S. 1
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 “American Recovery and Reinvestment Act of 2009”.
SEC. 2. JOB CREATION, ECONOMIC GROWTH, AND A STRONG MIDDLE CLASS.
It is the sense of Congress that Congress should enact, and the President should sign, legislation to create jobs, restore economic growth, and strengthen America’s middle class through measures that—
(1) modernize the nation’s infrastructure;
(2) enhance America’s energy independence;
(3) expand educational opportunities;
(4) preserve and improve affordable health care;
(5) provide tax relief; and
(6) protect those in greatest need.

By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. KENNEDY, Mr. BERGICH, Mr. WEBB, Mr. VONIVICH, Mr. WARNER, Mr. WICKER, and Mr. WYDEN):

S. 2
A bill to improve the lives of middle class families and provide them with greater opportunity to achieve the American dream; read the first time.

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

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

S. 3
A bill to protect homeowners and consumers by reducing foreclosures, ensuring the availability of credit for homeowners, businesses, and consumers, and reforming the financial regulatory system, and for other purposes; read the first time.

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

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

S. 4
A bill to guarantee affordable, quality health coverage for all Americans, and for other purposes; read the first time.

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

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:
S. 4
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the “Comprehensive Health Reform Act of 2009”.

SEC. 2. SENSE OF CONGRESS. It is the sense of Congress that Congress should enact, and the President should sign, legislation to guarantee health care coverage, improve health care quality and disease prevention, and reduce health care costs for all Americans and the health care system.

By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. HARKIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DURBIN, Mr. MENENDEZ, Mr. BINGAMAN, Mrs. SHAHEEN, Mr. CASEY, Ms. STABENOW, Mrs. McCASKILL, Ms. KLOBUCHAR, Mr. SCHUMER, and Ms. MIKULSKI):

S. 6. A bill to restore and enhance the national security of the United States; read the first time.

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

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

S. 6
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the “Education Opportunity Act of 2009”.

SEC. 2. SENSE OF CONGRESS. It is the sense of Congress that the President and the House of Representatives should sign into law, legislation to expand educational opportunities for all Americans by—

(1) increasing access to high-quality early childhood education and expanding child care, after school, and extended learning opportunities;
(2) improving accountability and assessment measures for elementary and secondary school students, increasing secondary school graduation rates, and supporting elementary and secondary school improvement efforts;
(3) strengthening teacher preparation, induction, and support in order to recruit and retain qualified and effective teachers in high need schools;
(4) enhancing the rigor and relevance of State academic standards and encouraging innovative reform at the middle and high school levels;
(5) strengthening mathematics and science curricula and instruction; and
(6) increasing Federal grant aid for students and families by ensuring our Armed Forces return home, and adequate dwell time between deployments;

By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. BINGAMAN, Mr. DURBIN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CASEY, Ms. STABENOW, Mrs. McCASKILL, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. SCHUMER, and Ms. MIKULSKI):

S. 8
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the “Returning Government to the American People Act”.

SEC. 2. SENSE OF CONGRESS. It is the sense of Congress that—

(1) the Bush Administration should not rush into effect major new controversial regulations in its closing days;
(2) the incoming Administration, working with the Congress, should review and, if appropriate revise or reject such “midnight regulations”; and
(3) legislation is necessary to ensure the new Administration has this opportunity, that Congress should enact, and the President should sign, such legislation.

By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. KENNEDY, Mr. BINGAMAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. BINGAMAN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mrs. SHAHEEN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. McCASKILL, Ms. KLOBUCHAR, Mr. SCHUMER, and Ms. MIKULSKI):

S. 7
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
Mr. LEAHY, Mrs. BOXER, Mr. BINGAMAN, Mrs. MCCASKILL, Mr. LIEBERMAN, Ms. KLOBUCHAR, and Mr. SCHUMER:

S. 9. A bill to strengthen the United States economy, provide for more effective border and employment enforcement, and for other purposes; read the first time.

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

The point of order being rejected, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 9

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stronger Economy, Stronger Borders Act of 2009".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that Congress should enact, and the President should sign, legislation to strengthen the economy, recognize the heritage of the United States as a nation of immigrants, and amend the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) by—

(1) providing more effective border and employment enforcement;

(2) preventing illegal immigration; and

(3) reforming and rationalizing avenues for legal immigration.

Mr. LEAHY. Mr. President, as we begin the 111th Congress, we will try, once again, to pass comprehensive immigration reforms that have eluded us in the past several years. With an administration that understands the critical necessity of meaningful reform and that understands the policy failures of the last 8 years, I am hopeful that the new Congress can finally enact legislation consistent with our history as a nation of immigrants.

The majority leader has included immigration reform as among the legislative priorities for the new Congress. I look forward to working with him, Senator KENNEDY, Senator McCAIN, and others interested in working toward the goal of immigration reform.

In 2006 and 2007, Congress attempted to pass practical and effective reforms to our immigration system. In 2006, the Senate did its part and passed legislation, only to be thwarted by those in the House of Representatives who opposed dealing with the issue in a meaningful way. In 2007, the House passed legislation that they blocked in the Senate by Republican Members opposed to effective reform.

If our immigration policies are to be effective and play a role in restoring America's image around the world, we must reject the failed policies of the last 8 years. We cannot continue to deny asylum seekers because they have been forced at the point of a gun to provide assistance to those engaged in terrorist acts. We cannot continue to label as terrorist organizations those who have stood by the United States in armed conflict. We must not tolerate the tragic and needless death of a person in our custody for lack of basic medical care. We must ensure that children are not needlessly separated from their parents and that family unity is respected.

We must move beyond the current policy that is focused on detaining and deporting those who have been abused and exploited by American employers but does nothing to change an environment that remains ripe for these abuses. We must protect the rights and opportunities of American workers and, at the same time, ensure that our Nation's farmers and employers have the help they need. We should improve the opportunities and make more efficient the processes for those who seek to come to America with the goal of becoming new Americans, whether to invest in our communities and create jobs, to be reunited with loved ones, or to seek freedom and opportunity and a better life. We must also live up to the goal of family reunification in our immigration policy and join at least 19 nations that provide immigration equality to same-sex partners of different nationalities.

And I believe we would be wise to reconvene the effectiveness and cost of a wall along our southern border, which has adversely affected the fragile environment and vibrant cross-border culture of an entire region. Such a wall stands as a symbol of fear and intolerance. This is not what America is about and we can do better.

Those who oppose a realistic solution to address the estimated millions of people currently living and working in the United States without proper documentation have offered no alternative solution other than harsh penalties and enforcement. The policies of the last 8 years, which have served only to appease the most extreme ideologues, must be replaced with sensible solutions. I am confident that our country and our economy will be far more secure when those who are currently living in our society are recognized and provided the means to become lawful residents, if not a path to citizenship.

As President-elect Obama's administration considers immigration issues, I look forward to working closely with them and with the Senate's leadership to find the best solutions. President-elect Obama's nominees to lead the Department of Homeland Security and the Department of Labor understand very well the importance of sensible border policies and the importance of workers' rights. The American people look to all of us to forge a consensus for immigration reform that rejects the extreme ideology that has attended this issue and prevented real progress.

By Mr. REID (for himself, Mr. CONRAD, Mr. LEVIN, Mr. BEGICH, Mr. CARPER, Mr. DUBBIN, Mrs. BOXER, Mr. MENENDEZ, Mr. BURBANK, Ms. MURAHASHI, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. SCHUMER, and Ms. MIKULSKI):

S. 10. A bill to restore fiscal discipline and begin to address the long-term fiscal challenges facing the United States, and for other purposes; read the first time.

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

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

S. 10

It is the sense of Congress that Congress and the President should restore fiscal discipline and begin to address the long-term fiscal challenges facing the United States through—

(1) strong pay-as-you-go rules, to help block the approval of measures that would increase the deficit;

(2) recognition of warnings by both the Government Accountability Office and the Congressional Budget Office that the Federal budget is on an unsustainable path of rising deficits and debt;

(3) establishment by Congress and the President of a process—

(A) to analyze—

(i) the current and long-term actuarial financial condition of the Federal Government; and

(ii) the gap between the projected revenues and expenditures of the Federal Government;

(B) to identify factors that affect the long-term fiscal balance of the Federal Government;

(C) to analyze potential courses of action to address factors that affect the long-term fiscal balance of the Federal Government;

(D) to seek a bipartisan agreement, or set of agreements, that will—

(i) significantly improve the Nation's long-term fiscal imbalances and the gap between projected revenues and expenditures;

(ii) ensure the economic security of the United States; and

(iii) expand future prosperity and growth for all Americans;

(4) a thorough review of all Federal spending and tax expenditures by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury, that identifies items that are out-of-date, inefficient, poorly run, unnecessary, or otherwise undeserving of scarce Federal resources or that are in need of reform; and

(5) a review of the current system of taxation of the United States to ensure that burdens are borne fairly and equitably.

By Mr. REID (for himself, Mrs. CLINTON, Mr. AKAKA, Mr. INOUYE, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. MURRAY, Mr. MENENDEZ, Mr. LEVIN, Mr. BAUCUS, Mr. KERRY, Mrs. BOXER, Mr. CARPER, Mrs. PEINSTEIN, and Ms. STABENOW):

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

S. 21

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) Short Title.—This Act may be cited as the “Prevention First Act”.
(b) Table of Contents.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.

SECTION 2. FINDINGS.
The Congress finds as follows:
(1) Healthy People 2010 sets forth a reduction of unintended pregnancies as an important health objective for the Nation to achieve over the first decade of the new century, a goal first articulated in the 1979 Surgeon General’s Report, Healthy People, and reiterated in Healthy People 2000: National Health Promotion and Disease Prevention Objectives.
(2) Although the Centers for Disease Control and Prevention (referred to in this section as the “CDC”) included family planning in its published list of the Ten Great Public Health Achievements in the 20th Century, the United States still has one of the highest rates of unintended pregnancies among industrialized nations.
(3) Each year nearly half of all pregnancies in the United States are unintended, and nearly half of unintended pregnancies end in abortion.
(4) In 2006, 30,000,000 women, more than half of all women of reproductive age, were in need of contraceptive services and supplies to help prevent unintended pregnancy, and nearly half of those were in need of public support for such care.
(5) The United States has some of the highest rates of sexually transmitted infections (STIs) among industrialized nations. In 2006, there were approximately 19,000,000 new cases of STIs, almost half of them occurring in young people. According to the Centers for Disease Control and Prevention, in addition to the burden on public health, STIs impose a tremendous economic burden with direct medical costs as high as $137,000,000,000 each year in 2006 dollars.
(6) Contraceptive use can improve overall health by enabling women to plan and space their pregnancies and has contributed to dramatic declines in maternal and infant mortality. Widespread use of contraceptives has been the driving force in reducing unintended pregnancies and sexually transmitted infections (STIs), and reducing the need for abortion in this nation. Contraceptive use saves public health dollars. For every dollar spent to provide services in publicly funded family planning clinics, $4.02 in Medicaid expenses are saved because unintended births are averted.
(7) Reducing unintended pregnancy improves maternal health and is an important strategy in efforts to reduce maternal mortality. Women experiencing unintended pregnancy are at greater risk for physical abuse.
(8) A child born from an unintended pregnancy is at greater risk than a child born of low income women of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.
(9) The ability to control fertility allows women who do not use contraceptives to achieve economic stability by facilitating greater educational achievement and participation in the workforce.
(10) Contraceptive effectiveness in preventing unintended pregnancy when used consistently and correctly. Without contraception, a sexually active woman has an 85 percent chance of becoming pregnant within a year.
(11) Approximately 50 percent of unintended pregnancies occur among women who do not use contraceptives.
(12) Many poor and low-income women cannot afford to purchase contraceptive services and supplies on their own. The number of women needing subsidized services has increased by more than 1,000,000 (7 percent) since 2000. A poor woman in the United States is now nearly 4 times as likely as a more affluent woman to have an unplanned pregnancy. Between 1994 and 2001, unintended pregnancy among low-income women increased by 29 percent, while unintended pregnancy decreased by 20 percent among women with higher incomes.
(13) Public health programs, such as the Medicaid program and family planning programs under title X of the Public Health Service Act, provide high-quality family planning services and other preventive health care to underinsured or uninsured individuals who may otherwise lack access to health care.
(14) Medicaid has become an essential source of support for the provision of subsidized family planning services and supplies. It is the single largest source of public funds supporting these services. In 2001, the program provided 6 in 10 of all public dollars spent on family planning services. In 2006, 12 million women ages 15 to 44 (7,300,000 women ages 15 to 44) looked to Medicaid for their care and 37 percent of poor women of reproductive age rely upon Medicaid.
(15) Approximately 1,400,000 unintended pregnancies and 600,000 abortions are averted each year because of services provided in publicly funded clinics. In 2006, Title X (of the Public Health Service Act) service providers performed more than 2,400,000 Pap tests, 2,400,000 breast exams, and 5,800,000 Chlamydia tests. One in 4 women who obtain reproductive health services from a medical provider do so at a publicly funded clinic.
(16) The stagnant federal funding for public family planning programs in combination with the increasing demand for subsidized services, the rising costs of contraceptive services and supplies, and the high cost of improved screening and treatment for cervical cancer and sexually transmitted infections has diminished the ability of clinics receiving funds under title X of the Public Health Services Act to adequately serve all those in need. At present, clinics are able to reach just 41 percent of the women needing subsidized services. Had Title X funding kept up with inflation since fiscal year 1980, it would now be funded at $759,000,000, instead of its fiscal year 2007 funding level of $283,000,000. Taking inflation into account, funding for Title X in constant 2007 dollars is lower today than it was in fiscal year 1980.
(17) While the Medicaid program remains the largest source of subsidized family planning services, States face significant budgetary pressures to cut their Medicaid programs, putting many women at risk of losing coverage for family planning services.
(18) In addition, eligibility under the Medicaid program in many States is severely restricted, which leaves family planning services financially out of reach for many poor women. Many States have demonstrated tremendous success with Medicaid family planning waivers that allow States to expand access to Medicaid family planning services. However, the administrative burden of approval for a waiver poses a significant barrier to States that would like to expand their coverage of family planning programs through Medicaid.
(19) As of December of 2008, 27 States offered expanded family planning benefits as a result of Medicaid family planning waivers. The cost-effectiveness of these waivers was affirmed by a recent evaluation funded by the Centers for Medicare & Medicaid Services. This evaluation of six waivers found that all family planning programs under such waivers resulted in significant savings to the Federal government. Moreover, the researchers found measurable reductions in unintended pregnancy.
(20) Although employer-sponsored health plans have improved coverage of contraceptive services and supplies, largely in response to State contraceptive coverage laws, there is not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage. (21) Including contraceptive coverage in private health care plans saves employers money. Not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

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

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

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

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

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

(27) Government-funded abstinence-only- until-marriage programs are precluded from discussing contraception except to talk about abstinence. In October 2003, a report by the Government Accountability Office found that the Department of Health and Human Services does not review the materials and grants administered by such department for scientific accuracy and requires grantees to review their own materials for scientific accuracy. The GAO also reported on the Department’s total lack of appropriate and customary measurements to determine if funded programs are effective. In addition, a separate letter from the Government Accountability Office to the Secretary of the Department of Health and Human Services is in violation of Federal law by failing to enforce a requirement under the Public Health Service Act that Federally-funded grantees working to address the prevention of sexually transmitted diseases, including abstinence-only-until-marriage programs, must make readily available accurate information about the effectiveness of condoms.

(28) Recent scientific reports by the Institute of Medicine, the American Medical Association, and the Society for Adolescent Medicine, stress the need for sex education that includes messages about abstinence and provides young people with information about contraceptive services and supplies to prevent unwanted pregnancy, HIV/AIDS, and other sexually transmitted diseases.

(29) A 2006 statement from the American Public Health Association ("APHAA") recognizes the importance of abstinence education, but only as part of a comprehensive approach to sexuality education and does not call for repeating current federal funding for abstinence-only programs and replacing it with funding for a new Federal program to promote comprehensive sexuality education, combining information about abstinence with age-appropriate sexuality education.

(30) Comprehensive sex education programs that emphasize diversity and beliefs represented in the community and will complement and augment the sex education children receive from their families.

(31) Over 56,000 annual new cases of HIV infections in the United States occur in youth ages 13 through 24. African American and Latino youth have been disproportionately affected by the HIV/AIDS epidemic. In 2005, Blacks and Latinos accounted for 84 percent of all new HIV infections among 13 to 19 year olds and 76 percent of HIV infections among 20 to 24 year olds in the United States even though, together, they represent only about 32 percent of people in these ages. Teens in the United States contracted an estimated 200,000 sexually transmitted infections each year. By age 24, at least 1 in 4 sexually active people between the ages of 15 and 24 will have contracted a sexually transmitted infection.

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

(33) In 1990, Congress passed the Medicaid Anti-Discriminatory Drug Price and Patient Benefit Restoration Act to ensure that Medicaid covered the same drugs as were available in the marketplace. Congress intentionally protected the practice of pharmaceutical companies offering charitable organizations and clinics subsidized-priced drugs. As an unintended consequence of the Deficit Reduction Act of 2005, birth control prices have skyrocketed for millions of women who depend on safety net providers for their birth control. Birth control that previously cost only $5 to $10 per month is now prohibitively expensive, running as much as $40 or $50 a month. Many family planning health centers have absorbed much of this price increase, further straining already limited resources. As the economic crisis worsens, women and their families will have fewer resources to fall back on when turning to health care safety net providers, such as family planning health centers, for a reliable source of care.

TITLE I—TITLE X OF PUBLIC HEALTH SERVICE ACT

SEC. 101. SHORT TITLE.
This title may be cited as the "Title X Family Planning Program Amendments Act of 2009".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.
For the purpose of making grants and contracts under section 1001 of the Public Health Service Act that are required to be appropriated $700,000,000 for fiscal year 2010 and such sums as may be necessary for each subsequent fiscal year.

TITLE II—EQUALITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE

SEC. 201. SHORT TITLE.
This title may be cited as the "Equity in Prescription Insurance and Contraceptive Coverage Act of 2009".

SEC. 202. AMENDMENTS TO EMPLOYER RETIREME NT INCOME SECURITY ACT OF 1974.
(a) In General.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:
investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

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

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

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

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

(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such modifications under the plan, except that the summary description required to be provided under the last sentence of section 10(k)(b)(1) with respect to such modifications must be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

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

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

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

``Title III—Emergency Contraception Education and Information

Sec. 2708. Standards relating to benefits for contraceptives.

(a) Requirements for Coverage.—A group health plan or a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutes, and Drug Administra-

tion, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient prescription drugs or devices, or

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

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

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

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

(4) provide incentives (monetary or other-

wise) to a health care professional to induce such professional to induce from covered individuals contraceptive drugs or devices, or contraceptive services, described in sub-section (a);

(c) Rules of Construction.—

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

(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitation for any such service;

(B) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, to cover experimental or investigational outpatient prescription drugs or devices; or

(C) approved by the Food and Drug Administra-

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

``Sec. 2754. Standards relating to benefits for contraceptives.

(1) IN GENERAL.—The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

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

TITLE III—EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION

This title may be cited as the ‘Emergency Contraception Education Act of 2009’.

Sec. 302. EMERGENCY CONTRACEPTION EDUCATION, AND INFORMATION PROGRAMS.

(a) Definitions.—For purposes of this section—

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

(A) used after sexual relations;

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

(C) approved by the Food and Drug Administra-

ion.

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

(3) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has
the same meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) SICRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

(b) EMERGENCY CONTRACEPTION PUBLIC EDUCATION PROGRAMS.—

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

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

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

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

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

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

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

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

(d) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2010 through 2014.

TITLE IV.—COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES

SEC. 401. SHORT TITLE.

This title may be cited as the ‘‘Compasionate Assistance for Rape Emergencies Act of 2009’’.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) is used postcoitally; or

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

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

(2) The term ‘hospital’ has the meanings provided in title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and includes—

(A) any hospital described in section 1861 of such title (42 U.S.C. 1395x), and such term as defined in section 1871 of such title (42 U.S.C. 1395und); and

(B) any hospital described in section 1886 of such title (42 U.S.C. 1395vv-3), and such term as defined in section 1887 of such title (42 U.S.C. 1395vv-4).

(3) Had a sample size large enough (at least 100) to provide—

(A) in the case of a control group, and a follow-up interval long enough to be statistically significant;

(B) the term ‘rigorous scientific research’ may be required for an evaluation under paragraph (1).

(E) PURPOSE.—In selecting grant recipients under this section, the Secretary shall maintain a rigorous scientific research project (including planning, design, implementation, and evaluation), and shall select and maintain such projects based on criteria, including but not limited to—

(A) the project addresses a priority research question as determined by the Secretary;

(B) the project includes the development of intervention materials and dissemination plans that are designed to reach the appropriate population; and

(C) the project design includes an evaluation of the effectiveness of the intervention.

(g) COMPLETE INFORMATION.—Programs receiving funds under this section that choose to provide information on HIV/AIDS or contraception or both must provide information that is complete and medically accurate.

(h) RELATION TO ABSTINENCE-ONLY PROGRAMS.—Funds under this section are not intended for use by abstinence-only education programs. Abstinence-only education programs that receive Federal funds through the Title V of the Social Security Act (42 U.S.C. 2001 et seq.) shall develop and disseminate information that is complete and medically accurate, and in such manner as the Secretary may require.

(i) MATCHING FUNDS.—

(1) IN GENERAL.—The Secretary may not award a grant to an applicant under this section unless the applicant demonstrates that it will pay, from funds derived from non-Federal sources, at least 25 percent of the cost of the program.

(2) APPLICANT’S SHARE.—The applicant’s share of the cost of a program shall be provided in cash or in kind.

(j) SUPPLEMENTATION OF FUNDS.—Any entity that receives funds under this section shall use the funds to supplement and not supplant funds that would otherwise be available to the entity for teenage pregnancy prevention.

(k) EVALUATIONS.—

(1) IN GENERAL.—The Secretary shall conduct or provide for a rigorous evaluation of 10 percent of programs for which a grant is awarded under this section;

(2) B) COLLECT BASED ON EACH PROGRAM FOR WHICH A GRANT IS AWARDED UNDER THIS SECTION;

(3) APPLICANT’S SHARE.—The applicant’s share of the cost of a program shall be provided in cash or in kind.
TITLE VI—ACCURACY OF CONTRACEPTIVE INFORMATION

SEC. 601. SHORT TITLE.
This title may be cited as the “Truth in Contraception Act of 2009.

