS.—

(1) CHAIRPERSON.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the following:

''Chairperson, Board of Directors, National Infrastructure Bank.''.

(2) OTHER MEMBERS.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Federal Deposit Insurance Corporation, the following:

''Member, Board of Directors of the National Infrastructure Bank.''.

TITLE II—POWERS AND DUTIES OF THE BANK

SEC. 201. POWERS OF THE BANK BOARD.

(a) HEARINGS.—The Board may, in carrying out this Act—

(1) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths, as the Board considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials, as the Board considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—A subpoena issued under subsection (a) shall—

(A) bear the signature of the Chairperson and a majority of the members of the Board; and

(B) be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the district in which the subpoenaed person resides, is served, or may be found may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.

(3) NONCOMPLIANCE.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(c) WITNESS ALLOWANCES AND FEES.—

(1) IN GENERAL.—Section 1821 of title 28, United States Code, shall apply to a witness requested or subpoenaed to appear at a hearing of the Board.

(2) EXPENSES.—The per diem and mileage allowances for a witness shall be paid from funds available to pay the expenses of the Board.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Board may, upon request, secure directly from a Federal agency, such information as the Board considers necessary to carry out this Act, and the head of such agency shall promptly respond to any such request for the provision of information.

(e) INCORPORATION OF FEDERAL TRANSIT PROCESSES FOR BOARD STATEMENTS.—Section 5334(l) of title 49, United States Code, as added by section 3032 of the Federal Public Transportation Act of 2005 (Public Law 109–59, 119 Stat. 1627), shall apply to statements of the Board in the same manner and to the same extent as that section applies to statements of the Administrator of the Federal Transit Administration.

SEC. 202. QUALIFIED INFRASTRUCTURE PROJECT RATINGS.

(a) IN GENERAL.—The Bank shall, upon application and otherwise in accordance with this section, designate infrastructure projects as qualified projects for purposes of assistance under this Act.

(b) APPLICANTS.—The Bank shall accept applications for the designation of qualified infrastructure projects under this section from among public sponsors, for any infrastructure project having—

(1) a potential Federal commitment of an amount that is not less than $75,000,000;

(2) a public sponsor; and

(3) regional or national significance.

(c) GUIDELINES FOR DEVELOPING PROJECTS.—The Secretary shall establish guidelines to assist grant recipients under this title to develop applications for funding under this section. The guidelines shall include the objectives listed in paragraphs (2) and (3) of section 105(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(e)).

(d) RATINGS.—In making a determination as to a designation of a qualified infrastructure project, the Board shall evaluate and rate each applicant based on the factors appropriate for that type of infrastructure project, which shall include—

(1) for any transit project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) reduction in traffic congestion;

(D) environmental benefits, including reduction in pollution from reduced use of automobiles from direct trip reduction and indirect trip reduction through land use and density changes;

(E) urban land use policies, including those that promote smart growth; and

(F) mobility improvements;

(2) for any public housing project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) improvement of the physical shape and layout of public housing;

(D) environmental improvement;

(E) urban land use policies, including those that promote smart growth;

(F) reduction of poverty concentration;

(G) mobility improvements for residents; and

(H) establishment of positive incentives for resident self-sufficiency and comprehensive services that empower residents;

(3) for any highway, bridge, or road project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) reduction in traffic congestion;

(D) environmental improvement;

(E) urban land use policies, including those that promote smart growth; and

(F) mobility improvements; and

(4) for any water project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) health benefits from the associated projects, including health care cost reduction due to removal of pollutants; and

(D) environmental benefits.

(e) DETERMINATION AMONG PROJECTS OF DIFFERENT INFRASTRUCTURE TYPES.—The Bank shall establish, by rule, comprehensive criteria for allocating qualified status among different types of infrastructure projects for purposes of this Act—

(1) including—

(A) a full view of the project benefits, as compared to project costs;

(B) a preference for projects that have national or substantial regional impact;

(C) a preference for projects which leverage private financing, including public-private partnerships, for either the explicit cost of the project or for enhancements which increase the benefits of the project;

(D) an understanding of the importance of balanced investment in various types of infrastructure, as emphasized in the current allocation of Federal resources between modes; and

(E) an understanding of the importance of diverse investment in infrastructure in all regions of the country; and

(2) that do not eliminate any project based on size, but rather allow for selection of the projects that are most meritorious.

(f) PROCESS AND PERSONNEL FOR CREATING RATINGS PROCESS.—

(1) IN GENERAL.—The ratings processes described in this section shall be subject to Federal notice and rulemaking procedures.

(2) PARTICIPATION BY OTHER AGENCY PERSONNEL.—The ratings, and development of the ratings process, shall be conducted by personnel on detail to the Bank from the Department of Transportation, the Department of Housing and Urban Development, the United States Army Corps of Engineers, and other relevant departments and agencies from among individuals who are familiar with and experienced in the selection criteria for competitive projects. The Bank shall reimburse those departments and agencies for the staff which are on detail to the Bank.

(g) COMPLIANCE WITH OTHER APPLICABLE LAW.—Projects receiving financial assistance from the Bank under this section shall comply with applicable provisions of Federal law and regulations, including—

(1) for transit, requirements that would apply to a project receiving funding under section 5307 of title 49, United States Code;

(2) for public housing, requirements that would apply to a project receiving funding from a grant under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v);

(3) for roads and bridges, requirements that would apply to a project that receives funds apportioned under section 104(b)(3) of title 23, United States Code; and

(4) for water, requirements that would apply to a project that receives funds through a grant or loan under—

(A) section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303);

(B) section 1452 of the Public Health Service Act (42 U.S.C. 300j-12); or

(C) section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381), as that section applied before the beginning of fiscal year 1995.

(h) AUTHORITY TO DETERMINE FUNDING.—Notwithstanding any other provision of law, the Bank shall determine the appropriate Federal share of funds for each project described in subsection (g) for purposes of this Act.

SEC. 203. DEVELOPMENT OF FINANCING PACKAGE.

(a) IN GENERAL.—Not later than 60 days after the date on which the Board determines appropriate financing packages for qualified infrastructure projects under section 202, the Board shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) FINANCING PACKAGES.—The Board is authorized—

(1) to act as a centralized entity to provide financing for qualified infrastructure projects;

(2) to issue general purpose infrastructure bonds, and to provide direct subsidies to qualified infrastructure projects from amounts made available from the issuance of such bonds;

(3) to issue project-based infrastructure bonds for the financing of specific qualified infrastructure projects;

(4) to provide loan guarantees to State or local governments issuing debt to finance qualified infrastructure projects, under rules prescribed by the Board, in a manner similar to that described in chapter 6 of title 23, United States Code;

(5) to issue loans, at varying interest rates, including very low interest rates, to qualified project sponsors for qualified projects;

(6) to leverage resources and stimulate public and private investment in infrastructure; and

(7) to encourage States to create additional opportunities for the financing of infrastructure projects.

(c) GENERAL PURPOSE AND INFRASTRUCTURE BONDS.—General purpose and project-based infrastructure bonds issued by the Bank under this Act shall be subject to such terms and limitations as may be established by rules of the Bank, in consultation with the Secretary of the Treasury.

(d) BOND OBLIGATION LIMIT.—The aggregate outstanding amount of all bonds authorized to be issued under this Act may not exceed $60,000,000,000.

(e) FULL FAITH AND CREDIT.—Any obligation issued by the Bank under this Act shall be an obligation supported by the full faith and credit of the United States.

(f) LIMITATION ON FUNDS FROM BOND ISSUANCE.—Not more than 1 percent of funds resulting from the issuance of bonds under this Act may be used to fund the operations of the Bank.

SEC. 204. COUPON NOTES FOR HOLDERS OF INFRASTRUCTURE BONDS.

(a) ISSUANCE OF COUPON NOTES.—Under regulations prescribed by the Bank, in consultation with the Secretary of the Treasury, there may be a separation (including at issuance) of the ownership of an infrastructure bond and the entitlement to the interest with respect to such bond (in this section referred to as a ''coupon note''). In case of any such separation, such interest shall be allowed to the person who on the payment date holds the instrument evidencing the entitlement to the interest, and not to the holder of the bond.

(b) REDEMPTION OF COUPON NOTES.—A coupon note may be used by the owner thereof for the purpose of making any payment to the Federal Government, and shall be accepted for such purpose by the Secretary of the Treasury, subject to rules issued by the Bank, in consultation with the Secretary of the Treasury.

SEC. 205. EXEMPTION FROM LOCAL TAXATION.

Bonds and other obligations issued by the Bank, and the interest on or credits with respect to its bonds or other obligations, shall not be subject to taxation by any State, county, municipality, or local taxing authority.

TITLE III—STUDIES AND REPORTS

SEC. 301. REPORT; DATABASE.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the activities of the Board, for the fiscal year covered by the report, relating to—

(1) the evaluations of qualified infrastructure projects under section 202; and

(2) the financing packages of qualified infrastructure projects under section 203.

(b) DATABASE.—The Bank shall develop, maintain, and update a publicly-accessible database that contains—

(1) a description of each qualified infrastructure project that receives funding from the Bank under this Act—

(A) by project mode or modes;

(B) by project location;

(C) by project sponsor or sponsors; and

(D) by project total cost;

(2) the amount of funding that each qualified infrastructure project receives from the Bank under this Act; and

(3) the form of financing that each qualified infrastructure project receives from the Bank under section 203.

SEC. 302. STUDY AND REPORT ON INFRASTRUCTURE FINANCING MECHANISMS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Board shall conduct a study evaluating the effectiveness of each Federal financing mechanism that is used to support an infrastructure system of the United States.

(b) REQUIREMENTS.—A study conducted under subsection (a) shall—

(1) evaluate the economic efficacy and transparency of each financing mechanism used by—

(A) the Bank to fund qualified infrastructure projects; and

(B) each agency and department of the Federal Government to support infrastructure systems, including—

(i) infrastructure formula funding;

(ii) user fees; and

(iii) modal taxes; and

(2) contain recommendations for improving each funding mechanism evaluated under subparagraphs (A) and (B) of paragraph (1) to increase the economic efficacy and transparency of the Bank, and each agency and department of the Federal Government, to finance infrastructure projects in the United States.

(c) REPORT.—Not later than 30 days after the date on which the Board completes the study conducted under subsection (a), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing each evaluation and recommendation contained in the study.

SEC. 303. GAO REPORT.

Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, a report evaluating the activities of the Bank for the fiscal years covered by the report, including—

(1) the evaluations of qualified infrastructure projects under section 202; and

(2) the financing packages of qualified infrastructure projects under section 203.

CENTER FOR STRATEGIC & INTERNATIONAL STUDIES,
Washington, DC, August 1, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD AND SENATOR HAGEL: I am writing to commend you for your leadership in helping to restore America's deteriorating physical infrastructure. You both have demonstrated great foresight and vision in leading on this important issue.

Three years ago, the Center for Strategic and International Studies launched a study effort under the leadership of former Ambassador Felix Rohatyn and former Senator Warren Rudman. The CSIS Commission on Public Infrastructure issued a declaration of guiding principles for the revitalization of our infrastructure. We were proud that you joined in that declaration. Signatories included senators, governors, and business leaders, all recognizing the need for action.

You have acted. While CSIS cannot endorse specific legislation, we can congratulate you as leaders. From the very first days of our republic, our national leaders saw the need for public investment in productive infrastructure. Public investment produced wealth-generating private sector activity, paying back the public investment many times over.

The commission also called for infrastructure investments made through a rigorous cost-benefit process. Too much public investment in recent years has been earmarked for projects that have not gone through an analytic justification. Your leadership here is also most welcome.

I travel extensively and see how infrastructure investments are transforming the developing world. Faced by this competition, America needs to make public infrastructure a comparable priority as a national re-investment to ensure our future prosperity.

Thank you for your leadership. This is the kind of vision that built America to greatness in the past and will be our path to prosperity in the future.

Sincerely,

JOHN J. HAMRE,
President and CEO.

AUGUST 1, 2007.

As co-chairmen of the CSIS Commission on Public Infrastructure, we strongly support the National Infrastructure Bank Act of 2007.

Introduced by Senators CHRIS DODD and CHUCK HAGEL, this bipartisan legislation will reverse decades of shortchanging our infrastructure and help restructure the federal role by allocating costs and financing more fairly and rationally. The legislation also will help ensure that infrastructure spending is unencumbered by political interference that neglects regional and national priorities. The Act will establish a policy structure for making infrastructure investments that meet our country's critical needs.

The Infrastructure Bank Act will stimulate new, long-term investments in infrastructure that will increase national productivity and improve our standard of living. The proposed Infrastructure Bank Act also will increase the ability of the private sector to play a central role in infrastructure provision and will report on the economic efficacy and transparency of all current federal financing methods. We urge that it be passed into law.

ASCE,
AMERICAN SOCIETY OF CIVIL ENGINEERS,
Washington, DC, August 1, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
Washington, DC.

DEAR SENATOR DODD, SENATOR HAGEL: I am writing on behalf of the more than 140,000 members of the American Society of Civil Engineers (ASCE) to applaud your joint sponsorship of the National Infrastructure Bank Act of 2007. This legislation is a major step forward in providing meaningful financial assistance to the nation's failing infrastructure.

As you know, ASCE concluded in our 2005 Report Card for America's Infrastructure that the nation's infrastructure deserved an overall grade of ''D.'' We said then that America's aging and overburdened infrastructure threatens the economy and quality of life in every state, city, and town in the nation. In addition, we estimated that it will take an investment of $1.6 trillion over a five-year period to bring the nation's existing infrastructure into good working order. Little of significance has changed in the two years since we issued that dismal grade, and establishing a long-term development and maintenance plan remains a pressing national priority.

In creating the National Infrastructure Bank to evaluate and finance ''capacity-building'' infrastructure projects of substantial regional and national significance, the bill would prime the pump to begin meeting the staggering investment needs for our infrastructure. We believe the National Infrastructure Bank Act of 2007 will begin the process of replacing and maintaining economically vital infrastructure systems across the nation. This nation cannot afford to wait much longer to invest significant sums in its infrastructure, and your bill will lead the way.

Please do not hesitate to contact Brian Pallasch, ASCE Director of Government Relations, or Michael Charles, Senior Manager of Government Relations, of our Washington office if we can be of any assistance in passing this important legislation.

Sincerely yours,
PATRICK J. NATALE, P.E., F.ASCE,
Executive Director.

NATIONAL CONSTRUCTION ALLIANCE,
Washington, DC, July 27, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate Washington, DC.

DEAR SENATORS DODD AND HAGEL: The National Construction Alliance represents three of the largest construction unions, the Laborers' International Union of North America, the International Union of Operating Engineers, and the United Brotherhood of Carpenters and Joiners of America, representing over 1.7 million members.

We want to go on record in support of your National Infrastructure Bank Act of 2007.

We fully understand the need and responsibility we have to our nation and to our members to find a way to fund substantial regional and significant national infrastructure projects.

We look forward to working with you and your colleagues in making the Dodd/Hagel National Infrastructure Bank Act of 2007 a permanent part of the solution to funding our nation's most important infrastructure projects.

Sincerely,
RAYMOND J. POUPORE,
Executive Vice President.

GOLDMAN, SACHS & CO.
New York, New York, July 27, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN DODD AND SENATOR HAGEL: Thank you for the opportunity to review your proposed National Infrastructure Bank Act of 2007. Goldman Sachs shares your concern about our nation's aging infrastructure and its negative effects on our economy and our environment, and we strongly agree with you about the need to encourage additional infrastructure investment. We believe enactment of your legislation would help spur significant new investment in this area and thereby help address this urgent national problem.

We support the National Infrastructure Bank Act of 2007 and thank you for your leadership on this critical issue.

Sincerely,
TRACY R. WOLSTENCROFT.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington DC, August 1, 2007.

Hon. CHRISTOPHER DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND HAGEL: On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I want to applaud your proposal to create a National Infrastructure Bank. As we look to the future, high-quality public transportation service must be available to more Americans and in more communities. Public transportation helps to reduce congestion and increases mobility. Transit also significantly reduces energy consumption, saving more than 1.4 billion gallons of gasoline every year. Americans are choosing to ride transit in record numbers, taking more than 10.1 billion trips in 2006. Unfortunately, only 54 percent of households have access to transit of any kind as they plan their daily travel.

Much of the success of public transportation is due to federal investment in public transportation infrastructure, and the creation of a National Infrastructure Bank would extend valuable new federal resources to transit investment. The innovative financing and investment tools of a National Infrastructure Bank would aid the development and expansion of fixed guideway systems. These major projects require significant investments, but they are crucial to attracting new riders. Federal support for new starts has helped to finance 127 new fixed guideway systems and system extensions which have gone into service since 1995. Looking ahead, such systems are more necessary than ever to address rapidly growing levels of congestion and to meet additional demands for travel. According to an APTA survey, new capital funds are needed for some 280 projects that will add 4,044 system miles of fixed guideway transit.

If we expect our surface transportation infrastructure system to continue to provide a competitive edge for the United States, federal, state and local investment in public transportation is necessary, and new financing mechanisms like the National Infrastructure Bank must be investigated. APTA thanks you for your commitment to the further expansion of public transportation, and we look forward to working with you to advance your proposal.

Sincerely yours,
WILLIAM W. MILLAR,
President.