SEC. 602. ACCURACY OF CONTRACEPTIVE INFORMATION.
Notwithstanding any other provision of law, any information concerning the use of a contraceptive method furnished by any federally funded sex education, family life education, abstinence education, comprehensive health education, or character education program shall be medically accurate and shall include health benefits and failure rates relating to the use of such contraceptive.

TITLE VII—UNINTENDED PREGNANCY REDUCTION ACT

SEC. 701. SHORT TITLE.
This title may be cited as the “Unintended Pregnancy Reduction Act of 2009.

SEC. 702. MEDICALLY ACCURATE INFORMATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.
Section 1937(b) of the Social Security Act (42 U.S.C. 1396d(a)) is amended by adding at the end the following:

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

SEC. 703. EXPANSION OF FAMILY PLANNING SERVICES.
(a) COVERAGE AS MANDATORY CATEGORY—
(1) IN GENERAL.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—
(A) in subparagraph (VIII), by striking the text following the last period at the end of subparagraph (VIII) and inserting the following:
"(VIII) who are described in subsection (dd), or
(2) by striking the period at the end of subparagraph (A) and inserting a semicolon.
(2) COVERAGE OF PREGNANCY SERVICES.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:
"(XIV) (A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(dd); and
(B) ends with (and includes) the earlier of—
(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or
(ii) in the case of such individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.
(3) QUALIFIED ENTITY.—
Subject to subparagraph (B), the term ‘qualified entity’ means any entity that—
(A) is eligible for payments under a State plan approved under this title; and
(B) is determined by the State agency to be capable of making determinations of the type described in paragraph (1).
(4) REGULATION.—No later than 1990, the Secretary shall promulgate regulations prescribing the conditions that must be satisfied by a qualified entity that is defined under this section.
(5) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter preceding subparagraph (G) (A) by striking “(and (XIV))” and inserting “(XIV)” and, by striking “(i) and (ii)” and inserting “(i)”, and, by inserting “(XV) the medical assistance made available to an individual described in subsection (dd) shall be limited to family planning services and supplies described in section 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting;” after “(XIV)”.
(6) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396a) is amended in the matter preceding paragraph (1) by—
(A) in clause (xii), by striking “or” at the end;
(D) the variance in the rates of teen pregnancy; and
(E) the variance in the rates of teen pregnancy in such communities.
(7) UNINTENDED PREGNANCY REDUCTION ACT
SEC. 504. GENERAL REQUIREMENTS.
(1) M EDICALLY ACCURATE INFORMATION.—A grant may not be made under this title only if the applicant involved agrees that all information provided pursuant to the grant will be age-appropriate, factually and medically accurate and complete, and scientifically based.
(2) CULTURAL CONTEXT OF SERVICES.—A grant may not be made under this title only if the applicant involved agrees that the program, activities, and services under the grant that are directed toward a particular population group will be provided in the language and cultural context that is most appropriate for individuals in such group.
(3) APPLICATION FOR GRANT.—A grant may not be made under this title only if the application involved agrees that information, services, and activities under the grant that are directed toward a particular population group will be provided in the language and cultural context that is most appropriate for individuals in such group.
(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2010 and each subsequent fiscal year.”.
“(B) information on how to assist such individuals in completing and filing such forms.

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

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

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

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

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

(1) is furnished to an individual described in subsection (a) during a presumptive eligibility period;

(2) by a entity that is eligible for payment under section 42U.S.C. 1396u-2(b)(1) is furnished to an individual described in subsection (a) during a presumptive eligibility period in accordance with section 1909(b); and

(3) is included in the care and services covered by the State plan, shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1902(b).

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(36) of the Social Security Act (42 U.S.C. 1396a(a)(36)) is amended by inserting before the semicolon at the end the following:

“(3) A PPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a), the determination of—

(B) by an entity that is eligible for payment under section 42U.S.C. 1396u-2(b)(1) is furnished to an individual described in subsection (a) during a presumptive eligibility period in accordance with section 1909(b); and

(2) is included in the care and services covered by the State plan, shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1902(b).”.

(3) SEC. 804. EVALUATION OF PROGRAMS.

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

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

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

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

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

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

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

(2) REPORT.—A final report providing the results of the national evaluation under paragraph (1) shall be submitted to Congress not later than March 31, 2015, with an interim report provided on an annual basis at the end of each fiscal year under section 802.

(c) INDIVIDUAL STATE EVALUATIONS.—

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

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

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

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

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

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

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

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

SEC. 803. DEFINITIONS.

For purposes of this title:

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

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

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

(4) The term “Secretary” means the Secretary of Health and Human Services.
SEC. 906. APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.

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

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

(2) not more than 10 percent may be used for the national evaluation under section 909(b).

TITLE IX—PREVENTION THROUGH AFFORDABLE ACCESS

SEC. 901. SHORT TITLE.

This title may be cited as the “Prevention Through Affordable Access Act.”

SEC. 902. RESTORING AND PROTECTING ACCESS TO DISCOUNT DRUG PRICES FOR UNIVERSITY-BASED AND SAFETY-NET CLINICS.

(a) RESTORING NOMINAL PRICING.—Section 1927(c)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395d(c)(1)(D)(i)) is amended—

(1) by redesignating subclause (IV) as subclause (V); and

(2) by inserting after subclause (III) the following new subclauses:

“(IV) An entity that is operated by a health center of an institution of higher education, the primary purpose of which is to provide health services to students of that institution.

“(V) An entity that is a public or private nonprofit entity that provides a service or services described under section 1001(a) of the Public Health Service Act.”

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date of the enactment of this Act.

By Mrs. HUTCHISON (for herself, Mr. ALEXANDER, Mr. ENSIGN, Mr. CORNYN, and Mr. MARTINEZ):

S. 35. A bill to provide a permanent deduction for State and local general sales taxes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to permanently correct an injustice in the tax code that has harmed citizens in many States of this great Nation.

State and local governments have various alternatives for raising revenue. Some levy income taxes, some use sales taxes, and others use a combination of the two. The citizens who pay State and local income taxes have been able to offset some of their federal income taxes by receiving a deduction for those State and local income taxes. Before 1993, taxpayers also had the ability to deduct their sales taxes.

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

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

S. 35

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. PEERmit EXTENSION OF DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES. (a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) of the Internal Revenue Code of 1986, as amended by section 201 of the Tax Exenders and Minimum Tax Relief Act of 2008, is amended by striking “: and before January 1, 2010.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

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

S. 36. A bill to repeal the perimeter rule for Ronald Reagan Washington National Airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senator ENSIGN in introducing the Abolishing Aviation Barriers Act of 2009. This bill would remove the arbitrary restrictions that prevent Americans from having an option of non-stop travel between airports in Western states and LaGuardia International Airport and Ronald Reagan Washington National Airport.

LaGuardia restricts the departure or arrival of non-stop flights to or from airports that are farther than 1,500 miles from LaGuardia. Washington National has a similar restriction for non-stop flights to or from airports 1,250 miles from Washington National. These restrictions are commonly referred to as the “perimeter rule.” This bill would abolish these archaic limitations that reduce consumers’ options for convenient flights and competitive fares.

The original purpose of the perimeter rule was to promote LaGuardia and Washington National as airports for business travelers flying to and from East Coast and Midwest cities and to promote traffic to other airports by diverting long haul flights to Newark and Kennedy airports in the New York metropolitan area and the Dulles airport in the Washington area. However, over the years, Congress has granted numerous exceptions to the perimeter rule because the air traveling public is eager for options. Today, exceptions are made for non-stop flights between LaGuardia and Denver and between Washington National and Denver, Las Vegas, Los Angeles, Phoenix, Salt Lake City and Seattle. Rather than continuing to take a piecemeal approach to promoting consumer choice, I urge Congress to take this opportunity once and for all to do away with this outdated rule.

I continue to believe that Americans should have access to air travel at the lowest possible cost and with the most convenience for their schedule. Therefore, I have always advocated for the removal of any artificial barrier that prevents free market competition. In 2004, I co-sponsored legislation to repeal the Wright Amendment which prohibited flights from Dallas’ Love Field airport to 43 states. This year, I am proud to once again join with my colleagues to eliminate another unnecessary restraint through the Abolishing Aviation Barriers Act of 2009.

A 1999 study by the Transportation Research Board, the most recent available, stated that perimeter rules “no longer serve their original purpose and have produced too many adverse side effects, including barriers to competition . . . . The rules arbitrarily prevent some airlines from extending their networks to these airports; they discourage competition among the airports in the region and among the airlines that use these airports; and they are subject to chronic attempts by interest groups to obtain exemptions.” That same year, the Government Accountability Office, GAO, stated that the
“practical effect” of the perimeter rule “has been to limit entry” of other carriers and found that airfares at LaGuardia and Washington National are approximately 50 percent higher on average than fares at similar airports unconstrained by the perimeter rule. Such anticompetitive rules should not remain in effect, particularly where its anticompetitive impact has long been recognized.

For this reason, I will continue the struggle to try to remove the perimeter rule and other anti-competitive restrictions that increase consumer costs and decrease convenience for no apparent benefit.

By Mr. Mccain:

S. 37. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

Mr. Mccain. Mr. President, today I introduce the Economic Growth Through Innovation Act of 2009. This bill would make permanent the current research and development tax credit. Otherwise, this credit will expire on December 31, 2009.

A permanent credit would provide an incentive to innovate, and remove uncertainty now hanging over businesses as they make research and development investment decisions for 2010 and beyond. The research and development tax credit was first established in 1981 and has been extended and revised repeatedly since then. Failure to make the tax credit permanent has led to reduced investment in research, which has led to fewer jobs being created in the United States. Tax policies have a powerful influence on business investment and hiring decisions, and that is why I have chosen to introduce this bill on the first day of the 111th Congress. Additionally, both President-elect Obama and I were in full agreement during the campaign that making permanent the research and development tax credit would lead to numerous new discoveries in a range of industries, have taken advantage of the research and development tax credit during its existence. According to a recent study by Ernst & Young, 17,700 businesses claimed $6.6 billion research and development tax credits in 2005, the most recent year available. Almost a quarter of these businesses were small businesses with $1 million of assets or less, and almost half were businesses with assets of $1-$5 million, which is the lifeblood of our economy. Firms in the manufacturing, information and services sectors claimed the majority of the credit, and the states with the highest number of companies reporting research and development activity "has been to limit entry" of other carriers and found that airfares at similar airports have been the hardest hit by the depressed economy such as Michigan, Pennsylvania and California.

Congress has endorsed the credit by extending it 13 times since enactment, and several credit has been reinstated retroactively. Yet, it has never been made permanent, creating a less certain investment atmosphere. With so many Republicans and Democrats in agreement that this tax credit must be made permanent, including President-elect Obama, I hope this bill will be given swift consideration and signed into law during the first few months of 2009 to increase our nation’s ability to innovate, create jobs and improve our sagging economy.

By Mr. Mccain (for himself and Mr. Dorgan):

S. 38. A bill to establish a United States Boxing Commission to administer the Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. Mccain. Mr. President, today I am pleased to be joined by Senator Dorgan in introducing the Professional Boxing Amendments Act of 2009. This legislation is virtually identical to a measure reported by the Commerce Committee during the first executive session of the 110th Congress, after being approved unanimously by the Senate in 2005. Simply put, this bill would better protect professional boxing from the fraud, corruption, and ineffective regulation that have plagued the sport for far too many years, and that have devastated physically and financially many of our Nation’s professional boxers. I remain committed to moving the Professional Boxing Amendments Act through the Senate and I trust that my colleagues will once again vote favorably on this important legislation.

Since 1996, Congress has made efforts to improve the sport of professional boxing—and for very good reason. With rare exception, professional boxers come from the lowest rung on our economic ladder. Often they are the least educated, most exploited athletes in our nation. The Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act of 2000 established uniform health and safety standards for professional boxers, as well as basic protections for boxers against the sometimes coercive, exploitative, and unethical business practices of promoters, managers, and sanctioning organizations. But further action is needed.

The Professional Boxing Amendments Act would strengthen existing Federal boxing law by improving the boxers’ health and safety for professional boxers, establishing a centralized medical registry to be used by local commissions to protect boxers, reducing the arbitrary practices of sanctioning organizations, and enhancing the uniformity and standards for professional boxing contracts. Most importantly, this legislation would establish a Federal regulatory entity to oversee professional boxing and set basic uniform standards for certain aspects of the sport.

Current law has improved to some extent the state of professional boxing. However, I remain concerned, as do many others, that the sport remains at risk. In 2003, the Government Accountability Office spent more than six months studying ten of the country’s busiest state and tribal boxing commissions. Government auditors found that many State and tribal boxing commissioners do not have a strong, centralized ability to innovate, create jobs and improve our sagging economy.

Professional boxing remains the only major sport in the United States that does not have a strong, centralized regulatory body to establish and enforce uniform rules and practices. Because a powerful few benefit greatly from the current system of patchwork compliance and enforcement of Federal boxing law, a national self-regulating organization—though preferable to Federal government oversight is not a realistic option.

This bill would establish the United States Boxing Commission “USBC” or Commission. The Commission would be responsible for protecting the health, safety, and general interests of professional boxers. The USBC would also be responsible for enforcing the commission’s anti-trust, anti-monopoly, and anti-trust rules. More specifically, the Commission would administer Federal boxing law and coordinate with other Federal regulatory agencies to ensure that this law is enforced; oversee all professional boxing matches in the United States; and work with the boxing industry and local commissions to improve the safety, integrity, and professionalism of
professional boxing in the United States.

The USBC would also license boxers, promoters, managers, and sanctioning organizations. The Commission would have the authority to revoke such a license for violations of Federal boxing law or any statute, ordinance, or regulation of States, local governments. The USBC in consultation with the appropriate Federal and tribal agencies, would have the authority to revoke or suspend licenses of boxers, promoters, managers, and sanctioning organizations, if reasonable grounds exist for such intervention. In point of fact, the Professional Boxing Amendments Act provides for effective and consistent oversight of professional boxing at the national level. The provision of Federal boxing law is not inconsistent with the provision of State and tribal boxing commissions. Instead, the USBC would address that need. The problems that plague the sport of professional boxing undermine the credibility of the sport in the eyes of the public and—more importantly—compromise the safety of boxers.

As this measure continues through the legislative process, I fully expect Congress to ensure that funding offsets are provided to it and every other spending measure as we work to restore fiscal discipline in Washington in a bipartisan manner. I urge my colleagues to support this legislation.

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

S. 39. A bill to repeal section 10(f) of Public Law 93–331, commonly known as the "Bennett Freeze"; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I am pleased to introduce legislation that would repeal section 10(f) of Public Law 93–331, commonly known as the "Bennett Freeze." Passage of this legislation would officially mark the end of roughly 40 years of litigation and landlock between the Navajo Nation and the Hopi Tribe.

For decades the Navajo and the Hopi have engaged in a bitter dispute over land rights in the Black Mesa area just south of Kayenta, Arizona. The conflict extends as far back as 1882 when the boundaries of the Hopi and Navajo reservations were initially defined resulting in a tragic saga of litigation and ongoing federal Indian policy. By 1966, relations between the tribes became so strained over development and access to sacred religious sites in the disputed area that the federal government imposed a construction freeze on the disputed reservation land. The freeze prohibited any additional housing development in the Black Mesa area and restricted repairs on existing dwellings. This injunction became known as the "Bennett Freeze," named after former BIA Commissioner Robert Bennett who imposed the ban.

The Bennett Freeze was intended to be a temporary measure to prevent one tribe from taking advantage of another until the land dispute could be settled. Unfortunately, the conflict was nowhere near resolution, and the construction freeze ultimately devastated economic development in northern Arizona for years to come. By some accounts, nearly 8,000 people currently living in the Bennett Freeze area reside in conditions that haven't changed in half a century. While the population of the area has increased 65 percent, generation after generation of families have been forced to live together in homes that have been declared unfit for human habitation by the United Nations and non-governmental organizations. Only 3 percent of the families affected by the Bennett Freeze have electricity. Only 10 percent have running water. Almost none have natural gas.

In September 2005, the Navajo and Hopi peoples' desire to live together in mutual respect prevailed when both tribes approved an intergovernmental agreement that would resolve longstanding litigation in the Bennett Freeze area. This landmark agreement also clarifies the boundaries of the Navajo and Hopi reservations in Arizona, and ensures that access to religious sites of both tribes in protected. As such, the Navajo Nation, the Hopi Tribe, and the Department of Interior all support congressional legislation to lift the freeze.

The bill I am introducing today would repeal the Bennett Freeze. The intergovernmental compact approved last year by both tribes, the Department of Interior, and signed by the U.S. District Court for Arizona, marks a new era in Navajo-Hopi relations. Lifting the Bennett Freeze gives us an opportunity to put decades of conflict between the Navajo and Hopi behind us.

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

S. 40. A bill to designate Fossil Creek, a tributary of the Verde River in the State of Arizona, as a component of the National Wild and Scenic Rivers System, to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined by my colleague, Senator KYL, in reintroducing a bill to designate Fossil Creek as a Wild and Scenic River. Fossil Creek is a thing of beauty. With its picturesque scenery, lush riparian ecosystem, unique geological features, and deep iridescent blue pools and waterfalls, this tributary to the Wild and Scenic Verde River and Lower Colorado River Watershed stretches 14 miles through east central Arizona. It is home to a wide variety of wildlife, some of which are threatened or endangered species. Over 100 bird species inhabit the Fossil Creek area and use it to migrate between the range lowlands and the Mogollon-Colorado Plateau highlands. Fossil Creek also supports a variety of aquatic species and is one of the few perennial streams in Arizona with multiple native fish species.

Fossil Creek was named in the 1800s when early explorers described the fossil-like appearance of creek-side rocks and vegetation coated with calcium carbonate deposits from the creek's water. In the early 1900s, pioneers recognized the potential for hydroelectric power generation in the creek's constant and abundant spring fed baseflow. They claimed the channel's water rights and built a dam and generating facilities known as the Childs-Irving hydro-project. Over time, the project was acquired by Arizona Public Service, APS, one of the state's largest electric utility providers serving more than a million Arizonans. Because the hydropower project is half of 1 percent of the total power generated by APS, the decision was made ultimately to decommission the aging dam and restore Fossil Creek to its pre-settlement conditions.

APS has partnered with various environmental groups, federal land managers, and state, tribal and local governments to safely remove the Childs-Irving power generating facilities and restore the riparian ecosystem. In 2005, APS removed the dam system and returned full flows to Fossil Creek. Researchers predict Fossil Creek will soon become a fully regenerated Southwestern native fishery providing a most valuable opportunity to reintroduce at least six threatened and endangered native fish species as well as rebuild the native populations presently living in the creek.

There is a growing need to provide additional protection and adequate staffing and management at Fossil Creek. Recreational visitation to the riverbed is expected to increase dramatically, and by the Forest Service's own admission, they aren't able to manage current levels of visitation or monitor measures of riparian health. While responsible recreation and other activities at Fossil Creek are to be encouraged, we must also ensure the long-term success of the ongoing restoration efforts. Designation under the Wild and Scenic Rivers Act would help to ensure the appropriate level of protection and resources are devoted to Fossil Creek. Already, Fossil Creek has been found eligible for Wild and Scenic designation by the Forest Service and the proposal has widespread support from surrounding communities. All of the lands potentially affected by a designation are owned and managed by the Forest Service and will not affect private
property owners. I fully expect that as this measure continues through the legislative process, Congress will ensure that funding offsets are provided to it and every other spending measure as we work to restore fiscal discipline to Washington in a bipartisan manner.

Four years ago, a unique sort of treasure, and would benefit greatly from the protection and recognition offered through Wild and Scenic designation.

By Mr. LEAHY (for himself and Mr. CORNYN):

S. 49. A bill to help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law; to the Committee on Finance.

Mr. LEAHY. Mr. President, I am pleased to join with Senator CORNYN once again to introduce the Public Corruption Prosecution Improvements Act of 2009, a bill that will strengthen and clarify key aspects of Federal criminal law and provide new tools to help investigators and prosecutors attack public corruption nationwide.

The start of a new Congress presents an opportunity to restore the faith of the American people in their government. That is why I sought to offer an early version of this bill as my first amendment two years ago when that new Congress began. Regrettably, a Republican objection to it prevented its adoption at that time.

As we have seen in recent months, public corruption can erode the trust the American people have in those who are given the privilege of public service. Too often, though, loopholes in existing laws have meant that corrupt conduct can go unchecked.

Make no mistake: The stain of corruption has spread to all levels of government. This is a problem that victimizes every American by chipping away at the foundations of our democracy. Rooting out the kinds of public corruption that have resulted in convictions of members of both the Senate and the House, and many others, requires us to give prosecutors the tools and resources they need to investigate and prosecute criminal public corruption offenses. This bill will do exactly that.

The bill Senate CORNYN and I introduce today will provide investigators and prosecutors more time and, even more crucially, more resources to pursue public corruption cases. It also amends several key statutes to broaden their application in corruption contexts and to eliminate legal ambiguities that allow the prosecution of serious corruption. The bill includes a fix to the gratuities statute that makes clear that public officials may not accept anything of value, other than what is permitted by existing rules and regulations, given to them because of their official position. This important provision contains appropriate safeguards to ensure that only corrupt conduct is prosecuted, but it puts teeth behind the ethical reforms the Senate adopted under the leadership of Senator Obama.

The bill also appropriately clarifies the definition of what it means for a public official to perform an “official act” for the purposes of the bribery statutes and closes several other gaps in current law. The bill adds two corruption-related crimes as predicates for the Federal wiretap and racketeering statutes, lowers the transactional amount required for Federal prosecution of bribery involving financially-funded State programs, and expands the venue for perjury and obstruction of justice prosecutions.

Finally, the bill raises the statutory maximum penalties for several laws dealing with official misconduct, including theft of Government property and bribery. These increases reflect the serious and corrosive nature of these crimes, and would harmonize the punishment for these crimes with other similar statutes.

If we are serious about addressing the kinds of egregious misconduct that we have witnessed over the past several years in high-profile public corruption cases, Congress should enact meaningful legislation to give investigators and prosecutors the tools and resources they need to enforce our laws. Passing ethics and lobbying reform in the last Congress was a step in the right direction. Now we should finish the job by strengthening the criminal law to enable federal investigators and prosecutors to bring those who undermine the public trust to justice. I am disappointed that Republican objections prevented the full legislative package from passing this critical bill early in the last Congress. I hope that this year all Senators will support this bipartisan bill and take firm action to stamp out intolerable corruption.

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

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

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

SECTION 1. SHORT TITLE. "This Act may be cited as the "Public Corruption Prosecution Improvements Act".

SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3299A. Corruption offenses.