By Mr. MCCONNELL (for himself and Mr. BOND):

S. 1927. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes; read the first time.

Mr. MCCONNELL. 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. 1927

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 ''Protect America Act of 2007''.

SEC. 2. ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS OF FOREIGN INTELLIGENCE INFORMATION.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105 the following:

''CLARIFICATION OF ELECTRONIC SURVEILLANCE OF PERSONS OUTSIDE THE UNITED STATES

''SEC. 105A. Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance directed at a person reasonably believed to be located outside of the United States.

''ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS CONCERNING PERSONS LOCATED OUTSIDE THE UNITED STATES

''SEC. 105B. (a) Notwithstanding any other law, the Director of National Intelligence and the Attorney General, may for periods of up to one year authorize the acquisition of foreign intelligence information concerning persons reasonably believed to be outside the United States if the Director of National Intelligence and the Attorney General determine, based on the information provided to them, that—

''(1) there are reasonable procedures in place for determining that the acquisition of foreign intelligence information under this section concerns persons reasonably believed to be located outside the United States, and such procedures will be subject to review of the Court pursuant to section 105C of this Act;

''(2) the acquisition does not constitute electronic surveillance;

''(3) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access to communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

''(4) a significant purpose of the acquisition is to obtain foreign intelligence information; and

''(5) the minimization procedures to be used with respect to such acquisition activity meet the definition of minimization procedures under section 101(h).

''This determination shall be in the form of a written certification, under oath, supported as appropriate by affidavit of appropriate officials in the national security field occupying positions appointed by the President, by and with the consent of the Senate, or the Head of any Agency of the Intelligence Community, unless immediate action by the Government is required and time does not permit the preparation of a certification.

In such a case, the determination of the Director of National Intelligence and the Attorney General shall be reduced to a certification as soon as possible but in no event more than 72 hours after the determination is made.

''(b) A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

''(c) The Attorney General shall transmit as soon as practicable under seal to the court established under section 103(a) a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under section 105B.

''(d) An acquisition under this section may be conducted only in accordance with the certification of the Director of National Intelligence and the Attorney General, or their oral instructions if time does not permit the preparation of a certification, and the minimization procedures adopted by the Attorney General. The Director of National Intelligence and the Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 108(a).

''(e) With respect to an authorization of an acquisition under section 105B, the Director of National Intelligence and Attorney General may direct a person to—

''(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition in such a manner as will protect the secrecy of the acquisition and produce a minimum of interference with the services that such person is providing to the target; and

''(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such person wishes to maintain.

''(f) The Government shall compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to subsection (e).

''(g) In the case of a failure to comply with a directive issued pursuant to subsection (e), the Attorney General may invoke the aid of the court established under section 103(a) to compel compliance with the directive. The court shall issue an order requiring the person to comply with the directive if it finds that the directive was issued in accordance with subsection (e) and is otherwise lawful. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person may be found.

''(h)(1)(A) A person receiving a directive issued pursuant to subsection (e) may challenge the legality of that directive by filing a petition with the pool established under section 103(e)(1).

''(B) The presiding judge designated pursuant to section 103(b) shall assign a petition filed under subparagraph (A) to one of the judges serving in the pool established by section 103(e)(1). Not later than 48 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines the petition is not frivolous, the assigned judge shall, within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subsection.

''(2) A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that such directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with such directive.

''(3) Any directive not explicitly modified or set aside under this subsection shall remain in full effect.

''(i) The Government or a person receiving a directive reviewed pursuant to subsection (h) may file a petition with the Court of Review established under section 103(b) for review of the decision issued pursuant to subsection (h) not later than 7 days after the issuance of such decision. Such court of review shall have jurisdiction to consider such petitions and shall provide for the record a written statement of the reasons for its decision. On petition for a writ of certiorari by the Government or any person receiving such directive, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

''(j) Judicial proceedings under this section shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(k) All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(l) Notwithstanding any other law, no cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with a directive under this section.

''(m) A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.''.

SEC. 3. SUBMISSION TO COURT REVIEW AND ASSESSMENT OF PROCEDURES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105B the following:

''SUBMISSION TO COURT REVIEW OF PROCEDURES

''SEC. 105C. (a) No later than 120 days after the effective date of this Act, the Attorney General shall submit to the Court established under section 103(a), the procedures by which the Government determines that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The procedures submitted pursuant to this section shall be updated and submitted to the Court on an annual basis.

''(b) No later than 180 days after the effective date of this Act, the court established under section 103(a) shall assess the Government's determination under section 105B(a)(1) that those procedures are reasonably designed to ensure that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The court's review shall be limited to whether the Government's determination is clearly erroneous.

''(c) If the court concludes that the determination is not clearly erroneous, it shall enter an order approving the continued use of such procedures. If the court concludes that the determination is clearly erroneous, it shall issue an order directing the Government to submit new procedures within 30 days or cease any acquisitions under section 105B that are implicated by the court's order.

''(d) The Government may appeal any order issued under subsection (c) to the court established under section 103(b). If such court determines that the order was properly entered, the court shall immediately provide for the record a written statement of each reason for its decision, and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision. Any acquisitions affected by the order issued under subsection (c) of this section may continue during the pendency of any appeal, the period during which a petition for writ of certiorari may be pending, and any review by the Supreme Court of the United States.''.

SEC. 4. REPORTING TO CONGRESS.

On a semi-annual basis the Attorney General shall inform the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning acquisitions under this section during the previous 6-month period. Each report made under this section shall include—

(1) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under section 105B, to include—

(A) incidents of non-compliance by an element of the Intelligence Community with guidelines or procedures established for determining that the acquisition of foreign intelligence authorized by the Attorney General and Director of National Intelligence concerns persons reasonably to be outside the United States; and

(B) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issue a directive under this section; and

(2) the number of certifications and directives issued during the reporting period.

SEC. 5. TECHNICAL AMENDMENT AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''; and

(2) in paragraph (2), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 105 the following:

''105A. Clarification of electronic surveillance of persons outside the United States.

''105B. Additional procedure for authorizing certain acquisitions concerning persons located outside the United States.

''105C. Submission to court review of procedures.''.

SEC. 6. EFFECTIVE DATE; TRANSITION PROCEDURES.

(a) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this Act

shall take effect immediately after the date of the enactment of this Act.

(b) TRANSITION PROCEDURES.—Notwithstanding any other provision of this Act, any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall remain in effect until the date of expiration of such order, and, at the request of the applicant, the court established under section 103 (a) of such Act (50 U.S.C. 1803(a)) shall reauthorize such order as long as the facts and circumstances continue to justify issuance of such order under the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the applicable effective date of this Act. The Government also may file new applications, and the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall enter orders granting such applications pursuant to such Act, as long as the application meets the requirements set forth under the provisions of such Act as in effect on the day before the effective date of this Act. At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)), shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act. Any surveillance conducted pursuant to an order entered under this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as in effect on the day before the effective date of this Act.

By Mr. KENNEDY (for himself, Mr. DODD, Mrs. MURRAY, Mrs. CLINTON, Mr. OBAMA, Mr. LEAHY, Mr. FEINGOLD, and Ms. CANTWELL):

S. 1928. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available under that section; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is an honor to join my colleagues in introducing the Equal Remedies Act of 2007 to repeal the caps on the amount of damages available in employment discrimination cases under the Civil Rights Act of 1991.

This legislation will end the glaring inequality in the current Federal anti-discrimination laws. The Civil Rights Act of 1991 gave women, religious minorities, and disabled workers the right to recover compensatory and punitive damages for intentional employment discrimination, but only up to certain specified monetary limits. By contrast, victims of such discrimination on the basis of race or national origin can recover damages without such limitations, because they can bring their cases under another statute. The Equal Remedies Act will remove this inequity by eliminating the caps on such damages under current law.

The caps were included in the 1991 act as part of a compromise that the first President Bush would sign. That legislation also reversed a series of Supreme Court decisions that had rolled back other basic civil rights protections and made it more difficult for working Americans to challenge discrimination. The 1991 Act as a whole represented a significant advance in the ongoing battle to eliminate discrimination in the workplace.

But, it's long past time to end the double standard that consigns women, religious minorities, and the disabled to second-class remedies under the civil rights laws.

The caps are especially unfair, because they deny adequate remedies to the most severely injured victims of discrimination. For example, a woman who needs extensive medical treatment as a result of severe sexual harassment, such as an assault, she will be limited to receiving only partial compensation for her injury.

The goal of providing damages is to hold employers accountable and to make victims whole to the greatest extent possible for the discrimination they suffered. The current limit prevents accountability and keeps the victim from obtaining full relief.

The caps serve no justifiable purpose. They shield the worst employers from the full consequences of the most outrageous acts of discrimination. The deterrent purpose of damages fails when employers know that their liability is limited.

Take, for example, Sharon Deters and her case against Equifax Credit Information Services. Sharon suffered constant sexual taunts and insults from her coworkers. Her supervisor praised her harassers' behavior and allowed it to continue. The jury in her case was so outraged by her employer's conduct that it awarded her $1 million in punitive damages, finding that such an award was necessary to get her employer's attention and make it change its ways. The caps on damages, however, reduced Sharon's award to $300,000.

Results like that are not fair. They fail to fulfill the statutory purpose of such damages provision, which is to deter further violations. By passing the Equal Remedies Act of 2007, Congress will be affirming the basic principle of equal justice for all Americans. I urge my colleagues to join in supporting this important change.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1929. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to conduct a feasibility study of water augmentation alternatives in the Sierra Vista Subwatershed; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN to introduce the Sierra Vista Sub-watershed Feasibility Study Act. This important piece of legislation is designed to authorize the Secretary of the Interior to study alternatives to augment the water supplies in a critical area of southern Arizona in the Sierra Vista Sub-watershed, which is home to a congressionally protected riparian area known as the San Pedro Riparian National Conservation Area, SPRNCA, the U.S. Army Intelligence Center at Fort Huachuca, and nearly 76,000 residents.

SPRNCA, which protects nearly 43 miles of the San Pedro River, serves as a principal passage for the migration of approximately 4 million birds. It also provides crucial habitat for 100 species of birds, 81 species of mammals, 43 species of reptiles and amphibians, and two threatened species of native fish. The Nature Conservancy has called the area one of the ''last great places on earth.''

Fort Huachuca, which is adjacent to SPRNCA, plays a critical role in this country's national security by, among other things, training soldiers in military intelligence. It also is the largest employer in the area, contributing greatly to the economy of Cochise County and the State of Arizona.

In recent years, the Fort has done an exemplary job of implementing water conservation and recharge measures as part of its responsibilities under the Endangered Species Act. Indeed, since 1995, it has reduced its groundwater pumping by more than 50 percent.

Nevertheless, water levels in certain areas of the regional aquifer in the Sierra Vista Sub-watershed are still declining due to natural causes and development near Sierra Vista. Because SPRNCA and the fort could be negatively impacted by these declining water levels, a 2007 U.S. Bureau of Reclamation Appraisal level study concluded that augmenting the local water supply is necessary. To that end, Reclamation's study recommended several augmentation alternatives for further study, all of which are supported by the Upper San Pedro Partnership, a congressionally recognized consortium of 21 local, state, and Federal agencies and private organizations.

The legislation I am introducing today would authorize the Secretary to conduct a feasibility study of the alternatives recommended by Reclamation for further study. The legislation would also authorize appropriations for the Federal share of the study's costs. Importantly, the non-Federal cost share would be at least 55 percent, indicating the non-Federal parties' strong commitment to the study.

The feasibility study authorized under this legislation is the next step in the process of determining how to best address the water challenges facing the Sierra Vista Sub-watershed. Consequently, I urge my colleagues to support this legislation.

By Mr. WYDEN (for himself, Mr. ALEXANDER, Mr. KERRY, Ms. SNOWE, Mr. FEINGOLD, Mr. BIDEN, Mr. DODD, and Mr. OBAMA):

S. 1930. A bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. WYDEN. Mr. President, about a year ago, a group of hardwood plywood

manufacturers came to me with a problem, Chinese hardwood plywood imports were threatening their businesses. They raised a whole host of issues, from tariff misclassification to subsidies to fraudulent labeling to illegal logging. These unfair and illegal practices were lowering the costs of the Chinese hardwood plywood imports, giving them an unfair advantage over U.S. hardwood plywood and putting American companies in jeopardy of going out of business and the folks that they employ out of work.

Since that time, I have been working to level the playing field for Oregon hardwood plywood manufacturers and protect the jobs of the workers that they employ. I have met with the Department of Commerce, the Office of the U.S. Trade Representative, Customs and Border Patrol, and the International Trade Commission and urged them to investigate these issues and, where appropriate, act to address them. They have, raising these troubling practices in diplomatic negotiations, opening investigations, and even filing a case before the World Trade Organization targeting Chinese subsidies that benefit the hardwood plywood industry, among others.

Today, with the support of industry, labor, and the environmental community, I am proud to introduce the Combat Illegal Logging Act of 2007 to halt the trade in illegal timber and timber products. This act will help to level the playing field, not just for Oregon hardwood plywood manufacturers affected by Chinese imports, but for all American manufacturers across the country struggling to compete against imported, low-priced wood and wood products harvested from illegal sources.

Equally important, the act helps address an illegal logging crisis. From the Amazon to the Congo Basin, from Sulawesi to Siberia, illegal logging is destroying ecosystems. It is gutting local economies. It is annihilating ways of life. Because of the speed and violence with which illegal logging is occurring, failing to curb its effects now may result in irreversible damage.

The bill that I am introducing today can help curb illegal logging and thwart its devastating consequences.

The Lacey Act currently regulates trade in fish, wildlife, and a limited subset of plants by making it unlawful to ''import, export, transport, sell, receive, acquire, or purchase'' any that are taken, possessed, transported or sold in violation of any State law or, with respect to fish and wildlife only, any foreign law. The Combat Illegal Logging Act of 2007 would expand the Lacey Act so that violations of foreign law that apply to plants and plant products fall within its protections. It would also specify the types of foreign law violations that trigger Lacey Act liability, laws intended to prevent theft or ensure the legal right to harvest the plants. Finally, the act would create a declaration requirement to facilitate the Lacey Act's enforcement for timber without placing an undue burden upon law-abiding businesses.

The declaration requirements provide basic transparency for wood shipments. The declaration will have critical value for combating illegal logging by 1. encouraging importers to ask basic questions regarding the origin of their timber and timber products; 2. providing information at the point of import that will allow authorities with limited resources to do efficient, targeted inspections and enforcement; and 3. helping enforcement agents to immediately identify ''low-hanging fruit,'' such as timber expressly prohibited to be exported.

The act will definitely change the way that folks who are importing illegally harvested timber and wood products do business, this is its intended purpose. But for the many companies who already play by the rules, the act's requirements should result in minimal changes to the way they operate. Moreover, when the act's impact from a competitiveness standpoint is factored in, the effect is a net positive for these companies. This act changes the incentives to reward due diligence, a sound long-term business strategy from any perspective.

This bill is the culmination of hundreds of hours of work by stakeholders that many might view as strange bedfellows. The principal negotiators of the compromise, the American Forest & Paper Association, the Hardwood Federation, and the Environmental Investigation Agency, deserve a tremendous amount of credit for sticking with this and finding a solution that everyone could support. I applaud them for their hard work, the maturity with which they approached the issue, and the respect that they showed each other throughout the process. Their conduct is a model for how things should work in Washington.

I would also like to applaud the work of several of my colleagues in the House, Congressman BLUMENAUER, Congressman WEXLER, and Congressman WELLER, who introduced their own illegal logging bill, the Legal Timber Protection Act, earlier this year. I understand that their bill may be taken up by the House Natural Resources Committee this fall and I am hopeful that they will substitute the broadly supported text of the Combat Illegal Logging Act for their bill, paving the way for the enactment of this important piece of legislation.

I would like to thank Senator ALEXANDER, Senator KERRY, Senator SNOWE, and Senator FEINGOLD for agreeing to be original cosponsors of the bill. I would also like to thank the following organizations, in addition to the American Forest & Paper Association, the Hardwood Federation, and the Environmental Investigation Agency for endorsing the bill: Center for International Environmental Law, Conservation International, Defenders of Wildlife, Dogwood Alliance, ForestEthics, Friends of the Earth, Global Witness, Greenpeace, International Brotherhood of Teamsters, National Hardwood Lumber Association, Natural Resources Defense Council, Rainforest Action Network, Rainforest Alliance, Sierra Club, Society of American Foresters, Sustainable Furniture Council, The Nature Conservancy, Tropical Forest Trust, United Steelworkers, Wildlife Conservation Society, World Wildlife Fund.

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

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

S. 1930

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 ''Combat Illegal Logging Act of 2007''.

SEC. 2. PREVENTION OF ILLEGAL LOGGING PRACTICES.

The Lacey Act Amendments of 1981 are amended—

(1) in section 2 (16 U.S.C. 3371)—

(A) by striking subsection (f) and inserting the following:

''(f) PLANT.—

''(1) IN GENERAL.—The term 'plant' means any wild member of the plant kingdom, including roots, seeds, parts, and products thereof.