"(1) section 201 or 666;

"(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

"(3) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves extortion under color of official right;

"(4) section 1622, to the extent that the unlawful activity involves bribery; or

"(5) section 1622, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"2399A. Corruption offenses.".
SEC. 3. APPLICATION TO EMBEZZLEMENT AND WIRE FRAUD STATUTES TO LICENCES AND OTHER INTANGIBLE RIGHTS.
Sections 1901 and 1902 of title 18, United States Code, are amended by striking "money or property" and inserting "money, property, or any other thing of value".

SEC. 4. VENUE FOR FEDERAL OFFENSES.
(a) The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: "or in any district in which such act or acts occurred in furtherance of the offense is committed''.
(b) The heading for section 3237 of title 18, United States Code, is amended by striking "the District of Columbia or before the "United States" each place that term appears.

SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.
Section 666(a) of title 18, United States Code, is amended—
(1) in paragraph (1)(B), by—
(A) striking "anything of value" and inserting "any thing or things of value"; and
(B) striking "of $5,000 or more" and inserting "of $1,000 or more";
(2) by amending paragraph (2) to read as follows—
"(2) corruptly gives, offers, or agrees to give any thing or things of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $1,000 or more;"; and
(3) in the matter following paragraph (2), by striking "ten years" and inserting "15 years".

SEC. 6. PENALTY FOR SECTION 641 VIOLATIONS.
Section 641 of title 18, United States Code, is amended by striking "ten years" and inserting "15 years".

SEC. 7. PENALTY FOR SECTION 201(b) VIOLATIONS.
Section 201(b) of title 18, United States Code, is amended by striking "fifteen years" and inserting "twenty years".

SEC. 8. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION OFFENSES.
(a) Solicitation of political contributions.—Section 662(a) of title 18, United States Code, is amended by striking "three years" and inserting "ten years".
(b) Promise of employment for political activity.—Section 601 of title 18, United States Code, is amended by striking "one year" and inserting "three years".
(c) Deprivation of employment for political activity.—Section 601(a) of title 18, United States Code, is amended by striking "one year" and inserting "three years".
(d) Intimidation to secure political contributions.—Section 605 of title 18, United States Code, is amended by striking "three years" and inserting "ten years".
(e) Solicitation and acceptance of contributions in Federal offices.—Section 607(a)(2) of title 18, United States Code, is amended by striking "three years" and inserting "ten years".
(f) Coercion of political activity by Federal employees.—Section 610 of title 18, United States Code, is amended by striking "three years" and inserting "ten years".

SEC. 9. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF PUBLIC MONEY OFFENSE.
Section 641 of title 18, United States Code, is amended by inserting "the District of Columbia or before the "United States" each place that term appears.

SEC. 10. ADDITIONAL RICO PREDICATES.
(a) In general.—Section 1961(5)(C) of title 18, United States Code, is amended—
(1) by striking "section 641 (relating to theft or bribery concerning programs receiving Federal funds)," after "section 646 (relating to embezzlement from pension and welfare funds),"; and
(2) by adding at the end the following:
"(D) an offense under section 641 (relating to theft or bribery concerning programs receiving Federal funds),".
(b) Conforming amendments.—Section 1965(c)(7)(D) of title 18, United States Code, is amended—
(1) by striking "section 641 (relating to public money, property, or records),"; and
(2) by striking "section 666 (relating to theft or bribery concerning programs receiving Federal funds),".

SEC. 11. ADDITIONAL WIRETAP PREDICATES.
Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 641 (relating to theft or bribery concerning programs receiving Federal funds)," in the matter following paragraph (2), after "section 224 (bribery or corruption of public office),".

SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATUITY.
Section 201(c)(1) of title 18, United States Code, is amended—
(1) by striking the matter before subpar-agraph (A) and inserting "otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation—".
(2) in subparagraph (A), by inserting "or person selected to be a public official, the following: for or because of the official's or person's official position, or for or because of any official act performed or to be performed by any public official, former public official, or person selected to be a public official";
(3) in subparagraph (B), by striking all after "... of value personally," and inserting "or for because of the official's or person's official position, or for or because of any official act, or to be performed by such official or person;".

SEC. 13. CLARIFICATION OF DEFINITION OF OFFICIAL ACT.
Section 20(a)(a)(d) of title 18, United States Code, is amended to read as follows—
"(d) The term "official act" means any action within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time before, pending, or during which by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit, an official act, single act, or more than one act, or a course of conduct.".

SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIBRY.
Section 201 of title 18, United States Code, is amended—
(1) in subsection (b), by striking "anything of value" each place it appears and inserting "any thing or things of value"; and
(2) in subsection (c), by striking "anything of value" each place it appears and inserting "any thing or things of value".

SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.
(a) In general.—Section 1503(2) of title 18, United States Code, is amended by striking "A prosecution under this section or section 1503" and inserting "A prosecution under this subsection or".
(b) Perjury.—
(1) In general.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:
"1624. Venue."
"A prosecution under this chapter may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.".
(2) Clerical amendment.—The table of sections at the beginning of chapter 79 of title 18, United States Code, is amended by adding at the end the following:
"1624. Venue.

SEC. 16. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE PUBLIC CORRUPTION OFFENSES.
There are authorized to be appropriated to the Offices of the Inspectors General and the Department of Justice, including the United States Attorneys’ Offices, the Federal Bureau of Investigation, and the Public Integrity Section of the Criminal Division, $25,000,000 for each of the fiscal years 2009, 2010, 2011, and 2012, to increase the number of personnel to investigate and prosecute public corruption offenses including sections 201, 203 through 209, 641, 645, 666, 1001, 1348, 1511, 1513, 1536, and 1561 of title 18, United States Code.

SEC. 17. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.
(a) Directive to sentencing commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend its guidelines and its policy statements applicable to persons convicted of an offense under section 666 and 668 of title 18, United States Code, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.
(b) Requirements.—In carrying out this section, the Commission shall—
(1) ensure that the sentencing guidelines and policy statements reflect Congress’ intent that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses; and
(2) consider the extent to which the guidelines may or may not appropriately account for—
(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;
(B) the level of sophistication and planning involved in the offense;
(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;
(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;
(E) the extent to which the offense represented an abuse of trust by the offender and committed in a manner that undermined public confidence in the Federal, State, or local government; and
SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS' RECOGNITION ACT OF 2009''.

The USMCI currently resides in the Washington, D.C., area, and its components are located at the National Naval Medical Center, the Malcolm Grow Medical Center, the Armed Forces Institute of Pathology, and the Armed Forces Radiobiology Research Institute. There are more than 70 research workers, both active duty and Department of Defense civilian scientists, working in the USMCI. The Director of the USMCI, Dr. John Potter, intends to expand research activities to military medical centers across the nation. Special emphasis will be placed on the study of genetic and environmental factors in carcinogenesis among the entire population, including Asian, Caucasian, African-American and Hispanic subpopulations.

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

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

S. 51. A bill to amend title 10, United States Code, to recognize the United States Military Cancer Institute as an establishment within the Uniformed Services University of the Health Sciences, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE:

S. 50. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Homeland Security and Governmental Affairs.

Mr. INOUYE. Mr. President, today I introduce the Clinical Social Workers' Recognition Act to correct a continuing problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the nation. However, Title V of the United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought by Federal employees. The bill I am introducing corrects this problem.

It is a sad irony that Federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to the professional for workers' compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits Federal employees' selection of a provider to conduct the workers' compensation mental health evaluations. Lack of this recognition may well impose an undue burden on federal employees where clinical social workers are the only available providers of mental health care.

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

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

S. 50

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clinical Social Workers' Recognition Act of 2009”.

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2), by striking “and osteopathic practitioners’ and inserting “osteopathic practitioners, and clinical social workers’; and

(2) in paragraph (3), by striking “and osteopathic practitioners’ and inserting “osteopathic practitioners, clinical social workers.’’.

By Mr. INOUYE:

S. 51. A bill to amend title 10, United States Code, to recognize the United States Military Cancer Institute as an establishment within the Uniformed Services University of the Health Sciences, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

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

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


(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the United States of America.

(2) The Institute is composed of the United States Military Cancer Institute located within the Uniformed Services University of the Health Sciences.

(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

(B) The prevention and early detection of cancer.

(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University of the Health Sciences a report on the results of the research studies carried out under subsection (b).

(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.

(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

(b) EFFECTIVE DATE.—This section shall be effective on the date of enactment of this Act.

S. 51. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a Federally qualified health center.
Mr. INOUYE. Mr. President, today I am again introducing the Nursing School Clinics Act. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand real experience in primary care facilities.

Primary care clinics administered by nursing schools are university of non-profit primary care centers developed mainly in collaboration with universities, schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

The bill reinforces the principle of combining health care delivery in underserved areas with the education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the financial incentives for clinic operators to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care services to all Americans, we must consider a wide range of proposals, both large and small. Most importantly, we must approach the issue most effectively and focus on providing care to underserved populations of the medically underserved. To address this need, the bill would authorize a Federal Medicaid Assistance Program for medically underserved areas.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. The previous objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE.
This Act may be cited as the "Native Hawaiian Medicaid Coverage Act of 2009."
While nursing research indicates that adequate registered nurse staffing is vital to the health and safety of patients, there is no standardized public reporting mechanism, nor enforcement of adequate staffing plans. The only regulations addressing nursing staff exist vaguely in Medicare Conditions of Participation which states: “The nursing service must have an adequate number of licensed registered nurses, licensed practice, vocational, nurses, and other personnel to provide nursing care to all patients as needed.”

This bill will require Medicare Participating Hospitals to develop and maintain reliable and valid systems to determine sufficient registered nurse staffing. Given the demands that the healthcare industry faces today, it is our responsibility to ensure that patients have access to adequate nursing care. However, we must ensure that the decisions by which care is provided are made by the clinical experts, the registered nurses caring for these patients. Support of this bill supports our Nation’s nurses during a critical shortage and health of the patients.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, as follows:

S. 54

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Registered Nurse Safe Staffing Act of 2009”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) There are hospitals throughout the United States that have inadequate staffing of registered nurses to protect the well-being and health of the patients.

(2) Studies show that the health of patients in hospitals is directly proportionate to the number of registered nurses working in the hospital.

(3) There is a critical shortage of registered nurses in the United States.

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

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

(6) Registered nurses are being required to perform professional services under conditions that do not support quality health care or a healthy work environment for registered nurses.

(7) As a payer for inpatient and outpatient hospital services for individuals entitled to benefits under the Medicare program established under title XVIII of the Social Security Act, the Federal Government has a compelling interest in promoting the safety of such individuals by requiring any hospital participating in such program to establish minimum safe staffing levels for registered nurses.

SEC. 3. ESTABLISHMENT OF MINIMUM STAFFING RATIOS BY MEDICARE PARTICIPATING HOSPITALS.

(a) REQUIREMENT OF MEDICARE PROVIDER AGREEMENT.—(1) The Secretary, by amending—

(1) in subparagraph (U), by striking “and” at the end; and

(2) in subparagraph (V), by striking the period at the end and inserting “, and”; and

(3) by striking paragraph (V) the following new subparagraph:

(W) in the case of a hospital, to meet the requirements of section 1899;

(b) REQUIREMENT OF PUBLICATION.—(1) The Social Security Act is amended by inserting after section 1899 the following new section:

“STAFFING REQUIREMENTS FOR MEDICARE PARTICIPATING HOSPITALS.—

“SEC. 1899. (a) ESTABLISHMENT OF STAFFING SYSTEM.—

“(1) IN GENERAL.—Each participating hospital shall adopt a staffing system that ensures a number of registered nurses on each shift and in each unit of the hospital to ensure appropriate staffing levels for patient care.

“(2) STAFFING SYSTEM REQUIREMENTS.—

Subject to paragraph (3), a staffing system adopted and implemented under this section shall—

(A) be based upon input from the direct care-giving registered nurse staff in their exclusive representatives, as well as the chief nurse executive;

(B) be based upon the number of patients and the level and variability of intensity of care to be provided, with appropriate consideration given to admissions, discharges, and transfers during each shift;

(C) account for contextual issues affecting staffing and patient care, including architecture and geography of the environment and available technology;

(D) reflect the level of preparation and experience of those providing care;

(E) account for staffing level effectiveness or deficiencies in related health care classifications, including but not limited to, certified nurse assistants, licensed vocational nurses, licensed psychiatric technicians, nursing assistants, aides, and orderlies;

(F) reflect staffing levels recommended by specialty nursing organizations;

(G) establish upwardly adjustable registered nurse-to-patient ratios based upon registered nurses’ assessment of patient acuity and existing conditions;

(H) provide that a registered nurse shall not be assigned to work in a particular unit without such unit’s nurse executive and the chief nurse executive to provide professional care in such unit; and

(I) be based on methods that assure validity and reliability.

(B) LIMITATIONS.—A staffing system adopted and implemented under paragraph (1) may not—

(A) set registered-nurse levels below those required by any Federal or State law or regulation;

(B) utilize any minimum registered nurse-to-patient ratio established pursuant to paragraph (2)(G) as an upper limit on the staffing of the hospital to which such ratio applies.

(b) REPORTING, AND RELEASE TO PUBLIC, OF CERTAIN STAFFING INFORMATION.—

“(1) REQUIREMENTS FOR HOSPITALS.—Each participating hospital shall—

(A) post daily for each shift, in a clearly visible place, a document that specifies in a uniform manner (as prescribed by the Secretary) the current number of licensed and unlicensed nursing staff directly responsible for patient care in each unit of the hospital, identifying specifically the number of registered nurses;

(B) upon request, make available to the public—

(i) the nursing staff information described in subparagraph (A); and

(ii) a detailed written description of the staffing system established by the hospital pursuant to subsection (a); and

“(C) submit to the Secretary in a uniform manner (as prescribed by the Secretary) the nursing staff information described in subparagraph (A) through electronic data submission not less frequently than quarterly.

“(2) SECRETORIAL RESPONSIBILITIES.—The Secretary shall—

(A) make the information submitted pursuant to paragraph (1)(C) publicly available, including by publication of such information on the Internet website of the Department of Health and Human Services; and

(B) provide for the collection of such information for accuracy as a part of the process of determining whether an institution is a hospital for purposes of this section.

“(c) RECORD-KEEPING; DATA COLLECTION; EVALUATION.—

“(1) RECORD-KEEPING.—Each participating hospital shall maintain records for a period of at least 3 years (or, if longer, until the conclusion of pending enforcement activities) such records as the Secretary deems necessary to determine whether the hospital has adopted and implemented a staffing system pursuant to subsection (a).

“(2) DATA COLLECTION ON CERTAIN OUTCOMES.—The Secretary shall require the collection, maintenance, and submission of data by each participating hospital sufficient to establish the link between the staffing system established pursuant to subsection (a) and—

(A) patient acuity from maintenance of acuity data through entries on patients’ charts;

(B) patient outcomes that are nursing sensitive, such as patient falls, adverse drug events, injuries to patients, skin breakdown, pneumonia, infection rates, upper gastrointestinal bleeding, shock, cardiac arrest, length of stay, and patient readmissions;

(C) operational outcomes, such as work-related injury or illness, vacancy and turnover rates, nurse care hours per patient day, on-call use, overtime rates, and needle-stick injuries; and

(D) patient complaints related to staffing levels.

“(e) EVALUATION.—Each participating hospital shall annually evaluate its staffing system and establish minimum registered nurse staffing ratios to assure ongoing reliability and validity of the staffing system. The evaluation shall be conducted by a joint management-staff committee comprised of at least 50 percent of registered nurses who provide direct patient care.

“(f) ENFORCEMENT.—

“(1) RESPONSIBILITY.—The Secretary shall enforce the requirements and prohibitions of this section in accordance with the succeeding provisions of this subsection.

“(2) PROCEDURES FOR RECEIVING AND INVESTIGATING COMPLAINTS.—The Secretary shall establish procedures under which—

(A) any person may file a complaint that a participating hospital has violated a requirement or a prohibition of this section; and

(B) such complaints are investigated by the Secretary.

“(3) REMEDIES.—If the Secretary determines that a participating hospital has violated a requirement of this section, the Secretary shall—

(A) require the facility to establish a written corrective action plan to prevent the recurrence of such violation; and

(B) may impose civil money penalties under paragraph (4).

“(4) CIVIL MONEY PENALTIES.—

(A) IN GENERAL.—In addition to any other penalties prescribed by law, the Secretary may impose a civil money penalty of not more than $100,000 for violation of a requirement of this section, except that the Secretary shall impose a civil money
penalty of more than $10,000 for each such violation in the case of a participating hospital that the Secretary determines has a pattern or practice of such violations (with the addition of penalties for any such additional violations being determined in accordance with a schedule or methodology specified in regulations).

"(B) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

"(C) PUBLIC NOTICE OF VIOLATIONS.—

"(i) CHANGE OF OWNERSHIP.—With respect to a participating hospital that had a change in ownership, as determined by the Secretary, on or after the date of change in ownership, the Secretary shall publish on the Internet website of the Department of Health and Human Services the names of participating hospitals on which civil money penalties have been imposed under this section, the violation for which the penalty was imposed, and such additional information as the Secretary determines to be appropriate.

"(ii) Change of ownership.—A participating hospital shall publish on the Internet website after the 1-year period beginning on the date of change in ownership.

"(D) WHISTLEBLOWER PROTECTIONS.—

"(1) PROHIBITION OF DISCRIMINATION AND RETALIATION.—A participating hospital shall not discriminate or retaliate in any manner against any patient or employee of the hospital because that patient or employee, or any other person, has presented a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any kind, relating to the staffing system or other requirements and prohibitions of this section.

"(2) RELIEF FOR PREVAILING EMPLOYEES.—An employee of a participating hospital who has been discriminated or retaliated against in employment in violation of this subsection may initiate judicial action in a United States district court and shall be entitled to reinstatement, reimbursement for lost wages, and work benefits caused by the unlawful acts of the employing hospital. Prevailing employees are entitled to reasonable attorney’s fees and costs associated with pursuing the case.

"(3) RELIEF FOR PREVAILING PATIENTS.—A patient, or the patient’s legal representative, may bring an action in a United States district court against any participating hospital that has been determined in violation of this section, and shall be entitled to the same remedies as are available to an employee of a participating hospital.

"(4) LIMITATION ON ACTIONS.—No action may be brought under paragraph (3) more than 2 years after the discrimination or retaliation with respect to which the action is brought.

"(5) TREATMENT OF ADVERSE EMPLOYMENT ACTIONS.—For purposes of this subsection—

"(A) an adverse employment action shall be treated as retaliation or discrimination; and

"(B) the term 'adverse employment action' includes—

(i) the failure to promote an individual or provide any other employment-related benefit for which an individual would otherwise be eligible;

(ii) an adverse evaluation or decision made with respect to an individual’s professional accreditation, certification, credentialing, or licensing of the individual; and

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

"(F) RELATIONSHIP TO STATE LAWS.—Nothing in this section shall be construed as preempting any state law or the authority, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, except to the extent that such law or the authority, duty, penalty, or punishment require or permit the doing of any act which would be an unlawful practice under this title.

"(G) RELATIONSHIP TO CONDUCT PROHIBITED UNDER THE NATIONAL LABOR RELATIONS ACT OR OTHER COLLECTIVE BARGAINING LAWS.—Nothing in this section shall be construed as prohibiting any rights or protections provided under the National Labor Relations Act or any other Federal, State, or local collective bargaining law.

"(H) REGULATIONS.—The Secretary shall promulgate such regulations as are appropriate and necessary to implement this section.

"(I) DEFINITIONS.—In this section:

"(1) PARTICIPATING HOSPITAL.—The term 'participating hospital' means a hospital that has entered into a provider agreement under section 1866.

"(2) REGISTERED NURSE.—The term 'registered nurse' means an individual who has been granted status as a registered nurse in at least 1 State.

"(3) UNIT.—The term 'unit' of a hospital is an organizational department or separate geographic area of a hospital, such as a burn unit, a labor and delivery room, a post-anesthesia service area, an emergency department, an operating room, a pediatric unit, a step-down or intermediate care unit, a specialty care unit, a telemetry unit, a general medical care unit, a subacute care unit, and a transitional inpatient care unit.

"(4) SIMULATED CHANGE MEANS A SCHEDULED SET OF HOURS OR DUTY PERIOD TO BE WORKED AT A PARTICIPATING HOSPITAL.

"(5) PERSON.—The term 'person' means I or more individuals, associations, corporations, unincorporated organizations, or labor unions.

"(J) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010.

By Mr. INOUYE.

S. 55. A bill to amend the XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the Medicare program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am, again, introducing legislation to amend title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. These changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are covered under Medicare, just as these services are covered for other mental health professionals in Medicare.

Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider team. They are located in every state of the nation and are recognized as independent providers of mental health care throughout the health care system. It is time to correct the disparate reimbursement treatment of this profession under Medicare.

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

The agreement is not objection and the text of the bill was ordered to be printed in the RECORD, as follows:

S. 55 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE. This Act may be cited as the ‘‘Equity for Clinical Social Workers Act of 2009’’.

SEC. 2. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1395k(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395k(a)(1)(F)(ii)) is amended to read as follows: ‘‘(ii) the amount determined by a fee schedule established by the Secretary;’’.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(b)(2) of the Social Security Act (42 U.S.C. 1395k(b)(2)) is amended by striking ‘‘services performed by a clinical social worker (as defined in paragraph (1))’’ and inserting ‘‘such services and such services performed by a clinical social worker (as defined in paragraph (1))’’.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395k(b)(4)) is amended by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’.

(d) TREATMENT OF SERVICES FURNISHED IN DEPARTMENT OF DEFENSE FACILITIES.—Section 1862(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended—

(1) by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’; and

(2) by adding ‘‘and’’ at the end.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2010.

By Mr. INOUYE.

S. 56. A bill to amend the XVIII of the Social Security Act to remove the restriction that a clinical psychologist or certified clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I again introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not
allow them to function to the full extent of their State practice licenses. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are well-positioned to be independent providers of mental health care services under the Federal Employee Health Benefits Program, the TRICARE Military Health Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans. This legislation will ensure that these qualified professionals achieve the same recognition under the Medicare comprehensive outpatient rehabilitation facility program.

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

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

S. 58

A bill to amend the Internal Revenue Code of 1986 to modify the application of the tonnage tax on vessels operating in the dual United States domestic and foreign trades, and for other purposes; to the Committee on Finance.

By Mr. INOUYE.

S. 56. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, today, I am reintroducing legislation to amend title VII of the Public Health Service Act to establish a psychology post-doctoral program. Psychologists have made a unique contribution in reaching out to the Nation’s medically underserved populations. Expertise in behavioral science is useful in addressing grave concerns such as violence, addiction, mental illness, adolescent and child behavioral disorders, and family disarray. Establishment of a psychology post-doctoral program could be an effective way to find solutions to these issues.

Similar programs supporting additional, specialized training in traditionally underserved settings have been successful in retaining participants to serve the same populations. For example, mental health professionals who have participated in these specialized training programs have tended not only to meet their repayment obligations, but have continued to work in the public sector or with the underserved.

While a doctorate in psychology provides numerous knowledge and mastery in a wide variety of clinical skills, specialized post-doctoral fellowship programs help to develop particular diagnostic and treatment skills required to respond effectively to underserved populations. For example, what appears to be poor academic motivation in a child recently relocated from Southeast Asia might actually reflect a cultural value of reserve rather than a disinterest in academic learning. Specialized assessment skills enable the clinician to initiate effective treatment.

Domestic violence poses a significant public health problem and is not just a problem for the criminal justice system. Violence against women results in thousands of hospitalizations a year. Rates of child and spouse abuse in rural areas are particularly high, as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the Nation’s underserved.

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

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

S. 57

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Psychologists in the Service of the Public Act of 2009”.

SEC. 2. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN PATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE DIRECTION OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by striking “physician” and inserting “physician, except that a patient receiving qualified psychologist services as defined in subsection (ii) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law and except that a patient receiving clinical social worker services (as defined in subsection (hh)(2)) may be under the care of a clinical social worker with respect to such services to the extent permitted under State law”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2010.

By Mr. INOUYE:

S. 57. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, foreign registered ships now carry 97 percent of the imports and exports moving in United States international trade. These foreign vessels are held to lower standards than United States registered ships and are virtually untaxed. Their costs of operation are, therefore, lower than United States ship operating costs, which explains their 97 percent market share.

Three years ago, in order to help level the playing field for United States-registered ships that compete in international trade, Congress enacted, under the American Jobs Creation Act
of 2004, Public Law 108–357, Subchapter R, a ‘‘tonnage tax’’ that is based on the tonnage of a vessel, rather than taxing international income at a 35 percent corporate income tax rate. However, during the House and Senate conferences, it was included in their international income—which states that a United States vessel cannot use the tonnage tax on international income if that vessel also operates in United States domestic commerce for more than 30 days per year.

This 30-day limitation dramatically limits the availability of the tonnage tax for those United States ships that operate in both domestic and international trade and, accordingly, severely hinders their competitiveness in foreign commerce. It is important to recognize that ships operating in United States domestic trade already have significant cost disadvantages. Specifically, (1) they are built in higher priced United States shipyards; (2) do not receive Maritime Security Payment; (3) may not operate in international trade; and (3) are owned by United States-based American corporations. The inability of these domestic operators to use the tonnage tax for their international service is a further, unnecessary handicap on their competitive position in foreign commerce.

When windows of opportunity present themselves in international trade, American tax policy and maritime policy should facilitate the participation of these American-built ships. Instead, the 30-day limit makes them ineligible to use the tonnage tax, and further handicaps American vessels when competing for international cargo. Denying the tonnage tax to coastwise qualified ships further stymies the operation of American built ships in international commerce, and further exacerbates America’s 97 percent reliance on foreign ships to carry its international cargo.

The concerns were of sufficient importance that in December 2006 Congress repealed the 30-day limit on domestic trading but only for approximately 50 ships operating in the Great Lakes. These ships primarily operate in domestic trade on the Great Lakes, but also carry cargo between the United States and Canada in international trade (Section 415 of P.L. 109–432, the Tax Relief and Health Care Act of 2006).

The identifiable universe of remaining ships other than the Great Lakes ships that operate in domestic trade, but that may also operate temporarily in international trade, totals 13 United States flag vessels. These 13 ships normally operate in domestic trades that involve Washington, Oregon, California, Hawaii, Alaska, Florida, Mississippi, and Louisiana. In the interest of providing equity to the United States corporations that own and operate these 13 vessels, may bill would repeal the 30-day limit on domestic operations and enable these vessels to utilize the tonnage tax on their international income—so they receive the same treatment as other United States flag international operators. I stress that, under my bill, these ships will continue to pay the normal 35 percent United States corporate tax rate on their domestic income.

Repeal of the tonnage tax’s 30-day limit on domestic operations is a necessary step toward providing tax equity between United States flag and foreign flag vessels. I strongly urge the tax committees of the Congress to give this legislation their expedited consideration and approval.

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

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

S. 58

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

SECTION 1. MODIFICATION OF THE APPLICATION OF THE TONNAGE TAX ON VESSELS OPERATING IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.

(a) IN GENERAL.—Subsection (f) of section 1355 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

(1) an electing corporation shall be treated as continuing to use a qualifying vessel in United States foreign trade during any period of use of the United States domestic trade, and

(2) gross income from such United States domestic trade shall not be excluded under section 1355(a), but shall not be taken into account for purposes of section 1353(b)(1)(B) or for purposes of section 1356 in connection with the application of section 1357 or 1358.

(b) REGULATORY AUTHORITY FOR ALLOCATION OF CREDITS, INCOME, AND DEDUCTIONS.—Section 1358 of the Internal Revenue Code of 1986 (relating to allocation of credits, income, and deductions) is amended—

(1) by striking ‘‘in accordance with this subsection’’ in subsection (c) and inserting ‘‘to the extent provided in such regulations as may be prescribed by the Secretary’’; and

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

(d) REGULATIONS.—The Secretary shall prescribe regulations consistent with the provisions of this subsection for the purpose of allocating gross income, deductions, and credits between or among qualifying shipping activities and other activities of a taxpayer.’’.

SEC. 2. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting ‘‘, or any public or nonprofit school that offers a graduate program in professional psychology’’ after ‘‘veterinary medicine’’;

(2) in subsection (b) by inserting ‘‘, or to a graduate degree in professional psychology’’ after ‘‘or doctor of veterinary medicine or an equivalent degree’’; and

(3) in subsection (c)(1), by inserting ‘‘, or schools that offer graduate programs in professional psychology after ‘‘veterinary medicine’’.

(b) ULTRAVIOLET LOANS.—Section 722 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (b)(1), by inserting ‘‘, or to a graduate degree in professional psychology’’ after ‘‘or doctor of veterinary medicine or an equivalent degree’’;
SEC. 3. GENERAL PROVISIONS.

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 265(n)(a)) is amended by striking “clinical psychology”, and inserting “podiatric medicine.”

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 265m) is amended in the matter preceding paragraph (1) by striking “clinical” and inserting “professional”.

(c) DEFINITIONS.—Section 7901(b) of the Public Health Service Act (42 U.S.C. 269(b)) is amended by striking “clinical” each place the term appears and inserting “professional”.

By Mrs. FEINSTEIN (for herself, Mr. SCHUMER, Ms. SNOWE, and Mrs. BOXER)

S. 60. A bill to prohibit the sale and counterfeiting of Presidential inaugural tickets; to the Committee on Rules and Administration.

Mr. FEINSTEIN. Mr. President. I am pleased to join Senators SCHUMER, SNOWE, and BOXER in introducing legislation to prohibit the selling and counterfeiting of tickets to the Presidential inaugural ceremony.

The inauguration of the President of the United States is one of the most important rituals of our democracy, and the chance to witness this solemn event should not be bought and sold similar to tickets to a sporting event. This is a dignified and critical moment of transition in Government, a moment of which Americans have always been justifiably proud. It is, in fact, the major symbol of the real strength of our democracy—the peaceful transition from one elected President to the next.

Tickets to the official Presidential inaugural ceremony are supposed to be free for the people: for the volunteers who gave up their weekends, walking miles door to door to encourage voters to turn out at the polls on election day, for members of the African-American community to see one of their own take the oath of office for the highest office in the land, for schoolchildren to witness history, and for the American public to watch this affirmation of our Constitution, this peaceful transition from one administration to another.

This is going to be the major civic event of our time. Excitement is at an all-time high, and every one of us has received more phone calls for tickets than we could possibly ever meet. People are desperate to become part of it, to touch it, to be around, to feel it, to listen to it, and they are coming from all over. We cannot have more than 1.5 million people descend on the Nation’s Capital for this inauguration.

Before I introduced a similar bill at the end of the last Congress, tickets to the Presidential inaugural were being offered for sale on the Internet for $5,000 apiece, with some going as high as $40,000 each. To their credit, some Internet websites voluntarily agreed to pull these tickets online. I want to thank and commend Craigslist, eBay, and StubHub for leading the way on this issue.

However, it is clear that relying on voluntary industry compliance to prevent the sale of tickets is simply not enough. Today, some Internet sites are still offering these tickets for sale at prices up to $750 per ticket.

Let me be clear—these are free tickets that have not yet been distributed by congressional and Presidential transition offices. These unscrupulous websites who continue to offer these tickets for sale do not have any tickets to offer for sale.

These tickets are supposed to be free for the people. Once more, these tickets are not yet even available. They will not be distributed to congressional offices until the end of the week before the inauguration. Even then the offices will require in-person pickup, with secure identification. They will be free and they should stay that way.

We are asking people to pick up their tickets the day before the inauguration in my office. Everyone will submit their name, their address, and their driver’s license to verify they are the actual person who has tickets waiting for them. I believe this kind of procedure deters unscrupulous people from selling these tickets on the Internet. No websites or other ticket outlets have inaugural swearing-in tickets to sell, despite what some of them claim.

Congress has the responsibility of overseeing this historic event. This bill will ensure that these tickets are not sold to the bidder, and that the inauguration has all the respect and dignity it deserves.

This legislation is aimed at stopping those who seek to profit by selling these tickets. It would also target those who seek to dupe the public with fraudulent or counterfeit tickets or those who merely promise but can’t deliver on tickets that they do not actually have.

Those who violate the law under this legislation face a civil penalty and a misdemeanor with a substantial fine, imprisonment of up to 1 year, or both.

The bill also exempts official Presidential Inaugural Committees, and there is good reason for this. Presidential Inaugural Committees are used to organize and operate the public inaugural ceremonies. Donations made in return for inaugural tickets have long been used by both political parties to fund the Presidential inaugural festivities.

Unlike unscrupulous websites and ticket scalpers, there is no “profit” made by Presidential Inaugural Committees in giving these tickets to people in return for inaugural donations. This exemption will allow both parties to raise the needed funds to put on Presidential inaugurals in the future.

It is my hope that Congress will pass this legislation quickly, before President-elect Obama’s inaugural on January 20th. I think it is very important to establish once and for all that these tickets to the inauguration of the next President of the United States are not issues of commerce, but rather free tickets to be given to the people.

So I want to thank and commend Craigslist, eBay, and StubHub for leading the way.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 60

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

SECTION 1. PROHIBITION ON SALE AND COUNTERFEITING OF INAUGURAL TICKETS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Prohibition on sale and counterfeiting of inaugural tickets.

"(a) IN GENERAL.—It shall be unlawful for any person to—

"(1) except as provided in subsection (b), knowingly and willfully sell for money or property, or facilitate the sale for money or property of, a ticket to a Presidential inaugural ceremony;

"(2) with the intent to defraud, falsely make, forge, counterfeit, or falsely alter a ticket to a Presidential inaugural ceremony;

"(3) with the intent to defraud, use, unlawfully possess, or exhibit a ticket to a Presidential inaugural ceremony, knowing the ticket to be falsely made, forged, counterfeited, or falsely altered.

"(b) EXCEPTION.—This section shall not apply to the sale for money or property, facilitation of such a sale, or attempt of such a sale, of a ticket to a Presidential inaugural ceremony—

"(1) that occurs after the date on which the Presidential inaugural ceremony for which the ticket was issued occurs;

"(2) by an official Presidential inaugural committee established on behalf of a President elect of the United States.

"(c) PENALTY.—Whoever violates subsection (a) shall be fined not more than $10,000, or imprisoned not more than 1 year, or both.

"(d) DEFINITION.—In this section, the term ‘Presidential inaugural ceremony’ means a public inaugural ceremony at which the President elect or the Vice President elect take the oath of office or affirmation of office for the office of President of the United States or the office of Vice President of the United States, respectively.

"(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18 (United States Code), is amended by inserting at the end the following:

"§ 515. Prohibition on sale and counterfeiting of inaugural tickets.

By Mr. DURBIN (for himself, Mrs. BOXER, Mrs. FEINSTEIN, Mr. HARKIN, Mr. SCHUMER, and Mr. WHITEHOUSE):
S. 61. A bill to amend title 11 of the United States Code with respect to modification of certain mortgages on principal residences, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, as the 111th Congress begins, the most important item on our agenda is to help end the worst economic crisis America has faced since the Great Depression.

I look forward to working with my colleagues in the Senate to develop and approve an economic turnaround package as quickly as possible.

But even if Congress authorizes as much as $1 trillion in new Government spending over the next 2 years to stimulate the economy, if we don’t address the origins of this crisis, I fear the impact of any recovery package will be dampened.

This economic crisis began with the bubble that burst in the housing market. So we have to address that, first and foremost. Families need to be able to stay in their homes, and communities need to be stabilized before the economy can start to grow again.

That’s why, as my first bill in the new Congress, I am reintroducing the Helping Families Save Their Homes in Bankruptcy Act.

When I first began working on this bill almost two years ago, the Center for Responsible Lending, Credit Suisse, and others estimated that 2 million homes were at risk of foreclosure.

The Mortgage Bankers Association and the rest of the mortgage industry scoffed at such a number.

Last month, Credit Suisse estimated that 8.1 million homes are likely to be lost to foreclosure by 2012. If the economy continues to worsen, they believe foreclosures will exceed 10 million homes.

If over 8 million families—representing 16 percent of all mortgages—are losing their homes, our economy is not going to recover.

I first introduced this bill in September of 2007. I have chaired three hearings on the subject and tried three times to pass this legislation last year.

A large coalition supports this bill—including the AARP, the Consumer Federation of America, the Leadership Conference on Civil Rights, the AFL-CIO, the Center for Responsible Lending, the National Association of Consumer Attorneys and many others. But the Mortgage Bankers Association and the rest of the mortgage industry have successfully opposed it so far.

Three things have fundamentally changed, and I am back, pressing even harder that we make this bill law.

First, the banks that brought us the reckless lending, dense securitization, and risky investing practices that created the boom and bust in the housing market have now happily accepted a $700 billion bailout from the American taxpayers . . . even as most of them refuse to help the homeowners who are suffering most acutely from their irresponsible business practices. Frankly, I think that the credibility of the opposition to my bill has slipped just a bit.

Second, it is painfully clear that foreclosure mitigation efforts to date have failed. Professor Alan White of the Valparaiso School of Law analyzed a large number of modifications made voluntarily by the industry-led Hope Now Alliance. He found that almost half of these so-called foreclosure prevention plans actually increased the monthly payments of homeowners who had help families save their homes?

Third, America soon will have a President who understands the enormity of this problem and supports this change to the bankruptcy code. So what does this bill do? This bill would allow mortgages on primary residences to be modified in bankruptcy just like other debts—including vacation homes, family farms, and yachts.

Only families living in the home would qualify—no speculators are allowed.

The bill would allow judges to cut through all of the constraints that have doomed foreclosure prevention plans in the past. Judges would have full discretion to make even the most proactive and well-intentioned mortgage servicers.

There are very real constraints on some of the current efforts to prevent foreclosure today because most mortgages are securitized and sold to different investors. Servicers sometimes have a hard time locating all of the owners of the mortgages to get their consent for modifications.

Servicers that modify mortgages without the consent of all the investors fear that they could be sued.

Some investors refuse to approve sensible restructurings, because there is little incentive for the owner of a second mortgage to approve a modification of a first mortgage that will see the second mortgage wiped out.

Mortgage modifications that ignore the other pile of debt a household is facing is a set-up for failure. That’s a leading reason why we see so many redefaults on newly modified mortgages through the current programs.

Finally, servicers who are on the front lines answering the phone calls from homeowners and processing the paperwork often are compensated more for foreclosures than modifications.

My proposal would allow judges to cut through these complicating factors to rework the underlying loans.

The mortgages that are modified in bankruptcy will provide far more value to the lenders and the investors than foreclosures.

The bill would provide borrowers who are frustrated with their mortgage servicers some desperately needed leverage to get their bank’s full attention. It provides an incentive for banks to modify loans before the judges in bankruptcy do it for them.

Best of all, this program would cost the taxpayers nothing. Given the staggering amounts that taxpayers have been asked to give to the mortgage industry lately, the taxpayers are ready for a plan that doesn’t cost them anything and that will actually work.

Since the Mortgage Bankers Association still opposes this plan, after taking $1 trillion of taxpayer money and after failing to do anything meaningful on their own to address this crisis, I want to address their primary remaining objection to this plan as clearly as possible so that everyone listening and understanding why the industry is wrong, once and for all.

A few weeks ago, the Chairman of the Mortgage Bankers Association testified in the Senate Judiciary Committee that my bill would create a tax of $295, per month, for every homeowner in America, forever. I asked in the hearing, and my staff asked three times after the hearing, for some shred of evidence to support such a ridiculous claim. The response finally came just before the holidays and is laughable.

The Mortgage Bankers Association claims that changing the bankruptcy code will create new costs for lenders that must then be passed on to all borrowers. They have concocted a list of individual costs that they call a “tax,” as they call it. But they don’t provide a single shred of evidence to support any of these cost estimates. Not one. They just made them all up.

On the other hand, a study conducted by Adam Levitin of the Georgetown Law School uses actual statistical data to show that there is virtually no impact on mortgage interest rates just because mortgages can be modified by judges in bankruptcy.

The main problem with the argument that my bill will increase future mortgage rates is this:

The choice for mortgage lenders and investors is not full payment of the original mortgage versus a lower payment from a judicially modified mortgage.

The choice is between a lower payment from a judicially modified mortgage and mortgage failure.

Valparaiso’s Professor White reports that in his large study sample, mortgage servicers and their investors lost an average of 55 percent of the value of the mortgages that failed through foreclosure, or about $145,000 per loan.

If those loans would have been modified in bankruptcy, investors would have been given ownership of a sustainable mortgage worth at least the fair market value of the home plus an interest rate that included a premium for risk. These modified mortgages would on average have created far better results than the foreclosures that actually occurred.

Therefore, when the Mortgage Bankers Association claims with no evidence whatsoever that my bill would raise mortgage interest rates, we should all ask them this: Why would mortgage bankers charge future borrowers higher interest rates tomorrow because of a change in the law that
helps the bankers reduce their losses today?
I urge the Senate to move swiftly to enact the economic recovery package that America desperately needs. And as part of that effort I urge my colleagues to support the remedy to the foreclosure crisis that will provide the most help to the 8.1 million families across the country who are at risk of losing their homes.

If we don’t address the core of the crisis, I fear that the stimulus may not work as it should. I look forward to working with Chairman DODD, Senator SCHUMER, all of the other Senators who have supported this provision, and President-elect Obama to see that it is signed into law quickly.

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

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

S. 61

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Helping Families Save Their Homes in Bankruptcy Act of 2009”.

SEC. 2. ELIGIBILITY FOR RELIEF.
Section 109 of title 11, United States Code, is amended—

(1) by adding at the end of subsection (e) the following: “For purposes of this subsection, the computation of debts shall not include the secured or unsecured portions of—

(1) debts secured by the debtor’s principal residence if the current value of that residence is less than the secured debt limit; or

(2) debts secured or formerly secured by real property that was the debtor’s principal residence that was sold in foreclosure or that the debtor surrendered to the creditor if the current value of the real property is less than the secured debt limit.”; and

(2) by adding at the end of subsection (b) the following: “The requirements of paragraph (1) shall not apply in a case under chapter 13 with respect to a debtor who submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor’s principal residence may commence a foreclosure on the debtor’s principal residence.”

SEC. 3. PROHIBITING CLAIMS ARISING FROM VIOLATIONS OF CONSUMER PROTECTION LAWS.
Section 502(b) of title 11, United States Code, is amended—

(1) by redesignating paragraph (11) as paragraph (12),

(2) in paragraph (10) by striking “and” at the end, and

(3) by inserting after paragraph (10) the following:

“(11) notwithstanding paragraph (2) and any other applicable nonbankruptcy law, with respect to a claim for the payment of interest by a security interest in the debtor’s principal residence that is the subject of a notice that a foreclosure may be commenced, modify the rights of the holder of such claim—

(A) by providing for payment of the amount of the allowed secured claim as determined under section 506(a)(1),

(B) if any applicable rate of interest is adjustable under the terms of such security interest by prohibiting, reducing, or delaying adjustments to such rate of interest applicable on and after the date of filing of the plan;

(C) by modifying the terms and conditions of such loan—

	(i) to extend the repayment period for a period that is no longer than the longer of 40 years (reduced by the period for which such loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief; or

	(ii) to provide for the payment of interest accruing after the date of the order for relief under this chapter at an annual percentage rate calculated by applying to the then most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as of the applicable time set forth in the rules of the Board, plus a reasonable premium for risk; and

(D) by providing for payments of such modified loan directly to the holder of the claim; and”.

SEC. 5. COMBATING EXCESSIVE FEES.
Section 1322(c) of title 11, United States Code, is amended—

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

(2) in paragraph (2) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

“(11) the debtor’s property, and property of the estate are not liable for a fee, cost, or charge that is incurred while the case is pending and arises from a debt that is secured by a security interest in the debtor’s principal residence except to the extent that—

(A) the holder of the claim for such debt files with the court (annually or, in order to permit the holder of such claim to file reports, at such more frequent periodicity as the court determines necessary) notice of such fee, cost, or charge before the earlier of—

	(i) 1 year after such fee, cost, or charge is incurred; or

	(ii) 60 days before the closing of the case;

(B) such fee, cost, or charge—

	(i) is lawful under applicable nonbankruptcy law, reasonable, and provided for in the applicable security agreement; and

	(ii) is secured by property the value of which is greater than the amount of such claim, including such fee, cost, or charge; or

	(iii) the failure of a party to give notice described in paragraph (3) for all purposes, and any attempt to collect such fee, cost, or charge shall constitute a violation of section 524(a)(2) or, if the violation occurs before the date of discharge, of section 526(a); and

(D) a plan may provide for the waiver of any prepayment penalty on a claim secured by the debtor’s principal residence.”.

SEC. 6. CONFIRMATION OF PLAN.
Section 1325(a) of title 11, the United States Code, is amended—

(1) in paragraph (8) by striking “and” at the end,

(2) in paragraph (9) by striking the period at the end and inserting a semicolon, and

(3) by inserting after paragraph (9) the following:

“(10) notwithstanding subclause (I) of paragraph (5)(B)(i), the plan provides that the holder of a claim whose rights are modified pursuant to section 1322(b)(11) retain the lien until the later of—

(A) the payment of such holder’s allowed secured claim; or

(B) discharge under section 1328; and

“(11) the plan modifies a claim in accordance with section 1322(b)(11), and the court finds that such modification is in good faith.”.