''(2) EXCLUSIONS.—The term 'plant' excludes any common food crop or cultivar that is a species not listed—

''(A) in the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on March 3, 1973 (27 UST 1087; TIAS 8249); or

''(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).'';

(B) in subsection (h), by inserting ''also'' after ''plants the term''; and

(C) by striking subsection (j) and inserting the following:

''(j) TAKE.—The term 'take' means—

''(1) to capture, kill, or collect; and

''(2) with respect to a plant, also to harvest, cut, log, or remove.'';

(2) in section 3 (16 U.S.C. 3372)—

(A) in subsection (a)—

(i) in paragraph (2), by striking subparagraph (B) and inserting the following:

''(B) any plant—

''(i) taken, transported, possessed, or sold in violation of any foreign law or any law or regulation of any State that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, transported, or exported without the payment of appropriate royalties, taxes, or stumpage fees required by any foreign law or by any law or regulation of any State; or

''(iii) exported or transshipped in violation of any limitation under any foreign law or by any law or regulation of any State; or''; and

(ii) in paragraph (3), by striking subparagraph (B) and inserting the following:

''(B) to possess any plant—

''(i) taken, transported, possessed, or sold in violation of any foreign law or any law or

regulation of any State that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, transported, or exported without the payment of appropriate royalties, taxes, or stumpage fees required by any foreign law or by any law or regulation of any State; or

''(iii) exported or transshipped in violation of any limitation under any foreign law or by any law or regulation of any State; or''; and

(B) by adding at the end the following:

''(f) PLANT DECLARATIONS.—

''(1) IN GENERAL.—Effective 180 days from the date of enactment of this subsection, it shall be unlawful for any person to import any plant unless the person files upon importation where clearance is requested a declaration that contains—

''(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

''(B) a description of—

''(i) the value of the importation; and

''(ii) the quantity, including the unit of measure, of the plant; and

''(C) the name of the country from which the plant was taken.

''(2) DECLARATION RELATING TO PLANT PRODUCTS.—Until the date on which the Secretary promulgates a regulation under paragraph (5), a declaration relating to a plant product shall—

''(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product; and

''(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than 1 country, and the country from which the plant was taken and used to produce the plant product is unknown, contain the name of each country from which the plant may have been taken.

''(3) REVIEW.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement described in paragraphs (1) and (2).

''(4) REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (3), the Secretary shall submit to the appropriate committees of Congress a report containing—

''(i) an evaluation of—

''(I) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of section 3; and

''(II) the potential to harmonize each requirement described in paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;

''(ii) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of section 3; and

''(iii) an analysis of the effect of the provisions of subsection (a) and (f) on—

''(I) the cost of legal plant imports; and

''(II) the extent and methodology of illegal logging practices and trafficking.

''(B) PUBLIC PARTICIPATION.—In conducting the review under paragraph (3), the Secretary shall provide public notice and an opportunity for comment.

''(5) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (3), the Secretary may promulgate regulations—

''(A) to limit the applicability of any requirement described in paragraph (2) to specific plant products; and

''(B) to make any other necessary modification to any requirement described in paragraph (2), as determined by the Secretary based on the review under paragraph (3).''; and

(3) in section 7(a)(1) (16 U.S.C. 3376(a)(1)), by striking ''section 4'' and inserting ''section 3(f), section 4,''.

By Mr. TESTER:

S. 1931. A bill to amend the Mineral Leasing Act to ensure that development of certain Federal oil and gas resources will occur in a manner that protects water resources and respects the rights of surface owners, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. TESTER. Mr. President, I rise today to introduce the Surface Owner Protection Act to help protect private property on split estates.

The Western U.S. is experiencing a boom in oil and gas exploration that will contribute to the domestic supply of energy in this country, improve our National security and help control energy costs for American consumers. But if it is not done right oil and gas leasing can be damaging to wildlife, pollute our water, and scar the land. Furthermore, in many areas of the West the land is in split estates where mineral rights are owned by the Federal Government, but the surface is owned by a private land owner. Oftentimes the process of oil and gas leasing and drilling does not adequately involve surface owners or protect their agricultural livelihoods that are disrupted during energy development. Split estates cover 58 million acres in the U.S., and 11.7 million acres in Montana alone. That is just slightly smaller than the size of New Jersey, Maryland, and Delaware combined.

In states like Montana, Wyoming, and Colorado there has been a rapid increase in the number of leases and the amount of acreage that the Bureau of Land Management is approving for oil and gas exploration. It is expected that coal-bed methane development will bring tens of thousands of wells in coming decades. The rapid growth is causing general unease in some areas because surface owners have few rights when it comes to oil and gas exploration on their land.

Too often surface owners have no idea that their minerals are owned by someone else or when they are going to be leased. The legislation I am introducing today is meant to better involve surface owners in the process of oil and gas exploration by requiring notification to surface owners when their land is going to be leased, require operators to replace any water that disrupts other users, and requires bonding for the reclamation of surface land. Surface owners should have a clear role in each step of the process from the day a lease sale is announced to the time when the rigs are gone and reclamation work is completed.

Critics of this measure will argue that it gets in the way of drilling. I would say that oil and gas drilling should not get in the way of farmers and ranchers going about their business without clear legal guidelines. The protection of private property rights is crucially important as a personal freedom in the U.S. and we must take steps to protect them.

I encourage members of this body to support this measure as we move forward because I believe that we can improve the way we conduct oil and gas leases on split estates. A better balance between oil and gas interests and surface owners is possible, but we need to make sure that we develop our energy resources in an appropriate manner with respect to private property owners.

By Mr. REID (for himself, Mr. ENSIGN, Mrs. BOXER, Mr. BAUCUS, Mrs. MURRAY, Mrs. CLINTON, Mr. SANDERS, and Mr. CONRAD):

S. 1933. A bill to amend the Safe Drinking Water Act to provide grants to small public drinking water systems; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, small rural water systems are facing compliance deadlines, and need assistance without burdensome matching funding requirements. The Small Community Drinking Water Funding Act that I am introducing today with Senators ENSIGN, BOXER, MURRAY, CLINTON, BAUCUS, SANDERS, and CONRAD, amends the Safe Drinking Water Act to require the Administrator of the Environmental Protection Agency to establish a Small Public Water System Assistance Program. This program is to support small water systems in complying with national primary drinking water regulations, and includes a program for Indian tribes.

The smallest public water systems, which serve fewer than 3,300 people, represent 85 percent of all public water systems. Small public water systems serving fewer than 10,000 people represent 94 percent of all public water systems. Small communities throughout Nevada would benefit from a grant program designed to provide funding for water quality projects without a difficult matching requirement; and Federal programs in effect as of the date of enactment of this act do not adequately meet the needs of small communities in Nevada with respect to public water systems. The Small Community Drinking Water Funding Act will authorize $750,000,000 for each of the fiscal years 2008 through 2014. Nevada should be able to secure a substantial portion of this funding because of the State's rural water systems needs.

The purpose of this bill is to establish a program to provide grants to small public water systems to meet applicable national primary drinking water regulations under the Safe Drinking Water Act. Second, maintain water costs at a reasonable level for the communities served by small public water systems. Third, obtain technical assistance to develop the capacity to sustain operations over the long term.

This legislation is intended to ensure that our Nation's small, disadvantaged communities have access to the financial help they need to provide safe, reliable, and affordable drinking water with the authorization of $750 million annually for 7 years starting next year. The Small Community Safe Drinking Water Act provides substantial flexibility to States.

Nevada's small communities are facing a drinking water infrastructure crisis. These communities, and other small communities nationwide, confront increasing demand for clean, reliable, and affordable drinking water. But it is simply too costly for small communities, alone, to address this water infrastructure crisis.

They need a financial helping hand from the Federal Government.

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

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

S. 1933

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Community Drinking Water Funding Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in some cases, drinking water standards in effect and proposed as of the date of enactment of this Act can place large financial burdens on public water systems, especially systems that serve fewer than a few thousand people;

(2) some small public water systems have experienced water contamination problems that may pose a significant risk to the health of water consumers;

(3) small communities are concerned about improving drinking water quality;

(4) the limited scientific, technical, and professional resources of many small communities make understanding and implementing regulatory requirements very difficult;

(5) small communities often struggle to meet water quality standards because of difficulty in securing funding;

(6) small communities often lack a tax base or opportunities to benefit from economics of scale and therefore face very high per capita costs in improving drinking water quality;

(7) the smallest public water systems, which serve fewer than 3,300 people, represent 85 percent of all public water systems;

(8) small public water systems serving fewer than 10,000 people represent 94 percent of all public water systems;

(9) small communities would benefit from a grant program designed to provide funding for water quality projects without a substantial matching requirement; and

(10) Federal programs in effect as of the date of enactment of this Act do not adequately meet the needs of small communities with respect to public water systems.

(b) PURPOSE.—The purpose of this Act is to establish a program to provide grants to small public water systems to—

(1) meet applicable national primary drinking water regulations under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(2) maintain water costs at a reasonable level for the communities served by small public water systems; and

(3) obtain technical assistance to develop the capacity to sustain operations over the long term.