SEC. 7. DISCHARGE.
Section 1328 of title 11, the United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “other than payments to holders of claims whose rights are modified under section 1322(b)(11)” after “paid the last dental payment,” and

(B) in paragraph (1) by inserting “or, to the extent of the unpaid portion of an allowed secured claim, provided for in section 1322(b)(11)” after “(1)”;

and

(2) in subsection (c)(1) by inserting “or, to the extent of the unpaid portion of an allowed secured claim, provided for in section 1322(b)(11)” after “(c)(1)”.

SEC. 8. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.
(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply with respect to cases commenced under title 11 of the United States Code before, on, or after the date of the enactment of this Act.

By Mr. INOUYE

S. 63. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physician assistants under the Medicaid Program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today, I, again, introduce the Medicaid Advanced Practice Nurse and Physician Assistants Access Act of 2009, this legislation would change the Federal law to expand fee-for-service Medicaid to include direct payment for services provided by all nurse practitioners, clinical nurse specialists, and physician assistants. It would ensure all advanced practice nurses and certified nurse midwives, and physician assistants are recognized as primary care case managers, and require Medicaid panels to include advanced practice nurses on their managed care panels.

Advanced practice nurses are registered nurses who have attained additional expertise in the clinical management of health conditions. Typically, an advanced practice nurse holds a master’s degree with didactic and clinical preparation beyond that of the registered nurse. They are employed in clinics, hospitals, and private practices. While there are many titles given to these advanced practice nurses, including practitioner, nurse practitioner, and nurse practitioner-assisted care, most use the title of advanced practice nurse.
nurses, such as pediatric nurse practitioners, family nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists, our current Medicaid law has not kept up with the multiple specialties and titles of these advanced practice providers. It has not recognized the critical role physician assistants play in the delivery of primary care.

I have been a long-time advocate of advanced practice nurses and their ability to extend health care services to underserved and underserved communities. They have improved access to health care in Hawaii and throughout the United States by their willingness to practice in what some providers might see as undesirable locations—extremely rural, frontier, or urban areas. This legislation ensures they are recognized and reimbursed for providing the necessary health care services patients need, and it gives those patients the choice of selecting advanced practice nurses and physician assistants as their primary care providers.

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

The bill being so ordered, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 63

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2009”.

SEC. 2. IMPROVED ACCESS TO SERVICES OF ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS UNDER STATE MEDICAID PROGRAMS.

(a) PRIMARY CARE CASE MANAGEMENT.—

Section 1932(b)(2) of the Social Security Act (42 U.S.C. 1396l(b)(2)) is amended by striking subparagraph (B) and inserting the following:

“(B) A nurse practitioner (as defined in section 1861(aa)(5)(A)), a clinical nurse specialist (as defined in section 1861(aa)(5)(B)), a certified registered nurse anesthetist (as defined in section 1861(aa)(5)(C)) or a certified midwife (as defined in section 1861(aa)(5)(D)) provides a service as a primary care provider to a patient under the physician assistant.”

(b) E-GENE FOR-PER-SERVICE PROGRAM.—Section 1905(a)(21) of such Act (42 U.S.C. 1396a(a)(21)) is amended by inserting “or a nurse practitioner (as defined in section 1861(aa)(5)(A)), a clinical nurse specialist (as defined in section 1861(aa)(5)(B)), a certified registered nurse anesthetist (as defined in section 1861(aa)(5)(C)) or a certified midwife (as defined in section 1861(aa)(5)(D))” after “certified nurse midwife as defined in section 1861(aa)(5)(D)”.

(c) INCLUDING IN MIX OF SERVICE PROVIDERS UNDER MEDICAID MANAGED CARE ORGANIZATIONS.—Section 1903(b)(3) of such Act (42 U.S.C. 1396b-2(b)(3)) is amended by inserting “, a nurse practitioner or clinical nurse specialist, physician assistant, certified registered nurse anesthetist, and a certified midwife,” after “the following:”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished in calendar quarters beginning on or after 180 days after the date of enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

By Mr. INOUYE.

S. 65. A bill to provide relief to the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, almost 14 years ago, I stood before you to introduce a bill to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims.

That bill was introduced as Senate Resolution 223, which referred the Pottawatomi’s claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings for the conclusion that it would be “fair, just and equitable” for the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Nine years ago, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. By settlement stipulation, the United States, by September 26, 1933, had the position that it would be “fair, just and equitable” to settle the claims of the Pottawatomi Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after 7 years of extensive, fact-intensive litigation. Independently, the Court of Federal Claims concluded that the settlement amount is “not a graft” and that “the settlement was predicated on a credible legal claim.”


The bill I introduce today is to authorize the payment of those funds that the United States has concluded would be “fair, just and equitable” to satisfy this legal claim from amounts appropriated under section 1304 of title 31 of the United States Code. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descend-ant groups—successors-in-interest—of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. Between 1755 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession—many of these cessions were made under extreme duress and the threat of military action.

In exchange, the Pottawatomis were repeatedly made promises that the remain-der of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal policy of removal—

an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of this effort, the United States increas-ingly pressured the Pottawatomis to cede the remainder of their traditional lands—some 5 million acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal terri-tory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent 2 weeks using extraordinarily coercive tacti-ces—including threats of war—in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present and released on September 26, 1833, to cede the remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the “Wisconsin Band” were not present and did not assent to the cession.

In excha...
Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was “not fit for snakes to live on.”

While some Pottawatomis removed westward with the Pottawatomis—particularly the Wisconsin Band, whose leaders never agreed to the Treaty—refused to.do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east—with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomis were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Band vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to move to Canada. They were often pursued by the government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomis groups that had not removed west. In the 1860s, members of the Wisconsin Band—those still in their traditional territory and those forced to flee to Canada—petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and other cession treaties. By the Act of June 25, 1864 (13 Stat. 172) the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomis Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949). Nevertheless, Congress then decided to make no further payment of the Wisconsin annuities owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomis in Canada has diligently and continuously sought to enforce their treaty rights in both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomis in Canada diligently sought to have their claim heard in this international forum. Afterwards, the international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act, ICCA, granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border—brought suit together in the Indian Claims Commission for recovery of damages. Hannahville Indian Community v. U.S., No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomis in Canada’s part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside the territorial limits of the United States. Hannahville Indian Community v. U.S., 115 Ct. Cl. 823 (1950). The claim of the Wisconsin Band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims Court in 1983. Hannahville Indian Community v. United States, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was entitled to the proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin Band Pottawatomis for any claims not paid.

Still the Pottawatomis in Canada were excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomis in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a “fair, just and equitable” resolution to this claim.

The Pottawatomis in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has made an error and an obligation that the United States is willing to do what we can to see that justice—so long delayed is not now denied.

Finally, I would just note that the claim of the Pottawatomis in Canada is supported through specific resolutions by the National Congress of American Indians, the oldest, largest and most-representative tribal organization here in the United States, the Assembly of First Nations, which includes all recognized tribal entities in Canada, and each and every of the Pottawatomis tribal groups that remain in the United States today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record. There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

SEC. 1. SETTLEMENT OF CERTAIN CLAIMS.

(a) AUTHORIZATION FOR PAYMENT.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary of the Treasury shall pay the judgment of the Pottawatomis in Canada $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment under subsection (a) shall—

(1) be made in accordance with the terms and conditions of the stipulation for Recommendation of Settlement dated May 22, 2000, entered into between the Pottawatomis
Nation in Canada and the United States (referred to in this section as the “Stipulation for Recommendation of Settlement”); and
(2) be included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94-1037X, submitted to the Senate on January 4, 2001, in accordance with sections 1492 and 2509, United States Code.
(c) Full Satisfaction of Claims.—The payment under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States that are referred to or described in the Stipulation for Recommendation of Settlement.

By Mr. INOUYE (for himself and Mr. LANDRIEU):
S. 66. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Services are permitted to travel on a space-available basis on non-scheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for veterans with 100 percent service-connected disabilities.

We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our Nation, but surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying “thank you” by supporting this legislation.

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

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

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

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippines Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a) that is available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) Issuance of Certificate of Service.—The Secretary of the Army shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) Effect of Certificate of Service.—A certificate of service issued to any person under section 2(a) supersedes the purpose of any law of the United States, conclusively establish the period, nature, and character of

"1060c. Travel on military aircraft: certain disabled former members of the armed forces
"The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Air Mobility Command. The Secretary of Defense shall permit such travel on a space-available basis.

By Mr. INOUYE:
S. 67. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing legislation to enable certain disabled former prisoners of war to use the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation’s enemies, I do feel this gesture is both meaningful and important to those concerned because it serves as a reminder that our Nation has not forgotten their sacrifices.

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

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

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

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) In General.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

"*1064a. Use of commissary and exchange stores: certain disabled former prisoners of war
"(a) In General.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1060b the following new section:

"1060c. Travel on military aircraft: certain disabled former members of the armed forces
"The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Air Mobility Command. The Secretary of Defense shall permit such travel on a space-available basis.

By Mr. INOUYE.
S. 68. A bill to require the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed any military service on behalf of the United States during World War II; to the Committee on Veterans’ Affairs.

Mr. INOUYE. Mr. President, I am reintroducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed any military service on behalf of the United States during World War II.

Our Filipino veterans fought side by side with Americans and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits that, I believe, they are entitled to. As this population becomes older, it is important for our nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great Nation that we are today.

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

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in subsection (a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary of the Army may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period more than two years after the date of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary of the Army shall prescribe regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations prescribed by the Secretary of Veterans Affairs.

SEC. 8. DEFINITION.

In this Act, the term “World War II” means the period beginning on December 7, 1941, and ending on December 31, 1946.

By Mr. INOUYE (for himself, Mr. LIEBERMAN, Mr. CARPER, Ms. MURkowski, Mr. LEVIN, and Mr. AKAKA):

S. 69. A bill to establish a fact-finding Commission to study the program conducted pursuant to Executive Order 9066 (relating to the authorization of the Secretary of War to prescribe military areas and to expulsion from those areas) for the purpose of exchanging the Latin Americans of Japanese descent for the purpose of exchanging the Latin Americans of Japanese descent for the purpose of exchanging the Latin Americans of Japanese descent for the purpose of exchanging the Latin Americans of Japanese descent.

By Mr. INOUYE, Mr. President, I rise today to introduce the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.

The story of U.S. citizens taken from their homes on the west coast and confined in camps is a story that was made known after a fact-finding study of a Commission that Congress authorized in 1980. That study was followed by a formal apology by President Reagan and a bill for reparations. Far less known, and indeed, I myself did not initially know, is the story of Latin Americans of Japanese descent taken from their homes in Latin America, stripped of their passports, brought to the U.S., and held in American camps.

This is a story about the U.S. government's act of reaching its arm across international borders, into a community that did not pose an immediate threat to the nation, in order to use them, devoid of passports or any other proof of citizenship, for exchange with Americans with Japan. Between the years 1941 and 1945, our Government, with the help of Latin American officials, arbitrarily arrested persons of Japanese descent from streets, homes, and workplaces. Approximately 2,300 undocumented persons were brought to camp sites in the U.S., where they were held under armed watch, and then held in reserve for prisoner exchange. Those used in an exchange were sent to Japan, a foreign country that many had never set foot on since their ancestors' immigration to Latin America.

Despite their involuntary arrival, Latin American internees of Japanese descent were considered by the Immigration and Naturalization Service as illegal entrants. By the end of the war, some Japanese Latin Americans had been sent to Japan. Those who were not used in a prisoner exchange were cast out into a new and English-speaking country, and subject to deportation proceedings. Some returned to Latin America. Others remained in the U.S., because their country of origin in Latin America refused their re-entry, because they were unable to present a passport.

When I first learned of the wartime experiences of Japanese Latin Americans, it seemed unbelievable, but indeed, it happened. It is a part of our national history, and it is a part of the living histories of the many families whose lives are forever tied to internment camps in our country.

The outline of this story was sketched out in a book published by the Commission on Wartime Relocation and Internment of Civilians formed in 1980. This Commission had set out to learn about Japanese Americans. Towards the close of their investigations, the Commissioners stumbled upon this extraordinary effort by the U.S. government to relocate, intern, and deport Japanese persons formerly living in Latin America. Because this finding surfaced late in its study, the Commission was unable to fully uncover the facts, but found them significant enough to include in its published study, urging a deeper investigation.

I rise today to introduce the Commission on Wartime Relocation and Internment of Latin Americans of Japa­nese Descent Act, which would establish a fact-finding Commission to extend the study of the 1980 Commission. This Commission's task would be to determine facts surrounding the U.S. government's actions in regards to Japanese Latin Americans, subject to a program of relocation, internment, and deportation. I believe that examining this extraordinary program would give finality to, and complete the account of Federal actions to detain and intern civilians of Japanese ancestry.

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

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

**S. 69.** 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 “Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act”.

**SECTION 2. FINDINGS.**

(a) FINDINGS.—Based on a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds the following:

(1) During World War II, the United States—

(A) expanded its internment program and national security investigations to conduct the program and investigations in Latin America; and

(B) financed relocation to the United States, and internment, of approximately 2,300 Latin Americans of Japanese descent, for the purpose of exchanging the Latin Americans of Japanese descent.

(2) Approximately 2,300 men, women, and children of Japanese descent were relocated to the United States; and

(3) Latin Americans of Japanese descent were treated as illegal entrants. By the end of the war, some Japanese Latin Americans had been sent to Japan. Those who were not used in a prisoner exchange were cast out into a new and English-speaking country, and subject to deportation proceedings. Some returned to Latin America. Others remained in the U.S., because their country of origin in Latin America refused their re-entry, because they were unable to present a passport.

When I first learned of the wartime experiences of Japanese Latin Americans, it seemed unbelievable, but indeed, it happened. It is a part of our national history, and it is a part of the living histories of the many families whose lives are forever tied to internment camps in our country.

The outline of this story was sketched out in a book published by the Commission on Wartime Relocation and Internment of Civilians formed in 1980. This Commission had set out to learn about Japanese Americans. Towards the close of their investigations, the Commissioners stumbled upon this extraordinary effort by the U.S. government to relocate, intern, and deport Japanese persons formerly living in Latin America. Because this finding surfaced late in its study, the Commission was unable to fully uncover the facts, but found them significant enough to include in its published study, urging a deeper investigation.

I rise today to introduce the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would establish a fact-finding Commission to extend the study of the 1980 Commission. This Commission's task would be to determine facts surrounding the U.S. government's actions in regards to Japanese Latin Americans, subject to a program of relocation, internment, and deportation. I believe that examining this extraordinary program would give finality to, and complete the account of Federal actions to detain and intern civilians of Japanese ancestry.

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

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

**S. 69.** 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 “Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act”.

**SECTION 2. FINDINGS.**

(a) FINDINGS.—Based on a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds the following:

(1) During World War II, the United States—

(A) expanded its internment program and national security investigations to conduct the program and investigations in Latin America; and

(B) financed relocation to the United States, and internment, of approximately 2,300 Latin Americans of Japanese descent, for the purpose of exchanging the Latin Americans of Japanese descent.

(2) Approximately 2,300 men, women, and children of Japanese descent were relocated to the United States; and

(3) Latin Americans of Japanese descent were treated as illegal entrants. By the end of the war, some Japanese Latin Americans had been sent to Japan. Those who were not used in a prisoner exchange were cast out into a new and English-speaking country, and subject to deportation proceedings. Some returned to Latin America. Others remained in the U.S., because their country of origin in Latin America refused their re-entry, because they were unable to present a passport.

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

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:
CIVIL LIBERTIES ACT OF 1988—(50 U.S.C. App. 1989b et seq.), which formally apologized and provided compensation payments to former Japanese Americans interned pursuant to Executive Order 9066.

(b) PURPOSE.—The purpose of this Act is to establish a fact-finding Commission to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, if any, by the original Commission and new discoveries.

(b) REPORT.—Not later than 1 year after the date of the first meeting of the Commission the Commission shall submit a written report to Congress, which shall contain findings resulting from the investigation conducted under subsection (a) and recommendations described in subsection (a)(2).

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission may, for the purpose of carrying out this Act—

1. hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such subcommittee or member considers advisable; and

2. require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondences, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

1. ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

2. ENFORCEMENT.—In the case of contumacy or disobedience to a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or to which the subpoena requests or compels the testimony or things to be produced, the court mayまあたてまんに to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) WITNESS ALLOWANCES AND FEES.—Sec. 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed by the Commission or any subcommittee or member of the Commission to perform its duties.

(d) INFORMATION FROM FEDERAL AGENCIES.—

1. The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to perform its duties. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVISIONS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall be compensated in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of the Executive Office of the President under subchapter V of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

1. IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations prescribed by chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5.

2. DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reclassification and such employee shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

3. OTHER ADMINISTRATIVE MATTERS.—The Commission may—

1. enter into agreements with the Administrator of General Services to procure necessary financial and administrative services;

2. enter into contracts to procure supplies, services, and property; and

3. enter into contracts with Federal, State, or local agencies, or private institutions or organizations, for the conduct of research or surveys, the preparation of reports, and other activities necessary to enable the Commission to perform its duties.

SEC. 7. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits its report to Congress under section 4(b).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

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

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available without fiscal year limitation, until expended.

By Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our Nation. My bill would restore Memorial Day to May 30 and authorize the flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation
Mr. President, I would 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. 72

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

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended by striking ‘‘Memorial Day, the last Monday in May,’’ and inserting the following:

‘‘Memorial Day, May 30.’’

(b) OBSERVANCES AND CEREMONIES.—Section 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking ‘‘The last Monday in May’’ and inserting ‘‘May 30’’;

(2) in subsection (b)—

(A) by striking ‘‘and’’ at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

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

‘‘(4) calling on the people of the United States to observe Memorial Day as a day of pamphlets to show respect for United States veterans of wars and other military conflicts;’’

(c) DISPLAY OF FLAG.—Section 6(d) of title 36, United States Code, is amended—

(1) in subsection (a), by striking ‘‘The last Monday in May’’ and inserting ‘‘May 30’’;

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 70. A bill to reauthorize the programs of the Department of Housing and Urban Development for housing assist- sance to Native Hawaiians; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a bill to reauthorize Title VIII of the Native American Housing Assistance and Self-Determination Act, 25 U.S.C. 4191 et seq., for Native Hawaiians—(after ‘‘tribal’’;)

(A) in subsection (a)—

(1) by striking ‘‘or tribally designated housing entity’’ and inserting ‘‘or a housing entity, or Department of Hawaiian Home Lands’’; and

(II) by inserting ‘‘or 4191, as applicable,’’ after ‘‘section 202’’; and

(B) in subsection (c), by inserting ‘‘or title VIII, as applicable’’ before the period at the end;

(2) in section 602 (25 U.S.C. 4192)—

(3) by striking ‘‘tribe’’; and

(II) by inserting or ‘‘title VIII, as applicable,’’ after ‘‘title I’’; and

(III) by inserting ‘‘or 411(b), as applicable,’’ before the semicolon at the end; and

(4) by inserting ‘‘or Department of Hawaiian Home Lands’’;

and

(II) by inserting ‘‘or housing entity, or the Department of Hawaiian Home Lands’’;

(3) in subsection (j)(7), by striking ‘‘fiscal years’’ and all that follows through the end of the paragraph and inserting the following: ‘‘fiscal years 2009, 2010, 2011, 2012, and 2013.’’

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR TITLE VIII.


SEC. 3. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13b) is amended—

(1) in subsection (b), by striking ‘‘or as a result of a lack of access to private financial markets’’;

(2) in subsection (c), by striking paragraph (2) and inserting the following:

‘‘(2) ELIGIBLE HOUSING.—The loan will be used to construct, acquire, refinance, or re- habilitate any dwelling that is—

(A) standard housing; and

(B) located on Hawaiian Home Lands.’’;

and

(3) in subsection (j)(7), by striking ‘‘fiscal years’’ and all that follows through the end of the paragraph and inserting the following: ‘‘fiscal years 2009, 2010, 2011, 2012, and 2013.’’

SEC. 4. ELIGIBILITY OF DEPARTMENT OF HAWAI- IAN HOME LANDS FOR TITLE VI LOAN GUARANTEES.

Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191 et seq.) is amended—

(1) in the title heading, by inserting ‘‘AND NATIVE HAWAIIAN’’ after ‘‘TRIBAL’’;

(2) in section 601 (25 U.S.C. 4190)—

(A) in subsection (a)—

(1) by striking ‘‘or tribally designated housing entity’’ and inserting ‘‘or a housing entity, or Department of Hawaiian Home Lands’’; and

(II) by inserting ‘‘or 4191, as applicable,’’ after ‘‘section 202’’; and

(B) in subsection (c), by inserting ‘‘or title VIII, as applicable’’ before the period at the end;

(3) in section 602 (25 U.S.C. 4192)—

(A) in subsection (a)—

(1) in the matter preceding paragraph (1), by striking ‘‘foreclosure or tribally designated housing entity’’ and inserting ‘‘or any housing entity, or Department of Hawaiian Home Lands’’; and

(2) in paragraph (3)—

(I) by inserting ‘‘or Department’’ after ‘‘tribe’’;

(II) by inserting or ‘‘title VIII, as applica- ble,’’ after ‘‘title I’’; and

(III) by inserting ‘‘or 411(b), as applicable,’’ before the semicolon at the end; and

(B) in subsection (b)(2), by striking ‘‘or housing entity’’ and inserting ‘‘or entity, or the Department of Hawaiian Home Lands’’;

(4) in the first sentence of section 603 (25 U.S.C. 4193), by striking ‘‘or housing entity’’ and inserting ‘‘or entity, or the Department of Hawaiian Home Lands’’;

(5) in section 605(b) (25 U.S.C. 4195(b)), by striking ‘‘1997 through 2007’’ and inserting ‘‘2009 through 2013’’;

By Mrs. FEINSTEIN:

S. 73. A bill to establish a systematic mortgage modification program at the Federal Deposit Insurance Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that will limit foreclosures and stabilize home values through Federal loan guarantees and standardized procedures for mortgage workout agree- ments.

The Systematic Foreclosure Prevention and Mortgage Modification Act would implement the foreclosure prevention plan developed by Federal De- posit Insurance Corporation, FDIC, Chair Sheila Bair.

There are three key components of this legislation.

Servicers would be incentivized to modify mortgages, receiving $1,000 to $2,500 for each loan modification: the Federal Government would share up to 50 percent of any loss should the homeowner default after re- ceiving a modification; and participating servicers would be required to systematically review and modify all subprime loans in their portfolios, ap- plying a standard calculation to help expedite loan modifications as cost-effec- tively as possible.