SEC. 3. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—Section 1401(14) of the Safe Drinking Water Act (42 U.S.C. 300f(14)) is amended in the second sentence by striking ''1452,'' and inserting ''1452 and part G,''.

(b) ESTABLISHMENT OF PROGRAM.—The Safe Drinking Water Act (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

"PART G—SMALL PUBLIC WATER SYSTEM ASSISTANCE

"SEC. 1471. DEFINITIONS.

''In this part:

''(1) ELIGIBLE ACTIVITY.—

''(A) IN GENERAL.—The term 'eligible activity' means an activity concerning a small public water system (including obtaining technical assistance) that is carried out by an eligible entity for a purpose consistent with section 1473(c)(1) or 1474(c)(1), as appropriate.

''(B) EXCLUSION.—The term 'eligible activity' does not include any activity to increase the population served by a small public water system, except to the extent that the State under section 1473(b)(1) or the Administrator under section 1474(b)(1) determines an activity to be necessary to—

''(i) achieve compliance with a national primary drinking water regulation; and

''(ii) provide a water supply to a population that, as of the date of enactment of this part, is not served by a safe public water system.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a small public water system that—

''(A) is located in a State or an area governed by an Indian Tribe; and

''(B)(i) if located in a State, serves a community that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State to be—

''(I) a disadvantaged community; or

''(II) a community the State expects to become a disadvantaged community as a result of carrying out an eligible activity; or

''(ii) if located in an area governed by an Indian Tribe, serves a community that is determined by the Administrator, under criteria published by the Administrator under section 1452(d)(3) and in consultation with the Secretary, to be—

''(I) a disadvantaged community; or

''(II) a community the Administrator expects to become a disadvantaged community as a result of carrying out an eligible activity.

''(3) ELIGIBLE STATE.—The term 'eligible State' means a State that has—

''(A) adopted, and is implementing, an approved operator certification program under section 1419; and

''(B) established affordability criteria under section 1452(d)(3) for use in identifying disadvantaged communities.

''(4) PROGRAM.—The term 'Program' means the Small Public Water System Assistance Program established under section 1472(a).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Director of the Indian Health Service.

''(6) SMALL PUBLIC WATER SYSTEM.—The term 'small public water system' means a public water system (including a community water system and a noncommunity water system) that serves a population of 10,000 or fewer.

"SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Not later than July 1, 2008, the Administrator shall establish within the Environmental Protection Agency a Small Public Water System Assistance Program.

''(b) DUTIES.—The head of the Program shall—

''(1) in accordance with section 1474, establish and administer a small public water system assistance program for, and provide grants to, eligible entities located in areas governed by Indian Tribes, for use in carrying out eligible activities;

''(2) identify, and prepare annual prioritized lists of, activities for eligible entities located in areas governed by Indian Tribes that are eligible for grants under section 1474;

''(3) provide funds to States for use in establishing small public water system assistance programs under section 1473 that award grants to eligible entities to carry out eligible activities; and

''(4) prepare, and submit to the Administrator, the reports required under subsection (d).

''(c) ALLOCATION OF FUNDS.—

''(1) STATES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (D) and paragraph (2)(A), for each fiscal year, the Administrator, through the head of the Program, using the most recent available needs survey conducted by the Administrator under section 1452(h), shall allocate the funds made available to carry out the Program for the fiscal year among eligible States based on the ratio that—

''(i) the financial need associated with treatment projects for small public water systems in the State; bears to

''(ii) the total financial need associated with treatment projects for all small public water systems in all States.

''(B) ADDITIONAL REQUIREMENTS.—Any additional financial needs of small public water systems associated with the cost of treatment projects needed to comply with a national primary drinking water regulation that is promulgated after the most recent needs survey conducted under section 1452(h) shall be factored into the determination of financial need under clauses (i) and (ii) of subparagraph (A) for each fiscal year.

''(C) MINIMUM ALLOCATION.—An allocation of funds to a State for a fiscal year under subparagraph (A), taking into consideration any additional financial needs described in subparagraph (B), shall be in an amount that is at least 1 percent of the amount of funds available for that fiscal year.

''(D) REDISTRIBUTION IF NONUSE.—If a State does not qualify for, or fails to request, funds allocated to the State under subparagraph (A) in any fiscal year, the Administrator shall redistribute the funds among the States that—

''(i) request funds for that fiscal year; and

''(ii) are eligible to receive the funds under subparagraph (A) for that fiscal year.

''(2) INDIAN TRIBES.—

''(A) IN GENERAL.—For each fiscal year, in accordance with subparagraph (B), 3 percent of the total amount of funds made available to carry out the Program for the fiscal year shall be allocated by the Administrator to provide grants to eligible entities that are located in areas governed by Indian Tribes

through the program established under section 1474(a).

''(B) USE OF FUNDS.—

''(i) IN GENERAL.—For each fiscal year, the Administrator shall award, on a competitive basis, not less than 1.5 percent of the funds allocated under subparagraph (A) to nonprofit technical assistance organizations, to be used for the purposes of—

''(I) assisting the Administrator in preparing the list required under section 1474(b) (including assisting the Administrator in identifying the highest priority eligible activities for eligible entities located in areas governed by Indian Tribes for which a grant under section 1474 may be used);

''(II) assisting eligible entities located in areas governed by Indian Tribes in—

''(aa) assessing needs relating to eligible activities; and

''(bb) identifying available sources of funding to meet the cost-sharing requirement of section 1474(f)(1); and

''(III) assisting eligible entities located in areas governed by Indian Tribes that receive funding under section 1474 in—

''(aa) planning, implementing, and maintaining eligible activities that are funded under that section; and

''(bb) preparing reports required under section 1474(h).

''(ii) CONSULTATION.—Each nonprofit technical assistance organization that receives funds under clause (i) shall consult with the Administrator, through the head of the program, before carrying out any activity for the purposes described in subclauses (II)(aa) and (III)(aa) of that clause.

''(iii) NO FUNDS FOR LOBBYING EXPENSES.—None of the funds made available to a nonprofit technical assistance organization under clause (i) shall be used to pay lobbying expenses.

''(3) PROGRAM.—For each fiscal year, the Administrator may use not more than 0.1 percent of the funds made available to carry out the Program to pay reasonable costs incurred in the administration of the Program.

''(d) REPORTS.—Not later than January 1, 2009, and annually thereafter through January 1, 2014, the Administrator shall—

''(1) submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report that, for the preceding fiscal year—

''(A) lists the eligible activities for eligible entities, as prepared under sections 1473(b)(1) and 1474(b)(1), located in areas governed by Indian Tribes and in each State receiving funds under this part;

''(B) identifies the number of grants awarded by each State, and by the Administrator to eligible entities located in areas governed by Indian Tribes, under this part;

''(C) identifies each eligible entity that received a grant to carry out an eligible activity;

''(D) identifies the amount of each grant provided to an eligible entity to carry out an eligible activity; and

''(E) describes each eligible activity funded by such a grant (including the status of the eligible activity); and

''(2) make the report under paragraph (1) available to the public.

''SEC. 1473. STATE SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAMS.

''(a) IN GENERAL.—To be eligible to receive funding under this part, a State shall—

''(1) be an eligible State;

''(2) not later than July 1, 2008 (if funding is sought for fiscal year 2008) or not later than September 30 of any of fiscal years 2008 through 2014 (if funding is sought for the following fiscal year), establish a small public water system assistance program—

''(A) under which the requirements of subsection (b), oversight, and related activities (other than financial administration) with respect to the program are administered—

''(i) in the case of a State that is exercising primary enforcement responsibility for public water systems, by the State agency having primary responsibility for administration of the State program under section 1413; and

''(ii) in the case of a State that is not exercising primary enforcement authority for public water systems, by a State agency selected by the Governor of the State; and

''(B) that meets the requirements of this section; and

''(3) for each fiscal year for which funding is sought under this section—

''(A) in preparing an intended use plan under section 1452(b), after providing for public review and comment, prepare an annual list of eligible activities for eligible entities in the State in accordance with subsection (b); and

''(B) prepare and submit to the Administrator a request for the funding, by such date and in such form as the Administrator shall prescribe.

''(b) PROGRAM PRIORITY REQUIREMENT.—

''(1) LIST OF ELIGIBLE ACTIVITIES.—A small public water system assistance program established under subsection (a) shall, for each fiscal year for which funding is sought, identify, and, using the priority criteria described in paragraph (2) and considering the additional criteria described in paragraph (3), list in descending order of priority, eligible activities for eligible entities in the State for which funds provided from a grant under this part may be used.