The FDIC estimates that roughly 2.2 million home loans, worth $444 billion, could be modified under this plan, with 1.5 million foreclosures avoided.

This legislation is projected to cost at least $25 billion; however, no addi- tional spending is necessary.

This effort would be funded solely through the Troubled Assets Relief Program, TARP, to ensure that one of the core objectives of the bill, assistance to homeowners, is achieved.

Foreclosures are in the best interest of no one.

Neighborhoods are decimated when homes are repossessed or left vacant, property values decline, local econom- ies suffer, and crime often increases in blighted areas. Lenders must sustain the costs of foreclosure and are left with the burden of reselling properties in a distressed market.

Homeowners are forced to give up on their American dream, and in some cases, tenants are forced out of homes they have been renting.

To date, no TARP funds have been al- located by Treasury to directly address the foreclosure crisis.

This must change, and it must change now.

According to the FDIC, the pace of loan modifications continues to be very slow, with only 4 percent of troubled mortgages being modified to prevent foreclosures each month.

A systematic approach is needed to expedite this process. The FDIC has
implemented such a program successfully at Indy Mac Federal Bank, to reduce mortgage payments as low as 31 percent of monthly income.

Loan modifications are based on interest rate reductions, extended loan terms, and principal forbearance. Unemployed that have received TARP funds have not been compelled to implement foreclosure reduction measures, and adequate incentive structures are not in place.

This legislation provides prudent and cost-effective steps to improve assistance for struggling homeowners while also stabilizing the housing market.

Foreclosures have had a devastating impact on our national economy, and the damage in my state has been particularly severe.

California accounts for 1/3 of all foreclosure activity in the United States. Roughly 800,000 foreclosures will be filed in my state in 2008—a 70 percent increase over 2007, when 461,392 foreclosures occurred in California.

The foreclosure rate in California is the highest fourth in the Nation, with one foreclosure filing for every 218 households.

In fact, 6 of the 10 metropolitan areas with the highest foreclosure rate in the Nation are in California.

This includes: Merced—one out of every 76 homes in foreclosure; Modesto—one out of every 93 homes in foreclosure; Stockton—one out of every 94 homes in foreclosure; Riverside and San Bernardino—one out of every 107 homes in foreclosure; Bakersfield—one out of every 129 homes in foreclosure; and Vallejo and Fairfield—one out of every 133 homes in foreclosure.

And, the situation is only getting worse:

Property values have plummeted across California, making it difficult for many residents with adjustable rate mortgages to refinance into more stable, fixed rate products.

One California community is in a special category of need: the city of Stockton, which has been referred to as “America’s foreclosure capital.”

The foreclosure crisis has devastated this city of more than 260,000 residents. Home foreclosures impact neighbors and reduce property values.

But, the spillover effect in Stockton has been overwhelming.

Jobs: The downturn in the construction industry has contributed to a 2.5 percent unemployment rate of 11.9 percent in San Joaquin County, well above the national average.

Schools: Foreclosures have displaced many students who were forced to change schools or leave the area when their families lost their homes.

The student population of Stockton Unified School District, the biggest in San Joaquin County, was down about 200 students last year.

Student displacement has a direct impact on school budgets, which are linked to student attendance.

Most unfortunately, the emotional impact on children being forced to switch schools in the middle of the year can be tremendous.

Public Services: High foreclosure rates have taken a toll on the city of Stockton’s budget.

Stockton now faces a nearly $25 million budget deficit.

City officials have been forced to consider voluntary buyouts for municipal employees and mandatory 10-day furloughs to help close the gap.

Because property values have fallen—due to foreclosures and increased inventory—Stockton also is facing lower tax revenues, which are depended upon to fill the city’s $186 million general fund.

This could have a dramatic effect on the city’s emergency services; about 75 percent of Stockton’s general fund pays for police and fire services.

It is essential that we not forget communities such as Stockton. We cannot sit idly by and watch them fall through the cracks.

This legislation is a much-needed step forward to provide relief to Main Street.

Millions of Americans have lost their homes to foreclosure, and millions more are at risk of losing their homes in the coming months.

Part of this problem was driven by abusive and predatory lending practices.

Part of the problem can be attributed to lax underwriting standards and regulators who were asleep at the wheel.

Part of this problem was due to individuals who made bad choices.

But, this is a problem that now impacts—either directly or indirectly—all hard-working American families.

These are significant challenges we face, and innovative solutions are required.

This bill will serve as a companion to legislation introduced in the House by my colleague from California, Representative MAXINE WATERS. I look forward to working with her, and my colleagues on both sides of the aisle, to pass this important legislation as soon as possible.

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

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

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

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 “Systematic Foreclosure Prevention and Mortgage Modification Act”.

SEC. 2. SYSTEMATIC FORECLOSURE PREVENTION AND MORTGAGE MODIFICATION PLAN ESTABLISHED.

(a) In General.—The Chairperson of the Federal Deposit Insurance Corporation shall establish a systematic foreclosure prevention and mortgage modification program by—

(1) paying servicers $1,000 to cover expenses for each loan modified according to the required standards; and

(2) sharing up to 50 percent of any losses incurred if a modified loan should subsequently default.

(b) PROGRAM COMPONENTS.—The program established under subsection (a) shall include the following components:

(1) ELIGIBLE BORROWERS.—The program shall be limited to loans secured by owner-occupied properties.

(2) EXCLUSION FOR EARLY PAYMENT DEFAULT.—To promote sustainable mortgages, government loss sharing shall be available after the borrower has made a minimum of 6 payments on the modified mortgage.

(3) STANDARD NET PRESENT VALUE TEST.—In order to promote consistency and simplicity in implementation and audit, a standard test comparing the expected net present value of modifying past due loans compared to the net present value of foreclosing on them will be applied. Under this test, standard assumptions shall be used to ensure that a consistent standard for affordability is provided based on a 31 percent borrower mortgage debt-to-income ratio.

(4) SYSTEMATIC LOAN REVIEW BY PARTICIPATING SERVICERS.—Participating servicers shall be required to perform systematic review of all of the loans under their management, to subject each loan to a standard net present value test to determine whether it is a suitable candidate for modification, and to modify all loans that pass this test. The penalty for failing to undertake such a systematic review and to carry out modifications where they are justified would be disqualification from further participation in the program until such a systematic program was introduced.

(c) MODIFICATIONS.—Modifications may include any of the following:

(A) Reduction in interest rates and fees.

(B) Forbearance of principal.

(C) Extension of the California maturity.

(D) Other similar modifications.

(6) REDUCED LOSS SHARE PERCENTAGE FOR “UNDERWATER LOANS”.—For loan-to-value ratios above 100 percent, the government loss share shall be progressively reduced from 50 percent to 20 percent as the current loan-to-value ratio rises, except that loss sharing shall not be available if the loan-to-value ratio of the first lien exceeds 150 percent.

(7) SIMPLIFIED LOSS SHARE CALCULATION.—In order to ensure the administrative efficiency of this program, the determination of loss share basis would be as simple as possible. In general terms, the calculation shall be based on the difference between the net present value, as defined, of the first lien in implementation and audit, a standard test comparing the expected net present value of modifying past due loans compared to the net present value of foreclosing on them will be applied. Under this test, standard assumptions shall be used to ensure that a consistent standard for affordability is provided based on a 31 percent borrower mortgage debt-to-income ratio.

SEC. 3. PLANNING AND IMPLEMENTATION.

(a) SYSTEMATIC REVIEW AND MODIFICATION.—The Corporation shall—

(B) Forbearance of principal.

(A) Reduction in interest rates and fees.

(5) MODIFICATIONS.—Modifications may in-

(e) MODIFICATIONS TO PROGRAM.—The Chairperson of the Federal Deposit Insurance Corporation may make any modification to the program established under subsection (a) that the Chairperson determines are appropriate for the purpose of maximizing the number of foreclosures prevented.

(f) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Chairperson of the Federal Deposit Insurance Corporation shall submit a progress report to the Congress containing such findings and such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.

By Mrs. HUTCHISON (for herself, Mr. VITTER, Mr. MARTINEZ, Mr. CORNYN, and Mr. ENSIGN):

S. 74. A bill to provide permanent tax relief from the marriage penalty.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to provide permanent tax relief from the marriage penalty—the most egregious, anti-family provision in the tax code. One of my highest priorities in the United States Senate has been to relieve American taxpayers of this punitive burden.

We have made important strides to eliminate this unfair tax and provide marriage penalty relief by raising the standard deduction and enlarging the 15 percent tax bracket for married joint filers to twice that of single filers. Before these provisions were changed, 42 percent of married couples paid an average penalty of $1,400.

Enacting marriage penalty relief was a giant step for tax fairness, but it may be fleeting. Even as married couples use the money they now save to put food on the table and clothes on their children, a tax increase looms in the future. Since the 2001 tax relief bill was restricted, the marriage penalty provisions will only be in effect through 2010. Without further action, marriage penalty relief will again become a taxable event and a significant number of married couples will again pay more in taxes unless we act decisively. Given the challenges many families face in making ends meet, we must make sure we do not backtrack on this important reform.

The benefits of marriage are well established, yet, without marriage penalty relief, the tax code provides a significant disincentive for people to walk down the aisle. Marriage is a fundamental institution in our society and should not be discouraged by the IRS.

Children living in a married household are far less likely to live in poverty or to suffer from child abuse. Research indicates these children are also less likely to be depressed or have developmental problems. Scourges such as adolescent drug use are less common in married families, and married mothers are less likely to be victims of domestic violence.

We should celebrate marriage, not penalize it. The bill I am offering would make marriage penalty relief permanent, because marriage should not be a taxable event. I call on the Senate to finish the job we started and make marriage penalty relief permanent today.

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

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

S. 74

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

SECTION 1. SHORT TITLE.  
This Act may be cited as the "Permanent Marriage Penalty Relief Act of 2009".

SEC. 2. REPEAL OF SET SUNSET ON MARRIAGE PENALTY RELIEF.  
(a) IN GENERAL.—Section 1860D–2(e)(2) of the Social Security Act (42 U.S.C. 1395w–16(e)(2)) is amended by adding at the end the following new subparagraph:

"(C) NON–GENERIC DRUGS UNLESS CERTAIN REQUIREMENTS ARE MET.—

"(II) NONGENERIC DRUG.—The term 'nongeneric drug' means a drug that is neither a non–generic drug nor a generic drug as defined in section 505(j)(7) of such Act.

"(III) GENERIC DRUG.—The term 'generic drug' means any drug that is demonstrated to be therapeutically equivalent to a listed drug.

"(IV) AUTHORIZED GENERIC DRUG.—The term 'authorized generic drug' means a drug that is therapeutically equivalent to a listed drug and is provided after the expiration of the exclusivity period of the listed drug.

"(V) APPLICABLE GENERIC DRUGS.—The term 'applicable generic drugs' means any of the following:

"(A) all applicable generic drugs that are marketed in the United States;

"(B) all applicable generic drugs that are sold in the United States;

"(C) all applicable generic drugs that are dispensed in the United States;

"(D) all applicable generic drugs that are marketed, sold, or dispensed in the United States;

"(E) all applicable generic drugs that are marketed, sold, or dispensed in the United States and are therapeutically equivalent to a listed drug.

"(VI) GENERIC DRUGS AND GENERIC DRUGS AND GENERIC DRUGS.'.  

"(aa) section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act; and

"(b) section 505(b)(2) of such Act that and that has been determined to be marketed in the United States and to be therapeutically equivalent to any listed drug.''.

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of enactment of this Act.''.

By Mr. NUNLEY:

S. 76. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act; to the Committee on Ways and Means.

Mr. NUNLEY. Mr. President, I rise today, again, to introduce a bill to authorize the Native Hawaiian Health Care Improvement Act. Senator AKAKA joins me in sponsoring this measure.

The Native Hawaiian Health Care Improvement Act was enacted into law in 1988, and has been reauthorized several times throughout the years.

other words, generics perform the same medicinal purposes as their respective brand-name product.

We know generic drugs have the potential to save seniors thousands of dollars and curb health spending for the Federal Government, employers, and families. Every year, more blockbuster drugs are coming off patent, setting up the potential for billions of dollars in savings. This legislation is just one part of a larger agenda I’m pushing to remove the obstacles that prevent generics from getting to market, and I urge my colleagues to support this legislation.

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

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

S. 75

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

SECTION 1. SHORT TITLE.  
This Act may be cited as the "Generics First Act of 2009".

SEC. 2. REQUIRED USE OF GENERIC DRUGS UNDER THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.  
(a) IN GENERAL.—Section 1860D–2(e)(2) of the Social Security Act (42 U.S.C. 1395w–16(e)(2)) is amended by adding at the end the following new subparagraph:

"(C) NON–GENERIC DRUGS UNLESS CERTAIN REQUIREMENTS ARE MET.—

"(II) NONGENERIC DRUG.—The term 'nongeneric drug' means a drug that is neither a non–generic drug nor a generic drug as defined in section 505(j)(7) of such Act.

"(III) GENERIC DRUG.—The term 'generic drug' means any drug that is demonstrated to be therapeutically equivalent to a listed drug.

"(IV) AUTHORIZED GENERIC DRUG.—The term 'authorized generic drug' means a drug that is therapeutically equivalent to a listed drug and is provided after the expiration of the exclusivity period of the listed drug.

"(V) APPLICABLE GENERIC DRUGS.—The term 'applicable generic drugs' means any of the following:

"(A) all applicable generic drugs that are marketed in the United States;

"(B) all applicable generic drugs that are sold in the United States;

"(C) all applicable generic drugs that are dispensed in the United States;

"(D) all applicable generic drugs that are marketed, sold, or dispensed in the United States;

"(E) all applicable generic drugs that are marketed, sold, or dispensed in the United States and are therapeutically equivalent to a listed drug.

"(VI) GENERIC DRUGS AND GENERIC DRUGS AND GENERIC DRUGS.'.  

"(aa) section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act; and

"(b) section 505(b)(2) of such Act that and that has been determined to be marketed in the United States and to be therapeutically equivalent to any listed drug.''.

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of enactment of this Act.''.

By Mr. INOUYE:

S. 76. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act; to the Committee on Ways and Means.

Mr. INOUYE. Mr. President, I rise today, again, to introduce a bill to authorize the Native Hawaiian Health Care Improvement Act. Senator AKAKA joins me in sponsoring this measure.

The Native Hawaiian Health Care Improvement Act was enacted into law in 1988, and has been reauthorized several times throughout the years.
The Act provides authority for a range of programs and services designed to improve the health care status of the native people of Hawaii.

With the enactment of the Native Hawaiian Health Care Improvement Act, the establishment of native Hawaiian health care systems on most of the islands that make up the State of Hawaii, we have witnessed significant improvements in the health status of native Hawaiians, but as the findings of unmet needs and health disparities stated in this bill make clear, we still have a long way to go.

For instance, native Hawaiians have the highest cancer mortality rates in the State of Hawaii—rates that are 22 percent higher than the rate for the total State male population and 64 percent higher than the rate for the total State female population. Nationally, native Hawaiians have the third highest mortality rate as a result of breast cancer.

With respect to diabetes, in 2004 native Hawaiians had the highest mortality rate associated with diabetes in the State—a rate which is 119 percent higher than the statewide rate for all racial groups.

When it comes to heart disease, the mortality rate of native Hawaiians associated with heart disease is 86 percent higher than the rate for the entire State and the mortality rate for hypertension is 46 percent higher than that for the State—a rate which is 119 percent higher than the rate for the entire State.

These statistics on the health status of native Hawaiians are but a small part of the long list of date that makes clear that our objective of assuring that the native people of Hawaii attain some parity of good health comparable to that of the larger U.S. population has not yet been achieved.

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

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

S. 76

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Health Care Improvement Act of 2009".

SEC. 2. AMENDING TITLE TO THE NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT.

The Native Hawaiian Health Care Improvement Act (42 U.S.C. 11701 et seq.) is amended to read as follows:

"Section 1. Short title; table of contents.

"(a) "Short Title."—This Act may be cited as the "Native Hawaiian Health Care Improvement Act.

"(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. Amendment.

"Sec. 4. Declaration of national Native Hawaiian health policy.

"Sec. 5. Comprehensive health care master plan.

"Sec. 6. Functions of Pono Ola Lokahi.

"Sec. 7. Native Hawaiian health care.

"Sec. 8. Administrative grant for Pono Ola Lokahi.

"Sec. 9. Administration of grants and contracts.

"Sec. 10. Assignment of personnel.

"Sec. 11. Native Hawaiian health scholarships and fellowships.

"Sec. 12. Rule of construction.

"Sec. 13. Use of Federal Government facilities and sources of supply.


"Sec. 15. Rule of construction.

"Sec. 16. Compliance with Budget Act.

"Sec. 17. Severability.

"Sec. 2. FINDINGS AND PURPOSES.

"(a) In General.—Congress finds that—

1. Native Hawaiians begin their story with the Kamehameha dynasty, a society that built and created a complex social- economic system based on a sophisticated language, culture, and religion;

2. Native Hawaiians have never directly relinquished to the United States their claims to their inherent sovereignty as a people or over their national territory, either through their monarchy or through a plebiscite or referendum;

3. Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago within Ke Manaolani, the Pacific Ocean; and

4. Native Hawaiians have a distinct society that was first organized almost 2,000 years ago;

5. The heritage of Native Hawaiians is intrinsically tied to the deep feelings and attachment of Native Hawaiians to their lands;

6. The long-range economic and social changes in Hawaii over the 19th and early 20th centuries have been devastating to the health and well-being of Native Hawaiians;

7. Native Hawaiians have never directly relinquished to the United States their claims to their inherent sovereignty as a people or over their national territory, either through their monarchy or through a plebiscite or referendum;

8. Native Hawaiians are determined to preserve, develop, and transmit to future generations, in accordance with their own spiritual and traditional beliefs, their customs, practices, language, social institutions, ancestral territory, and cultural identity;

9. In referring to themselves, Native Hawaiians use the term ‘Kanaka Maoli’, a term frequently used in the 19th century to describe the native people of Hawaii;

10. The constitution and statutes of the State of Hawaii;

11. Native Hawaiians—

(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

(B) reaffirm and protect the unique right of the United States to preserve, develop, and transmit to future generations the cultural and religious customs, beliefs, practices, and language;

12. At the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion;

13. A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii;

14. Throughout the 19th century until 1893, the United States—

(A) received fully and accurately on those illegal actions;

(B) acknowledged that by those acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown; and

(C) concluded that a substantial wrong has thus been done which a due regard for national character and the rights of the injured people required that we should endeavor to repair;

15. Queen Lil’ikoi‘alani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of those wrongs and restoration of the indigenous government of the Hawaiian nation, but no action was taken on that petition;


(A) acknowledged the significance of those events; and

(B) apologized to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii with the participation of agents and citizens of the United States, and the resulting deprivation of the rights of Native Hawaiians to self-determination;

17. Between 1897 and 1898, when the total Native Hawaiian population in Hawaii was less than 40,000, more than 38,000 Native Hawaiians signed petitions (commonly known as the Ku‘e Petitions) protesting annexation by the United States and requesting restoration of the monarchy;

18. Despite Native Hawaiian protests, in 1898, the United States—

(A) annexed Hawaii through Resolution No. 55 (commonly known as the ‘Newlands Resolution’) (30 Stat. 750), without the consent of, or compensation to, the independent Kingdom of Hawaii or the sovereign government of those people; and

(B) denied those people the mechanism for the expression of their rights through self-government and self-determination of their lands and ocean resources;

19. Through the Newlands Resolution and the Act of April 30, 1900 (commonly known as the ‘1900 Organic Act’) (31 Stat. 141, chapter 339), the United States—

(A) received 1,750,000 acres of land formerly owned by the Crown and Government of the Hawaiian Kingdom; and

(B) extinguished the land from then-existing public law sources of the United States by waiving the claim of title to that land on the theory that the land be ‘used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes’, thereby establishing a perpetual trust relationship between the United States and the inhabitants of Hawaii;
‘(20) In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), which—

(A) designated 200,000 acres of the ceded public lands for Native Hawaiian homesteading by Native Hawaiians; and

(B) affirmed the trust relationship between the United States and Native Hawaiians, the Secretary of the Interior Franklin K. Lane, who was cited in the Committee Report of the House of Representatives as stating a thing that impressed me was the fact that the natives of the islands...for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty;

(21) In 1938, Congress again acknowledged the unique status of the Native Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781), a provision—

(A) to lease land within the extension to Native Hawaiians; and

(B) to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance';

(22) under the Act of March 18, 1959 (48 U.S.C. prec. 491 note; 73 Stat. 4), the United States...

(A) transferred responsibility for the administration of the Hawaiian home lands to the Secretary of the Interior;

(B) reaffirmed the trust relationship that existed between the United States and the Native Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under that Act;

(23) under the Act referred to in paragraph (22), the United States...