''(2) PRIORITY CRITERIA.—In preparing the list under paragraph (1), a small public water system assistance program shall give priority for the use of grants to eligible activities that—

''(A) address the most serious risk to human health;

''(B) are necessary to ensure compliance with national primary water regulations applicable to eligible entities under section 1412; and

''(C) assist systems most in need, as calculated on the basis of median household income, under affordability criteria established by the State under section 1452(d)(3).

''(3) ADDITIONAL CRITERIA.—In addition to the priority criteria described in paragraph (2), a small public water system assistance program shall, in preparing a list under paragraph (1), consider giving additional priority to any listed eligible activities that are to be carried out by communities that form management cooperatives (including management cooperatives between systems that do not have connections).

''(c) USE OF FUNDS.—Using any funds received by a State under this section for a fiscal year, in accordance with the list prepared under subsection (b), a small public water system assistance program established by the State under subsection (a)—

''(1) shall provide to an eligible entity, on a cost-shared basis, a grant to be used for an eligible activity (including source water protection) the purpose of which is compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(2) shall—

''(A) award, on a competitive basis, not less than 1.5 percent of the funds to nonprofit technical assistance organizations to be used for the purposes of—

''(i) assisting the State in preparing the list required under subsection (b) (including assisting the State in identifying the highest priority eligible activities for eligible entities located in the State for which a grant under this section may be used); and

''(ii) assisting eligible entities in—

''(I) assessing needs relating to eligible activities;

''(II) identifying available sources of funding to meet the cost-sharing requirement of subsection (f); and

''(III) planning, implementing, and maintaining any eligible activities of the eligible entities that receive funding under this section;

''(B) require each nonprofit technical assistance organization that receives funds under subparagraph (A) to consult with the State, through the head of the small public water assistance program, before carrying out any activity for the purposes described in subclauses (I) and (III) of subparagraph (A)(ii); and

''(C) require that none of the funds made available to a nonprofit technical assistance organization under subparagraph (A) be used to pay lobbying expenses; and

''(3) may use not to exceed 1 percent of the funds allocated to the State to pay reasonable costs incurred in the administration of the small public water system assistance program.

''(d) LIMITATION ON USE OF FUNDS.—For each fiscal year, not more than 5 percent of the funds received by an eligible entity under this section may be used to obtain technical assistance in planning, implementing, and maintaining eligible activities that are funded under this section.

''(e) LIMITATION ON RECEIPT OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall not be provided to an eligible entity that, as determined by the State—

''(A) does not have the technical, managerial, and financial capability to ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412; or

''(B) is in significant noncompliance with any applicable national primary drinking water regulation.

''(2) EXCEPTION FOR RECEIPT OF GRANT.—An eligible entity described in paragraph (1) may receive a grant under this section only—

''(A) if the State determines that use of the grant will ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(B)(i) to restructure or consolidate the facility to achieve compliance with applicable national primary drinking water regulations; or

''(ii) in a case in which restructuring or consolidation of the facility is not practicable, if the State determines that—

''(I) the eligible entity has made a good faith effort to achieve compliance with applicable national primary drinking water regulations; and

''(II) the eligible entity is adhering to an enforceable schedule for achieving those regulations; and

''(C) in a case in which paragraph (1)(A) applies to an eligible entity, and the eligible entity agrees to undertake feasible and appropriate changes in operations (including changes in ownership, management, accounting, rates, maintenance, consolidation, provision of an alternative water supply, or other procedures), if the State determines that the measures are necessary to ensure that the eligible entity has the technical, managerial, and financial capability to comply with applicable national primary drinking water regulations over the long term.

''(3) REVIEW.—Before providing assistance under this section to an eligible entity that

is in significant noncompliance with any national primary drinking water regulation applicable to the eligible entity under section 1412, the State shall conduct a review to determine whether paragraph (1)(A) applies to the entity.

''(f) COST SHARING.—

''(1) IN GENERAL.—

''(A) LIMIT.—Except as provided in paragraph (2), the share of the total cost of an eligible activity funded by a grant under this section shall not exceed 80 percent.

''(B) USE OF OTHER FEDERAL FUNDS.—To pay the portion of an eligible activity that may not be funded by a grant under this section, an eligible entity may use Federal financial assistance other than assistance received under this section.

''(2) WAIVER OF COST-SHARING REQUIREMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State may waive the requirement of an eligible entity to pay all or a portion of the share of an eligible activity that may not be funded by a grant under this section, based on a determination by the State that the eligible entity is unable to pay any or all of the share.

''(B) LIMITATION.—For each fiscal year in which a State receives funding under this section, the total amount of cost-share waivers provided by the State under subparagraph (A) shall not exceed 30 percent of the amount of funding received by the State for the fiscal year under section 1472(c)(1).

''(g) UNOBLIGATED FUNDS.—Any funds not obligated by the State for a purpose consistent with subsection (c) within 1 year after the date of the allocation of the funds by the Administrator under section 1472(c) shall be returned to the Administrator for reallocation under that section.

''(h) REPORTS.—Not later than November 1 following each fiscal year in which a State receives funding under this section, the State shall—

''(1) submit to the Administrator a report that, for the preceding fiscal year—

''(A) lists the eligible activities for eligible entities, as prepared under subsection (b);

''(B) identifies the number of grants awarded by the State small public water system assistance program to eligible entities;

''(C) identifies each eligible entity that received a grant to carry out an eligible activity;

''(D) identifies the amount of each grant provided to an eligible entity to carry out an eligible activity; and

''(E) describes each eligible activity funded by such grants (including the status of the eligible activity); and

''(2) make the report under paragraph (1) available to the public.

''SEC. 1474. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM FOR INDIAN TRIBES.

''(a) ESTABLISHMENT.—Not later than July 1, 2008, the Administrator shall establish a small public water system assistance program for Indian Tribes, through which eligible entities located in areas governed by the Indian Tribe may receive grants for eligible activities under this part.

''(b) PROGRAM PRIORITY REQUIREMENT.—

''(1) LIST OF ELIGIBLE ACTIVITIES.—

''(A) IN GENERAL.—The Administrator, acting through the head of the small public water system assistance program for Indian Tribes, in consultation with the Secretary, shall, for each fiscal year, identify, and, using the priority criteria described in paragraph (2) and considering the additional criteria described in paragraph (3), list in descending order of priority, eligible activities for eligible entities located in areas governed by Indian Tribes for which funds provided from a grant under this part may be used.

''(B) COORDINATION.—

''(i) IN GENERAL.—To the maximum extent practicable, the Administrator shall ensure that the list under subparagraph (A) is coordinated with any needs assessment conducted under section 1452(i)(4).

''(ii) ADDITIONAL CONSIDERATION.—Any additional financial needs of small public water systems located in areas governed by Indian Tribes that are associated with the cost of complying with a national primary drinking water regulation that is promulgated after the most recent needs survey conducted under section 1452(i)(4) shall be factored into the determination of financial need for, and prioritization of, eligible activities under this section.

''(2) PRIORITY CRITERIA.—In preparing the list under paragraph (1), the Administrator shall give priority for the use of grants to eligible activities that—

''(A) address the most serious risk to human health;

''(B) are necessary to ensure compliance with national primary water regulations applicable to eligible entities under section 1412; and

''(C) assist systems most in need, as calculated on the basis of median household income, under affordability criteria published by the Administrator under section 1452(d)(3).

''(3) ADDITIONAL CRITERIA.—In addition to the priority criteria described in paragraph (2), the Administrator shall, in preparing a list under paragraph (1), consider giving additional priority to any listed eligible activities that are to be carried out by communities that form management cooperatives (including management cooperatives between systems that do not have connections).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Using funds allocated under section 1472(c)(2)(A), the small public water system assistance program established under subsection (a) shall provide to an eligible entity located in an area governed by an Indian Tribe, on a cost-shared basis, a grant to be used for an eligible activity (including source water protection) the purpose of which is compliance with national primary drinking water regulations applicable to the eligible entity under section 1412.

''(2) ALLOCATION OF GRANT FUNDING.—For each fiscal year, taking into consideration the funding allocation under section 1472(c)(2)(A) for the fiscal year, the head of the small public water assistance program established under subsection (a), in consultation with the Secretary, shall provide grants under paragraph (1) for the maximum number of eligible activities for which the funding allocation makes assistance available, based on the priority assigned by the Administrator to eligible activities under subsection (b).

''(d) LIMITATION ON USE OF FUNDS.—For each fiscal year, not more than 5 percent of the funds received by an eligible entity under this section may be used to obtain technical assistance in planning, implementing, and maintaining eligible activities that are funded under this section.

''(e) LIMITATION ON RECEIPT OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall not be provided to an eligible entity that, as determined by the Administrator—

''(A) does not have the technical, managerial, and financial capability to ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412; or

''(B) is in significant noncompliance with any applicable national primary drinking water regulation.