(A) transferred responsibility for administration over portions of the ceded public lands not retained by the United States to the State; but

(B) reaffirmed the trust relationship that existed between the United States and the Native Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of that Act (73 Stat. 6);

(24) in 1978, the people of Hawai‘i—

(A) amended the constitution of Hawai‘i to establish the Office of Hawaiian Affairs; and

(B) assigned to that office the authority—

(i) to accept and hold in trust for the Native Hawaiian people lands, natural resources, and personal property transferred from any source;

(ii) to receive payments from the State owed to the Native Hawaiian people in satisfaction of the pre rata share of the proceeds of the public land trust established by section 5(f) of the Act of March 18, 1959 (48 U.S.C. prec. 491 note; 73 Stat. 6);

(iii) to be the lead State agency for matters affecting the Native Hawaiian people; and

(iv) to formulate policy on affairs relating to Native Hawaiian people;

(25) the authority of Congress under the Constitution to legislate in matters affecting the aboriginal or indigenous people of the United States included the authority to legislate in matters affecting the native people of Alaska and Hawai‘i;

(26) the United States has recognized the authority of the Native Hawaiian people to continue to work toward an appropriate form of sovereignty, as defined by the Native Hawaiian people in provisions set forth in legislation of the United States including the authority of the Hawaiian Island of Kaho‘olawe to custodial management by the State in 1994;

(27) in furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health and disease prevention services to maintain and improve the health status of the Hawaiian people;

(28) that program is conducted by the Native Hawaiian Health Care Systems and Papa Ola Lokahi;

(29) health initiatives implemented by those and other health institutions and agencies among the Native Hawaiian people have been responsible for reducing the century-old morbidity and mortality rates of Native Hawaiian people by—

(A) providing comprehensive disease prevention;

(B) providing health promotion activities; and

(C) increasing the number of Native Hawaiians in the health and allied health professions;

(30) those accomplishments have been achieved through implementation of—

(A) the Native Hawaiian Health Care Act of 1988 (Public Law 100–579); and

(B) the reauthorization of that Act under section 9168 of the Department of Defense Appropriations Act, 1993 (Public Law 102–386; 106 Stat. 1948);

(31) the historical and unique legal relationship between the United States and Native Hawaiians has been consistently recognized and affirmed by Congress through the enactment of more than 160 Federal laws that extend to the Native Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including—

(A) the Native Hawaiian Programs Act of 1974 (42 U.S.C. 2991 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1976);

(C) the Indian Health Care Amendments of 1980 (42 U.S.C. 1401 et seq.) and

(D) the Indian Health Care Amendments of 1988 (42 U.S.C. 1401 et seq.);

(32) the United States has recognized and reaffirmed the trust relationship with the Native Hawaiian people through legislation that authorizes a variety of services to Native Hawaiians, specifically—

(A) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

(B) the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 (42 U.S.C. 6000 et seq.);

(C) the Veterans' Benefits and Services Act of 1988 (Public Law 100–68); and

(D) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(33) the United States has recognized and reaffirmed the trust relationship with the Native Hawaiian people through legislation that authorizes a variety of services to Native Hawaiians, specifically—

(A) the Indian Health Care Amendments of 1988 (Public Law 100–713); and

(B) the Indian Health Care Amendments of 1990 (Public Law 101–527);

(34) despite the United States having expressed its commitment to a policy of reconciliation with the Native Hawaiian people for past grievances—

(A) the unmet health needs of the Native Hawaiian people remain severe; and

(B) the health status of the Native Hawaiian people continues to be far below that of the general population of the United States;

(35) despite the United States having expressed its commitment to a policy of reconciliation with the Native Hawaiian people for past grievances—

(A) the unmet health needs of the Native Hawaiian people remain severe; and

(B) the health status of the Native Hawaiian people continues to be far below that of the general population of the United States;

(36) FINDING OF UNMET NEEDS AND HEALTH DISPARITIES.—Congress finds that the unmet needs and serious health disparities that adversely affect the Native Hawaiian people include the following:

(I) CHRONIC DISEASE AND ILLNESS.—

(A) CANCER.—

(I) IN GENERAL.—With respect to all cancer—

(I) as an underlying cause of death in the State, the cancer mortality rate of Native Hawaiian males of 218.3 per 100,000 residents is 50 percent higher than the rate for the total population of the State of 145.4 per 100,000 residents;

(II) Native Hawaiian males have the highest cancer mortality rates in the State for cancers of the lung, breast, colon, rectum, and all cancers combined;

(III) Native Hawaiian females have the highest cancer mortality rates in the State for cancers of the lung, breast, colon, rectum, pancreas, stomach, ovary, liver, cervix, kidney, and uterus, and for all cancers combined; and

(IV) for the period of 1995 through 2000—

(aa) the cancer mortality rate for all cancers for Native Hawaiian males of 218.3 per 100,000 residents was 22 percent higher than the rate for all males in the State of 179 per 100,000 residents; and

(bb) the cancer mortality rate for all cancers for Native Hawaiian females of 192 per 100,000 residents was 64 percent higher than the rate for all females in the State of 117 per 100,000 residents.

(ii) BREAST CANCER.—With respect to breast cancer—

(A) the unmet health needs of the Native Hawaiian people remain severe; and

(B) the health status of the Native Hawaiian people continues to be far below that of the general population of the United States;
"(I) Native Hawaiians have the highest mortality rate in the State from breast cancer (30.79 per 100,000 residents), which is 33 percent higher than the rate for Caucasian Americans (23.07 per 100,000 residents); and
"(II) nationally, Native Hawaiians have the third-highest mortality rate as a result of breast cancer (25.0 per 100,000 residents), behind African Americans (31.4 per 100,000 residents) and Caucasian Americans (27.0 per 100,000 residents).

"(iii) CANCER OF THE CERVIX.—Native Hawaiians have the highest mortality rate as a result of cancer of the cervix in the State (3.65 per 100,000 residents), followed by Filipinos (3.59 per 100,000 residents) and Caucasian Americans (2.61 per 100,000 residents).

"(iv) LUNG CANCER.—Native Hawaiian males and females have the highest mortality rates as a result of lung cancer in the State, at 74.79 per 100,000 for males and 47.84 per 100,000 females, which are higher than the rates for the total population of the State by 48 percent for males and 93 percent for females.

"(v) PROSTATE CANCER.—Native Hawaiian males have the third-highest mortality rate as a result of prostate cancer in the State (21.48 per 100,000 residents), with Caucasian Americans having the highest mortality rate as a result of prostate cancer (23.96 per 100,000 residents).

"(B) DIABETES.—With respect to diabetes, in 2005—
"(i) Native Hawaiians had the highest mortality rate as a result of diabetes mellitus (28.9 per 100,000 residents) in the State, which is 119 percent higher than the rate for all racial groups in the State (13.2 per 100,000 residents);
"(ii) the prevalence of diabetes for Native Hawaiians was 12 percent, which is 87 percent higher than the rate for the total population of the State (6.8 percent); and
"(iii) a higher percentage of Native Hawaiians with diabetes experienced diabetic retinopathy, as compared to other population groups in the State.

"(C) ASTHMA.—With respect to asthma and lower respiratory diseases—
"(i) in 2004, mortality rates for Native Hawaiians (31.6 per 100,000 residents) from chronic lower respiratory disease were 52 percent higher than the rate for the total population of the State (20.8 per 100,000 residents); and
"(ii) in 2005, the prevalence of current asthma in Native Hawaiian adults was 12.8 percent, which is 71 percent higher than the prevalence of the total population of the State of 7.5 percent.

"(D) DENTAL HEALTH.—
"(i) in 2004, mortality rates for Native Hawaiians (5.1 per 100,000 residents) from dental diseases (including tooth decay and periodontal disease) were 67 percent higher than the rate for the total population of the State (3.6 per 100,000 residents); and
"(ii) in 2005, the prevalence for stroke was 4.9 percent higher than the rate for the total population of the State (2.9 percent).

"(iii) OTHER CIRCULATORY DISEASES.—With respect to other circulatory diseases (including high blood pressure and atherosclerosis)—
"(I) in 2004, the mortality rate for Native Hawaiians of 20.6 per 100,000 residents was 36 percent higher than the rate for the total population of the State of 14.1 per 100,000 residents; and
"(II) in 2005, the prevalence of high blood pressure for Native Hawaiians was 26.7 percent, which is 10 percent higher than the prevalence for the total population of the State of 24.2 percent.

"(2) INFECTIOUS DISEASE AND ILLNESS.—With respect to infectious disease and illness—

"(A) in 1998, Native Hawaiians comprised 20 percent of all deaths resulting from infectious diseases in the State for all ages; and
"(B) the incidence of acquired immune deficiency syndrome for Native Hawaiians is at least twice as high per 100,000 residents (10.5 percent) than the incidence for any other non-Caucasian group in the State.

"(iii) INJURIES.—With respect to injuries—
"(A) the mortality rate for Native Hawaiians as a result of injuries (32 per 100,000 residents) is 16 percent higher than the rate for the total population of the State (27.5 per 100,000 residents); and
"(B) 32 percent of all deaths of individuals between the ages of 5 and 9 years old in 2005 resulted from injuries to Native Hawaiians; and
"(C) the 2 primary causes of Native Hawaiian deaths in that age group were motor vehicle accidents (30 percent) and intentional self-harm (39 percent).

"(4) DENTAL HEALTH.—With respect to dental health—
"(A) Native Hawaiian children experience significantly higher rates of dental caries and unmet treatment needs as compared to other children in the continental United States; and
"(B) the prevalence of dental caries in the primary (baby) teeth of Native Hawaiian children aged 5 to 9 years of age is more than twice the national average rate of 1.9 per child in that age range.

"(C) 81.9 percent of Native Hawaiian children aged 5 to 8 have 1 or more decayed teeth, as compared to—
"(i) 53 percent for children in that age range in the continental United States; and
"(ii) 72.7 percent of other children in that age range in the State.

"(D) 21 percent of Native Hawaiian children aged 5 demonstrate signs of baby bottle tooth decay, which is generally characterized by a grouping of caries in early childhood and associated with high rates of dental disorders, as compared to 5 percent for children of that age in the continental United States.

"(5) LIFE EXPECTANCY.—With respect to life expectancy—
"(A) Native Hawaiians have the lowest life expectancy of all population groups in the State; and
"(B) between 1910 and 1988, the life expectancy of Native Hawaiians from birth has ranged from 61.7 years in 1910 to 74.7 years in 2005—

"(C) the most recent tables for 1990 show Native Hawaiian life expectancy at birth (74.7 years) to be approximately 5 years less than that of the overall State population average;

"(D) except as provided in the life expectancy calculation for 1990, Native Hawaiians have had the shortest life expectancy of all major ethnic groups in the United States since 1910.

"(6) MATERNAL AND CHILD HEALTH.—
"(A) in General.—With respect to maternal and child health, in 2000—

"(C) 39 percent of all deaths of children under the age of 18 years in the State were Native Hawaiian;

"(D) perinatal conditions accounted for 38 percent of all Native Hawaiian deaths in that age group;

"(E) Native Hawaiian infant mortality rates (9.8 per 1,000 live births) are—
"(i) the highest in the United States—
"(ii) 151 percent higher than the rate for Caucasian infants (3.9 per 1,000 live births); and

"(F) Native Hawaiians have 1 of the highest infant mortality rates in the United States, second only to the rate for African Americans (13.6 per 1,000 live births).

"(G) PRENATAL CARE.—With respect to prenatal care—
"(i) as of 2005, Native Hawaiian women have the highest prevalence (29.9 percent) of having had no prenatal care during the first trimester of pregnancy, as compared to the highest ethnic groups in the State; and
"(ii) the mothers in the State who received no prenatal care in the first trimester, 33 percent were Native Hawaiian; and

"(ii) in 2005, 41 percent of mothers with live births who had not completed high school were Native Hawaiian; and

"(iv) in every region of the State, many Native Hawaiian newborns begin life in a potentially hazardous circumstance, far higher than any other racial group.

"(H) BIRTHS.—With respect to births, in 2005—
"(i) 45.2 percent of live births to Native Hawaiian mothers were nonmarital, putting the affected infants at higher risk of low birth weight and infant mortality;
"(ii) of the 2,994 live births to Native Hawaiian single mothers, 9 percent were low birth weight (defined as a weight of less than 2,500 grams); and
"(iii) 43.7 percent of all low birth-weight infants born to single mothers in the State were Native Hawaiian.

"(I) TEEN PREGNANCIES.—With respect to teen pregnancies—
"(i) Native Hawaiians had the highest rate of births to mothers under the age of 18 years (5.8 percent), as compared to the rate of 2.7 percent for the total population of the State; and

"(ii) nearly 62 percent of all mothers in the State under the age of 19 years were Native Hawaiian.

"(J) FETAL MORTALITY.—With respect to fetal mortality—
"(i) Native Hawaiians had the highest number of fetal deaths in the State, as compared to Caucasian, Japanese, and Filipino residents in the State; and

"(ii) 17.2 percent of all fetal deaths in the State were associated with expectant Native Hawaiian mothers; and

"(iii) 63.5 percent of those Native Hawaiian mothers were under the age of 25 years.

"(K) BEHAVIORAL HEALTH.—
"(A) ALCOHOL AND DRUG ABUSE.—With respect to alcohol and drug abuse—
"(i) in 2005, Native Hawaiians had the highest prevalence of smoking (27.9 percent, which is 64 percent higher than the rate for the total population of the State (17 percent); and

"(ii) 53 percent of Native Hawaiians reported having smoked at least 100 cigarettes in their lifetime, as compared to 43.5 percent for the total population of the State;

"(iii) 33 percent of Native Hawaiians in grade 8 have smoked cigarettes at least once in their lifetime, as compared to 22.5 percent for the total population of the State;

"(iv) 22.5 percent for all youth in the State; and

"(v) 28.4 percent of residents of the United States, in grade 8.

"(B) 119 percent higher than the rate for African Americans (28.9 per 100,000 residents).
which is 21 percent higher than the prevalence for the total population of the State (16.5 percent); and

(iv) the prevalence of heavy drinking among Native Hawaiians (10.1 percent) is 36 percent higher than the prevalence for the total population of the State (7.4 percent); and

(v)(i) in 2003, 17.2 percent of Native Hawaiians comprised 39.5 percent of Native Hawaiians in grade 12, 69.8 percent of Native Hawaiians in grade 10, and 78.1 percent of Native Hawaiians in grade 12 reported using alcohol at least once in their lifetime, as compared to 13.2, 36.8, 39.1, and 72.5 percent, respectively, of all adolescents in the State; and

(ii) 62.1 percent Native Hawaiians in grade 12 reported being drunk at least once, which is 20 percent higher than the percentage for all adolescents in the State (51.5 percent);

(vi) on entering grade 12, 60 percent of Native Hawaiian adolescents reported having used illicit drugs, including inhalants, at least once in their lifetime, as compared to—

(I) 46.9 percent of all adolescents in the State; and

(II) 52.6 percent of adolescents in the United States;

(vii) on entering grade 12, 58.2 percent of Native Hawaiian adolescents reported having used marijuana at least once, which is 31 percent higher than the rate of other adolescents in the State (44.4 percent);

(vIII) 49 percent of Native Hawaiians represented 40 percent of the total admissions to substance abuse treatment programs funded by the State Department of Health; and

(ix) in 2003, Native Hawaiian adolescents reported the highest prevalence for methamphetamine use in the State, followed by Caucasians and Filipinos.

(B) Crime.—With respect to crime—

(i) during the period of 1992 to 2002, Native Hawaiian arrests for violent crimes decreased, but the rate of arrest remained 38.3 percent higher than the rate of the total population of the State;

(ii) the robbery arrest rate in 2002 among Native Hawaiian juveniles and adults was 99 percent higher (6.2 arrests per 100,000 residents) than the rate for the total population of the State (0.9 arrests per 100,000 residents); and

(iii) in 2002.

(I) Native Hawaiian men comprised between 35 percent and 43 percent of each security category in prison system; and

(II) Native Hawaiian women comprised between 38.1 percent to 50.3 percent of each class of female prison inmates in the State;

(III) Native Hawaiians comprised 39.5 percent of the total incarcerated population of the State; and

(IV) Native Hawaiians comprised 40 percent of the total sentenced felon population in the State, as compared to 25 percent for Caucasians, 12 percent for Filipinos, and 5 percent for Samoans;

(v) based on anestodal information, Native Hawaiians are estimated to comprise between 30 percent and 70 percent of all jail and prison inmates in the State.

(C) DEPRESSION AND SUICIDE.—With respect to depression and suicide—

(i)(I) in 1999, the prevalence of depression among Native Hawaiians was 15 percent, as compared to the national average of approximately 10 percent; and

(ii) Native Hawaiian females had a higher prevalence (18.8 percent) than Native Hawaiian males (11.9 percent);

(ii) in 2000—

(i) Native Hawaiian adolescents had a significantly higher suicide attempt rate (12.9 percent) than the rate for other adolescents in the State (9.6 percent); and

(ii) 29 percent of all Native Hawaiian adult deaths were due to suicide; and

(iii) in 2006, the prevalence of obsessive compulsive disorder among Native Hawaiian adolescent girls was 17.1 percent, as compared to a rate of 10 percent.

(II) 9.2 percent for Native Hawaiian boys and non-Hawaiian girls; and

(iI) a national rate of 2 percent.

(A) OVERWEIGHTNESS AND OBESITY.—With respect to overweightness and obesity—

(A) during the period of 2000 through 2003, Native Hawaiian males and females had the highest age-adjusted prevalence rates for obesity (40.5 and 32.5 percent, respectively), which was—

(i) with respect to individuals of full Native Hawaiian ancestry, 97 percent higher than the total population of the State (16.5 per 100,000); and

(ii) with respect to individuals with less than 100 percent Native Hawaiian ancestry, 145 percent higher than the total population of the State (16.5 per 100,000);

(B) for 2005, the prevalence of obesity among Native Hawaiian children and youth was 43 percent, which was 119 percent higher than the prevalence for the total population of the State (19.7 percent).

(B) FAMIIY AND CHILD HEALTH.—With respect to family and child health—

(A) in 2000, the prevalence of single-parent families with minor children was highest among Native Hawaiian households, as compared to all households in the State (5.4 percent and 8.1 percent, respectively);

(B) in 2002, nonmarital births accounted for 56.8 percent of all live births among Native Hawaiians, compared to 34 percent of all live births in the State;

(C) the rate of confirmed child abuse and neglect among Native Hawaiians has consistently been 3 to 4 times the rates of other major ethnic groups, with a 3-year average of 63.9 cases in 2002, as compared to 12.8 cases for the total population of the State;

(D) sponsored by an intimate partner was highest for Native Hawaiians, as compared to all cases of abuse in the State (4.5 percent and 2.2 percent, respectively); and

(E)(i) of uninsured adults in the State have family incomes below 200 percent of the Federal poverty level; and

(ii) Native Hawaiians residing in the State and the continental United States have a higher rate of uninsurance than other ethnic groups in the State and continental United States (14.5 percent and 9.5 percent, respectively).

(D) HEALTH PROFESSIONS EDUCATION AND TRAINING.—With respect to health professions education and training—

(A) with respect to individuals with less than 100 percent Native Hawaiian ancestry;

(1) 11.25 percent of individuals who earned bachelor's degrees;

(2) 6 percent of individuals who earned master's degrees in medicine, nursing, or public health;

(3) 3 percent of individuals who earned doctorate degrees;

(4) 7.9 percent of the credited student body at the University of Hawai'i at Manoa; and

(5) 0.4 percent of the instructional faculty at the University of Hawai'i Community Colleges.

(SEC. 3. DEFINITIONS.)*

In this Act—

(A) DEPARTMENT.—The term ‘Department’ means the Department of Health and Human Services.

(B) DISEASE PREVENTION.—The term ‘disease prevention’ includes—

(1) immunizations;

(2) control of high blood pressure;

(3) control of sexually transmitted diseases;

(4) prevention and control of chronic diseases;

(5) control of toxic agents;

(6) occupational safety and health;

(7) injury prevention;

(8) fluoridation of water;

(9) control of infectious agents; and

(10) provision of mental health care.

(C) HEALTH PROMOTION.—The term ‘health promotion’ includes—

(1) pregnancy and infant care, including prevention of fetal alcohol syndrome;

(2) cessation of tobacco smoking;

(3) reduction in the misuse of alcohol and harmful illicit drugs;

(4) improvement of nutrition;

(5) improvement in physical fitness;

(6) family planning;

(7) control of stress;

(8) reduction of major behavioral risk factors and promotion of healthy lifestyle practices; and

(9) integration of cultural approaches to health and well-being (including traditional practices relating to the atmosphere (lewa lani), land (’aina), water (wai), and ocean (ka’au));

(D) HEALTH SERVICE.—The term ‘health service’ means—

(1) a service provided by a physician, physician assistant, nurse practitioner, nurse, dentist, or other health professional;

(2) a diagnostic laboratory or radiologic service;

(3) a preventive health service (including a perinatal service, well child service, family planning service, nutrition service, home health service, sports medicine and athletic training service, and generalizing any service associated with enhanced health and wellness);

(4) emergency medical service, including a service provided by a first responder, emergency medical technician, or mobile intensive care technician;

(5) a transportation service required for adequate patient care;

(6) a preventive dental service;

(7) a pharmaceutical and medicament service;

(8) a mental health service, including a service provided by a psychologist or social worker;

(9) a genetic counseling service;

(10) a health administration service, including a service provided by a health program administrator;

(11) a health research service, including a service provided by an epidemiologist, public health official, medical geographer, or medical anthropologist, or an individual specializing in biological, chemical, or environmental health determinants;

(12) a primary care service that may lead to specialty or tertiary care; and

(13) an environmental health practice, including a practice performed by a traditional Native Hawaiian healer.
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“(5) NATIVE HAWAIIAN.—The term ‘Native Hawaiian’ means any individual who is Kanaka Maoli (a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State), as evidenced by—

“(A) genealogical records;

“(B) kama‘aina witness verification from Native Hawaiians; or

“(C) birth records of the State or any other State or territory of the United States.

“(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—‘Native Hawaiian health care system’ means any of up to 8 entities in the State that—

“(A) is organized under the laws of the State;

“(B) provides or arranges for the provision of health services for Native Hawaiians in the State;

“(C) is a public or nonprofit private entity; and

“(D) has Native Hawaiians significantly participating in the planning, management, provision, monitoring, and evaluation of health services;

“(E) addresses the health care needs of an island’s Native Hawaiian population; and

“(F) is designated by Papa Ola Lokahi.—

“(i) for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this Act for the benefit of Native Hawaiians; and

“(ii) as having the qualifications and the capacity to provide the services and meet the requirements under—

“(1) the contract that each Native Hawaiian health care system enters into with the Secretary under this Act; or

“(2) the grant each Native Hawaiian health care system receives from the Secretary under this Act.

“(7) NATIVE HAWAIIAN HEALTH CENTER.—The term ‘Native Hawaiian Health Center’ means any organization that is a primary health care provider that—

“(A) has a governing board composed of individuals, at least 50 percent of whom are Native Hawaiians;

“(B) has demonstrated cultural competency in a predominantly Native Hawaiian community;

“(C) serves a patient population that—

“(i) is made up of individuals at least 50 percent of whom are Native Hawaiian; or

“(ii) is served by 250 Native Hawaiians as annual users of services; and

“(D) is recognized by Papa Ola Lokahi as having met the criteria described in subparagraphs (A) through (C).

“(8) NATIVE HAWAIIAN HEALTH TASK FORCE.—The term ‘Native Hawaiian Health Task Force’ established by the State Council of Hawaiian Homestead Associations to implement health and wellness strategies in Native Hawaiian communities.

“(9) NATIVE HAWAIIAN ORGANIZATION.—The term ‘Native Hawaiian organization’ means any organization that—

“(A) serves the interests of Native Hawaiians; and

“(B)(i) is recognized by Papa Ola Lokahi for planning, conducting, or administering programs authorized under this Act for the benefit of Native Hawaiians; and

“(ii) is a public or nonprofit private entity.

“(10) OFFICE OF HAWAIIAN AFFAIRS.—The term ‘Office of Hawaiian Affairs’ means the governmental entity that—

“(A) is established under article XII, sections 5 and 6, of the Hawai‘i State Constitution; and

“(B) charged with the responsibility to formulate policy relating to the affairs of Native Hawaiians.