''(2) EXCEPTION FOR RECEIPT OF GRANT.—An eligible entity described in paragraph (1) may receive a grant under this section only—

''(A) if the Administrator determines that use of the grant will ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(B)(i) to restructure or consolidate the facility to achieve compliance with applicable national primary drinking water regulations; or

''(ii) in a case in which restructuring or consolidation of the facility is not practicable, if the Administrator determines that—

''(I) the eligible entity has made a good faith effort to achieve compliance with applicable national primary drinking water regulations; and

''(II) the eligible entity is adhering to an enforceable schedule for achieving those regulations; and

''(C) in a case in which paragraph (1)(A) applies to an eligible entity, and the eligible entity agrees to undertake feasible and appropriate changes in operations (including changes in ownership, management, accounting, rates, maintenance, consolidation, provision of an alternative water supply, or other procedures), if the Administrator determines that the measures are necessary to ensure that the eligible entity has the technical, managerial, and financial capability to comply with applicable national primary drinking water regulations over the long term.

''(3) REVIEW.—Before providing assistance under this section to an eligible entity that is in significant noncompliance with any national primary drinking water regulation applicable to the eligible entity under section 1412, the Administrator shall conduct a review to determine whether paragraph (1)(A) applies to the entity.

''(f) COST SHARING.—

''(1) IN GENERAL.—

''(A) LIMIT.—Except as provided in paragraph (2), the share of the total cost of an eligible activity funded by a grant under this section shall not exceed 80 percent.

''(B) USE OF OTHER FEDERAL FUNDS.—To pay the portion of an eligible activity that may not be funded by a grant under this section, an eligible entity may use Federal financial assistance other than assistance received under this section.

''(2) WAIVER OF COST-SHARING REQUIREMENT.—

''(A) IN GENERAL.—The Administrator may waive the requirement of an eligible entity to pay all or a portion of the share of eligible activity that may not be funded by a grant under this section based on a determination by the Administrator that the eligible entity is unable to pay any or all of the share.

''(B) LIMITATION.—For each fiscal year, the total amount of cost-share waivers provided by the Administrator under subparagraph (A) shall not exceed 30 percent of the amount of funding allocated to eligible entities located in areas governed by Indian Tribes for the fiscal year under section 1472(c)(2)(A).

''(g) UNOBLIGATED FUNDS.—Any funds not obligated by the small public water system assistance program established under subsection (a) for a purpose consistent with section 1472(c)(2)(B) and subsection (c) within 1 year after the date of allocation of the funds by the Administrator under section 1472(c)(2)(A) shall be returned to the Administrator for reallocation under that section.

''(h) REPORTS.—Not later than November 1 following each fiscal year in which an Indian Tribe receives funding under this section,

the Indian Tribe shall submit to the Administrator a report that, for the preceding fiscal year—

''(1) identifies the number of grants awarded to eligible entities located in areas governed by the Indian Tribe;

''(2) identifies each such eligible entity that received a grant to carry out an eligible activity;

''(3) identifies the amount of each grant provided to such an eligible entity to carry out an eligible activity; and

''(4) describes each eligible activity funded by such grants (including the status of the eligible activity).

''SEC. 1475. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $750,000,000 for each of fiscal years 2008 through 2014.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 288—DESIGNATING SEPTEMBER 2007 AS ''NATIONAL PROSTATE CANCER AWARENESS MONTH''

Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. INHOFE, Ms. LANDRIEU, Mr. SPECTER, Mr. MENENDEZ, Mr. CHAMBLISS, Mrs. BOXER, Mr. CRAPO, Mrs. FEINSTEIN, Mrs. DOLE, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 288

Whereas countless families in the United States live with prostate cancer;

Whereas 1 in 6 men in the United States will be diagnosed with prostate cancer in his lifetime;

Whereas over the past decade, prostate cancer has been the most commonly diagnosed non-skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2007, according to estimates from the American Cancer Society, over 218,890 men in the United States will be diagnosed with prostate cancer and 27,050 men in the United States will die of prostate cancer;

Whereas 30 percent of new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of developing cancer, including prostate cancer;

Whereas African-American males suffer a prostate cancer incidence rate up to 65 percent higher than White males and double the mortality rates;

Whereas obesity is a significant predictor of the severity of prostate cancer and the probability that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnoses, he has 5 times the risk, and if he has 3 family members with such diagnoses, he then has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can diagnose the disease in earlier and more treatable stages and reduce prostate cancer mortality;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting families: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2007 as ''National Prostate Cancer Awareness Month'';

(2) declares that the Federal Government has a responsibility—

(A) to raise awareness about the importance of screening methods for, and treatment of, prostate cancer;

(B) to increase research funding that is commensurate with the burden of the disease so that the screening and treatment of prostate cancer may be improved, and so that the causes of, and a cure for, prostate cancer may be discovered; and

(C) to continue to consider ways for improving access to, and the quality of, health care services for detecting and treating prostate cancer; and

(3) requests the President to issue a proclamation calling on the people of the United States, interested groups, and affected persons—

(A) to promote awareness of prostate cancer;

(B) to take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) to observe National Prostate Cancer Awareness Month with appropriate ceremonies and activities.

SENATE RESOLUTION 289—EXPRESSING THE SENSE OF THE SENATE THAT A ''WELCOME HOME VIETNAM VETERANS DAY'' SHOULD BE ESTABLISHED

Mrs. BOXER submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 289

Whereas the Vietnam War was fought in Vietnam from 1961 to 1975, and involved North Vietnam and the Viet Cong in conflict with the United States and South Vietnam;

Whereas the United States became involved in Vietnam because policy-makers in the United States believed that if South Vietnam fell to a Communist government that Communism would spread throughout the rest of Southeast Asia;

Whereas members of the United States Armed Forces began serving in an advisory role to the South Vietnamese in 1961;

Whereas as a result of the Gulf of Tonkin incidents on August 2 and 4, 1964, Congress overwhelmingly passed the Gulf of Tonkin Resolution (Public Law 88–408), on August 7, 1964, which effectively handed over war-making powers to President Johnson until such time as ''peace and security'' had returned to Vietnam;

Whereas, in 1965, United States Armed Forces ground combat units arrived in Vietnam;

Whereas, by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969 a peak of approximately 543,000 troops was reached;

Whereas, on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners of war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam;

Whereas, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam;

Whereas more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded;

Whereas, in 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing in action in Vietnam;

Whereas the Vietnam War was an extremely divisive issue among the people of the United States;

Whereas members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were caught upon their return home in the crossfire of public debate about the involvement of the United States in the Vietnam War;

Whereas the establishment of a ''Welcome Home Vietnam Veterans Day'' would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

Whereas March 30 would be an appropriate day to establish as ''Welcome Home Vietnam Veterans Day'': Now, therefore, be it

Resolved, That it is the sense of the Senate that there should be established a ''Welcome Home Vietnam Veterans Day'' to honor those members of the United States Armed Forces who served in Vietnam.

SENATE RESOLUTION 290—HONORING THE LIFE AND CAREER OF FORMER SAN FRANCISCO 49ERS HEAD COACH BILL WALSH

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas William Ernest Walsh was born on November 30, 1931, in Fremont, California;

Whereas Bill Walsh graduated from San Jose State University in 1955 where he was a successful amateur boxer and wide receiver;

Whereas, in 1955, he married Geri Nadini, with whom he had 3 children: Steve, Craig, and Elizabeth;

Whereas Bill Walsh began his coaching career at Washington High School in Fremont, California, and later served as an assistant coach at the University of California at Berkeley and Stanford University;

Whereas Bill Walsh served as an assistant coach with the Oakland Raiders in 1966, with the Cincinnati Bengals from 1968 to 1975, and with the San Diego Chargers in 1976;

Whereas Bill Walsh served as head coach of Stanford University from 1977 to 1978 and again from 1992 to 1994, winning the Sun Bowl in 1977, the Bluebonnet Bowl in 1978, and the Blockbuster Bowl in 1992;

Whereas Bill Walsh became Head Coach of the San Francisco 49ers in 1979 and served in that position for 10 years, winning 6 Western Division titles and 3 National Football Conference Championships;

Whereas Bill Walsh led the 49ers to 3 Super Bowl wins in the 1980s: Super Bowl XVI, Super Bowl XIX, and Super Bowl XXIII;

Whereas Bill Walsh was the Associated Press and United Press International Coach of the Year in 1981;

Whereas Bill Walsh ended his professional coaching career with a record of 102 wins, 63 losses, and 1 tie;

Whereas Bill Walsh was elected to the Pro Football Hall of Fame in 1993;

Whereas Bill Walsh developed the innovative ''West Coast Offense'', which became widely used by many National Football League (NFL) teams;

Whereas Bill Walsh drafted and developed a countless number of NFL greats such as Joe Montana, Ronnie Lott, Dwight Clark, Steve Young, and Jerry Rice;