“(11) PAPA OLA LOKAHI.—

“(A) IN GENERAL.—The term ‘Papa Ola Lokahi’ means an organization that—

“(i) is composed of public agencies and private organizations focusing on improving the health status of Native Hawaiians; and

“(ii) governed by a board the members of which may include representation from—

“(1) E Ola Mau;

“(2) the Office of Hawaiian Affairs;

“(3) Aloha Like, Inc.;

“(4) the University of Hawai‘i; and

“(5) the Hawai‘i State Department of Health;

“(6) the Native Hawaiian Health Task Force;

“(7) the Hawai‘i State Primary Care Association;

“(8) the Hawai‘i office of the National Health Service Corps;

“(9) the Hawai‘i office of the National Health Service Corps;

“(10) the Native Hawaiian Community Health System;

“(11) the State;

“(12) the United States Department of Health and Human Services; and

“(13) the United States Department of Health and Human Services. 

“(B) EXCLUSION.—The term ‘Papa Ola Lokahi’ does not include any organization described in subparagraph (A) for which the Secretary has made a determination that the organization has not developed a mission statement which includes—

“(i) clearly-defined goals and objectives for the contributions the organization will make to—

“(1) Native Hawaiian health care systems; and

“(2) the national policy described in section 4 and

“(3) an action plan for carrying out those goals and objectives.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(13) STATE.—The term ‘State’ means the State of Hawai‘i.

“(14) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term ‘traditional Native Hawaiian healer’ means a practitioner—

“(A) who—

“(1) is of Native Hawaiian ancestry; and

“(2) has the knowledge, skills, and experience of wholearn Native Hawaiian healing practices acquired by—

“(i) direct practical association with Native Hawaiian elders; and

“(ii) oral traditions transmitted from generation to generation.

“(SEC. 4. DECLARATION OF NATIONAL NATIVE HAWAIIAN HEALTH POLICY.

“(a) DECLARATION.—Congress declares that it is the policy of the United States to fulfill special responsibilities and legal obligations of the United States to the indigenous people of Hawai‘i resulting from the special historical and cultural relationship between the United States and the indigenous people of Hawai‘i—

“(1) to raise the health status of Native Hawaiians to the highest practicable health level; and

“(2) to provide Native Hawaiian health care programs with all resources necessary to carry out that policy.

“(b) INTENT OF CONGRESS.—It is the intent of Congress that—

“(1) health care programs having a demonstrated effect of substantially reducing or eliminating the overrepresentation of Native Hawaiians among those suffering from chronic and acute disease and illness, and adding to the health needs of Native Hawaiians (including perinatal, early child development, and family-based health education programs shall be established and implemented; and

“(2) the United States—

“(A) raise the health status of Native Hawaiians by the year 2010 to at least the levels described in the goals contained within Healthy People 2010 (or successor standards); and

“(B) incorporate within health programs in the United States activities defined and identified by Kanaka Maoli, such as—

“(i) incorporating and supporting the integration of cultural approaches to health and well-being, including programs using traditional practices relating to the atmosphere (lewa lani), land (‘aina), water (wai), or ocean (kai);

“(ii) increasing the number of Native Hawaiian health and allied-health providers who provide care to or have an impact on the health status of Native Hawaiians.

“(iii) increasing the use of traditional Native Hawaiian foods in—

“(1) the diets and dietary preferences of people, including those of students; and

“(II) school feeding programs;

“(iv) identifying and instituting Native Hawaiian cultural values and practices within corporate corporations and agencies providing health services to Native Hawaiians;

“(v) facilitating the provision of Native Hawaiian healing practices by Native Hawaiian healers for individuals desiring that assistance;

“(vi) supporting training and education activities and programs in traditional Native Hawaiian healing practices by Native Hawaiian healers; and

“(vii) demonstrating the integration of health and human services for Native Hawaiians, particularly those that integrate mental, physical, and dental services in health care.

“(c) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to Congress under section 12, a report on the progress made toward meeting the national policy described in this section.

“(SEC. 5. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIANS.

“(a) DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordi-
"(A) to promote comprehensive health promotion and disease prevention services; "(B) to maintain and improve the health status of Native Hawaiians; and "(C) to support community-based initiatives that are reflective of holistic approaches to health.

"(2) CONSULTATION.—"(A) IN GENERAL.—In carrying out this section, Papa Ola Lokahi and the Office of Hawaiian Affairs shall consult with representatives of— "(i) the Native Hawaiian health care systems; "(ii) the Native Hawaiian health centers; and "(iii) the Native Hawaiian community.

"(B) MEMORANDA OF UNDERSTANDING.—Papa Ola Lokahi and the Office of Hawaiian Affairs may enter into memoranda of understanding or agreement for the purpose of acquiring joint funding, or for such other purposes as are necessary, to accomplish the objectives of this section.

"(3) HEALTH CARE FINANCING STUDY REPORT.—"(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Native Hawaiian Health Improvement Reauthorization Act of 2009, Papa Ola Lokahi, in cooperation with the Office of Hawaiian Affairs and other appropriate agencies and organizations in the State (including the Department of Health and the Department of Human Services of the State) and appropriate Federal agencies (including the Centers for Medicare and Medicaid Services), shall submit to Congress a report that describes the impact of Federal and State health care financing mechanisms and policies on the health and well-being of Native Hawaiians.

"(B) COMPONENTS.—The report shall include— "(i) information concerning the impact on Native Hawaiian health and well-being of— "(I) cultural competency; "(II) risk assessment data; "(III) eligibility requirements and exemptions; and "(IV) reimbursement policies and capitation rates in effect as of the date of the report for Federal and State programs; "(ii) such other similar information as may be important to improving the health status of Native Hawaiians; "(iii) recommendations for submission to the Secretary, for review and consultation with relevant public bodies, on the establishment and maintenance of data associated with the health status of Native Hawaiians; "(B) the identification and research into diseases affecting Native Hawaiians; "(C) the availability of Native Hawaiian project funds, research projects, and publications; "(D) the collaboration of research in the area of Native Hawaiian health; and "(E) the timely dissemination of information pertinent to the Native Hawaiian health care systems.

"(b) CONSULTATION.—"(1) IN GENERAL.—The Secretary and the Secretary of the Treasury shall consult with representatives of— "(i) appropriate Federal administrative purposes; and "(ii) the Native Hawaiian community.

"(2) CONSIDERATION.—"(A) FEDERAL CONSULTATION.—The Secretary, in consultation with the Office of Hawaiian Affairs, shall provide recommendations for the Office of Hawaiian Affairs to consult with appropriate Federal agencies, including representatives of— "(i) the Native Hawaiian community; "(ii) the Office of Hawaiian Affairs; and "(iii) organizations providing health care services to Native Hawaiians in the State.

"(3) REPRESENTATION ON COMMISSION.—"(A) IN GENERAL.—The Office of Hawaiian Affairs, in consultation with Papa Ola Lokahi, may develop consultative, contractual, or other arrangements, including memoranda of understanding or agreement, with— "(i) the Centers for Medicare and Medicaid Services; "(ii) the agency of the State that administers or supervises the administration of the State plan or waiver approved under title XIX, X, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.) for the payment of all or a part of the health care services provided to Native Hawaiians who are eligible for medical assistance under the State plan or waiver; or "(iii) any other Federal agency providing full or partial health insurance to Native Hawaiians.

"(ii) CONTENTS OF ARRANGEMENTS.—An arrangement under clause (i) may address— "(I) appropriate reimbursement for health care services, including capitalization rates and fee-for-service rates for Native Hawaiians who are entitled to or eligible for insurance; "(II) the scope of services; and "(III) the collaboration of Federal agency and Native Hawaiian groups or organizations in the expenditure of those funds; and "(B) the Native Hawaiian health centers.

"(3) REPRESENTATION ON COMMISSION.—"(A) IN GENERAL.—The Office of Hawaiian Affairs, in consultation with Papa Ola Lokahi, may develop consultative, contractual, or other arrangements, including memoranda of understanding or agreement, with— "(i) the Native Hawaiian community; "(ii) the Native Hawaiian health centers; and "(iii) the Native Hawaiian health care systems.

"(b) CONSULTATION.—"(1) IN GENERAL.—Before adopting any policy, rule, or regulation that may affect the provision of services or health insurance coverage for Native Hawaiians, a Federal agency that provides health care services and carries out health care programs (including the Centers for Medicare and Medicaid Services) shall consult with representatives of— "(i) the Native Hawaiian community; "(ii) Papal Ola Lokahi; and "(iii) organizations providing health care services to Native Hawaiians in the State.

"(C) FISCAL ALLOCATION AND COORDINATION OF PROGRAMS AND SERVICES.—"(1) RECOMMENDATIONS.—Papa Ola Lokahi shall provide annual recommendations to the Secretary with respect to the allocation of all amounts made available under this Act.

"(2) CONSIDERATION.—"(A) FEDERAL CONSULTATION.—Papa Ola Lokahi shall, to the maximum extent practicable, coordinate and assist the health care programs and services provided to Native Hawaiians under this Act and other Federal laws.

"(3) REPRESENTATION ON COMMISSION.—"(A) IN GENERAL.—The Office of Hawaiian Affairs, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, Federal agencies, including representatives of— "(i) the Native Hawaiian community; "(ii) the Native Hawaiian health centers; and "(iii) the Native Hawaiian health care systems.

"(b) CONSULTATION.—"(1) IN GENERAL.—Before adopting any policy, rule, or regulation that may affect the provision of services or health insurance coverage for Native Hawaiians, a Federal agency that provides health care services and carries out health care programs (including the Centers for Medicare and Medicaid Services) shall consult with representatives of— "(i) the Native Hawaiian community; "(ii) Papal Ola Lokahi; and "(iii) organizations providing health care services to Native Hawaiians in the State.

"(2) CONSIDERATION.—"(A) FEDERAL CONSULTATION.—The Office of Hawaiian Affairs, in consultation with Papa Ola Lokahi, may develop consultative, contractual, or other arrangements, including memoranda of understanding or agreement, with— "(i) the Centers for Medicare and Medicaid Services; "(ii) the agency of the State that administers or supervises the administration of the State plan or waiver approved under title XIX, X, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.) for the payment of all or a part of the health care services provided to Native Hawaiians who are eligible for medical assistance under the State plan or waiver; or "(iii) any other Federal agency providing full or partial health insurance to Native Hawaiians.

"(2) CONTENTS OF ARRANGEMENTS.—An arrangement under clause (i) may address— "(I) information concerning the impact on Native Hawaiian health and well-being of— "(i) cultural competency; "(ii) risk assessment data; "(iii) eligibility requirements and exemptions; and "(IV) reimbursement policies and capitation rates in effect as of the date of the report for Federal and State programs; "(ii) such other similar information as may be important to improving the health status of Native Hawaiians; "(iii) recommendations for submission to the Secretary, for review and consultation with relevant public bodies, on the establishment and maintenance of data associated with the health status of Native Hawaiians; or "(A) appropriate reimbursement for health care services, including capitalization rates and fee-for-service rates for Native Hawaiians who are entitled to or eligible for insurance; "(ii) the scope of services; and "(III) other matters that would enable Native Hawaiians to maximize health insurance benefits provided by Federal and State health insurance programs.

"(b) AUTHORIZATION OF APPROPRIATIONS.—"(A) IN GENERAL.—The provision of health services under any program operated by the Department or another Federal agency (including the Department of Veterans Affairs) may include the services of— "(i) traditional Native Hawaiian healers; or "(ii) traditional healers providing traditional health care practices (as those terms are defined in section 2 of the Indian Health Care Improvement Act of 1996) to Native Hawaiians.

"(B) EXEMPTION.—Services described in subparagraph (A) shall be exempt from national accreditation reviews, including reviews conducted by— "(i) the Joint Commission on Accreditation of Healthcare Organizations; and "(ii) the Commission on Accreditation of Rehabilitation Facilities.

"SEC. 7. NATIVE HAWAIIAN HEALTH CARE.

"(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND OTHER HEALTH SERVICES.—"(1) GRANTS AND CONTRACTS.—The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into 776 of the Public Health Service Act (42 U.S.C. 293) made available for the purpose of— "(A) research on the health status of Native Hawaiians; "(B) addressing the health care needs of Native Hawaiians; and "(i) research; "(ii) the Native Hawaiian health centers; and "(iii) the Native Hawaiian community.

"(b) MEMORANDA OF UNDERSTANDING.—Papa Ola Lokahi and the Office of Hawaiian Affairs shall consult with representatives of— "(i) the Native Hawaiian health care systems; "(ii) the Native Hawaiian health centers; and "(iii) the Native Hawaiian community.

"(B) MEMORANDA OF UNDERSTANDING.—Papa Ola Lokahi and the Office of Hawaiian Affairs may enter into memoranda of understanding or agreement for the purpose of acquiring joint funding, or for such other purposes as are necessary, to accomplish the objectives of this section.

"(3) HEALTH CARE FINANCING STUDY REPORT.—"(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Native Hawaiian Health Improvement Reauthorization Act of 2009, Papa Ola Lokahi, in cooperation with the Office of Hawaiian Affairs and other appropriate agencies and organizations in the State (including the Department of Health and the Department of Human Services of the State) and appropriate Federal agencies (including the Centers for Medicare and Medicaid Services), shall submit to Congress a report that describes the impact of Federal and State health care financing mechanisms and policies on the health and well-being of Native Hawaiians.

"(B) COMPONENTS.—The report shall include— "(i) information concerning the impact on Native Hawaiian health and well-being of— "(I) cultural competency; "(II) risk assessment data; "(III) eligibility requirements and exemptions; and "(IV) reimbursement policies and capitation rates in effect as of the date of the report for Federal and State programs; "(ii) such other similar information as may be important to improving the health status of Native Hawaiians; "(iii) recommendations for submission to the Secretary, for review and consultation with relevant public bodies, on the establishment and maintenance of data associated with the health status of Native Hawaiians; or "(A) appropriate reimbursement for health care services, including capitalization rates and fee-for-service rates for Native Hawaiians who are entitled to or eligible for insurance; "(ii) the scope of services; and "(III) other matters that would enable Native Hawaiians to maximize health insurance benefits provided by Federal and State health insurance programs.

"(b) AUTHORIZATION OF APPROPRIATIONS.—"(A) IN GENERAL.—The provision of health services under any program operated by the Department or another Federal agency (including the Department of Veterans Affairs) may include the services of— "(i) traditional Native Hawaiian healers; or "(ii) traditional healers providing traditional health care practices (as those terms are defined in section 4 of the Indian Health Care Improvement Act of 1996) to Native Hawaiians.

"(B) EXEMPTION.—Services described in subparagraph (A) shall be exempt from national accreditation reviews, including reviews conducted by— "(i) the Joint Commission on Accreditation of Healthcare Organizations; and "(ii) the Commission on Accreditation of Rehabilitation Facilities.
contracts with 1 or more Native Hawaiian health care systems for the purpose of providing comprehensive health promotion and disease prevention services, as well as other health services, to Native Hawaiians who desire and are committed to bettering their own health.

(2) LIMITATION ON NUMBER OF ENTITIES.—
(a) The Secretary may make a grant to, or enter into a contract with, not more than 8 Native Hawaiian health care systems under this subsection for any fiscal year.

(b) PLANNING GRANT OR CONTRACT.—In addition to grants and contracts under subsection (a), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Molokai, Maui, Hawai'i, Lana'i, Kaua'i, Kaho'olawe, and Ni'ihau in the State.

(c) HEALTH SERVICES TO BE PROVIDED.—
(I) IN GENERAL.—Each recipient of funds under subsection (a) may provide or arrange for—
(A) outreach services to inform and assist Native Hawaiians in accessing health services;
(B) education in health promotion and disease prevention for Native Hawaiians that, whenever practicable, is provided by—
(i) Native Hawaiian health care practitioners;
(ii) community outreach workers;
(iii) alliances;
(iv) cultural educators; and
(v) other disease prevention providers;
(C) services of individuals providing health services;
(D) collection of data relating to the prevention of diseases and illnesses among Native Hawaiians; and
(E) support of culturally appropriate activities that enhance health and wellness, including land-based, water-based, ocean-based, and spiritually-based projects and programs.

(II) TRADITIONAL HEALERS.—The health care services referred to in paragraph (I) that are provided under grants or contracts under subsection (a) may be provided by traditional Native Hawaiian healers, as appropriate.

(III) FEDERAL TORT CLAIMS ACT.—An individual who provides a medical, dental, or other service referred to in subsection (a)(1) may not be liable to an individual involved.

(IV) SITE FOR OTHER FEDERAL PAYMENTS.—
(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for—
(i) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed under section 7; and
(ii) training and education for providers of health services;
(b) SITE FOR OTHER FEDERAL PAYMENTS.—
(1) DETERMINATION OF NONCOMPLIANCE.—If, with respect to health services that are provided under a contract entered into under section 7, the Secretary determines that—
(A) has developed and has the ability to carry out a reasonable plan to provide health services under the contract or grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and
(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;
(2) with respect to health services that are covered under a program under title XVIII, XIX, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.) (including any State plan), or under any other Federal health insurance plan;
(3) with respect to health services that are provided under a grant or contract any of those health services directly—
(i) has entered into a participation agreement under each such plan; and
(ii) is qualified to receive payments under the plan; and
(4) with respect to health services that are provided under a grant or contract any of those health services through a contract with an organization that—
(i) has entered into a participation agreement under each such plan; and
(ii) is qualified to receive payments under the plan; and
(5) agrees to submit to the Secretary and Papa Ola Lokahi an annual report that—
(A) describes the use and costs of health services provided under the grant or contract (including the average cost of health services per user); and
(B) provides such other information as the Secretary determines to be appropriate.

(5) WITH RESPECT TO A CONTRACT WITH THE SECRETARY.—
(A) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of the grant or contract are achieved.

(B) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

(C) ADMINISTRATIVE REQUIREMENTS.—The Secretary may make a grant or enter into a contract under this Act with an entity unless the entity—

(6) WITH RESPECT TO A CONTRACT WITH AN ORGANIZATION.—
(A) DETERMINATION OF NONCOMPLIANCE.—If, with respect to an entity that has not complied with or satisfied the requirements under a contract entered into under section 7, the Secretary determines that—
(A) failure to comply with a contract entered into under section 7, the Secretary shall, before renewing the contract—
(i) agree to establish such procedures for fiscal control and fund accounting as the Secretary determines are necessary to ensure proper disbursement and accounting with respect to the grant or contract; and
(ii) agrees to establish such procedures for fiscal control and fund accounting as the Secretary determines are necessary to ensure proper disbursement and accounting with respect to the grant or contract; and
(2) the entity has imposed a charge that is—
(A) made according to a schedule of charges that is made available to the public; and
(B) adjusted to reflect the income of the individual involved.

(B) AUTHORIZATION OF APPROPRIATIONS.—
(1) GENERAL GRANTS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (a) for each of fiscal years 2009 through 2014.

(2) PLANNING GRANTS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (b) for each of fiscal years 2009 through 2014.

(3) HEALTH SERVICES.—There are authorized to be appropriated such sums as are necessary to carry out subsection (c) for each of fiscal years 2009 through 2014.

SEC. 8. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.

(1) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for—

(A) outreach services to inform and assist Native Hawaiians in accessing health services;

(B) planning grants to, or enter into a contract with, Papa Ola Lokahi for—
(i) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed under section 7; and
(ii) training and education for providers of health services;

(C) the availability of Native Hawaiian fund projects, research projects, and publications;

(D) the establishment and maintenance of an institutional review board for all health-related research involving Native Hawaiians; and

(E) the coordination of the health care programs and services provided to Native Hawaiians; and

(2) ADMINISTRATION OF SPECIAL PROJECT FUNDS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out programs and services under the Act for each of fiscal years 2009 through 2014.

(B) ADMINISTRATION OF APPROPRIATIONS.—

(1) DETERMINATION OF NONCOMPLIANCE.—If, with respect to an entity that has not complied with or satisfied the requirements under a contract entered into under section 7, the Secretary determines that—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the contract or grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and
(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;

(2) WITH RESPECT TO A CONTRACT WITH THE SECRETARY.—

(A) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of the grant or contract are achieved.

(B) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

(C) ADMINISTRATIVE REQUIREMENTS.—The Secretary may make a grant or enter into a contract under this Act with an entity unless the entity—

(3) WITH RESPECT TO A CONTRACT WITH AN ORGANIZATION.—

(A) DETERMINATION OF NONCOMPLIANCE.—If, with respect to an entity that has not complied with or satisfied the requirements under a contract entered into under section 7, the Secretary determines that—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the contract or grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and
(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;

(4) WITH RESPECT TO A CONTRACT WITH AN ORGANIZATION.—

(A) DETERMINATION OF NONCOMPLIANCE.—If, with respect to an entity that has not complied with or satisfied the requirements under a contract entered into under section 7, the Secretary determines that—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the contract or grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and
(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;

(5) WITH RESPECT TO A CONTRACT WITH AN ORGANIZATION.—

(A) DETERMINATION OF NONCOMPLIANCE.—If, with respect to an entity that has not complied with or satisfied the requirements under a contract entered into under section 7, the Secretary determines that—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the contract or grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and
(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;

(6) WITH RESPECT TO A CONTRACT WITH AN ORGANIZATION.—

(A) DETERMINATION OF NONCOMPLIANCE.—If, with respect to an entity that has not complied with or satisfied the requirements under a contract entered into under section 7, the Secretary determines that—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the contract or grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and
(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;
this Act shall be in accordance with all Fed-
eral contracting laws (including regula-
tions), except that, in the discretion of the
Secretary, such a contract may—
(A) be negotiated without advertising; and
(B) be exempted from subsection III of
chapter 31, United States Code.

SEC. 9. DEDUCTIONS.—A payment made under
any contract entered into under this Act—
(A) may be made—
(i) in advance;
(ii) by means of reimbursement; or
(iii) in installments; and
(B) shall be made on such conditions as
the Secretary determines to be necessary to
carry it through.

(e) REPORT.—
(1) In general.—For each fiscal year dur-
ing which an entity receives or expends
funds under a grant or contract under this
Act, the entity shall submit to the Secretary
and to Papa Ola Lokahi an annual report that
describes—
(A) the activities conducted by the entity
under the grant or contract;
(B) the amounts and purposes for which
Federal funds were expended; and
(C) such other information as the Sec-
retary may request.

(2) AUDITS.—The reports and records of
any entity concerning any grant or contract
under this Act shall be subject to audit by—
(A) the Secretary;
(B) the Inspector General of the Depart-
ment of Health and Human Services; and
(C) the Comptroller General of the United
States.

(f) ANNUAL PRIVATE AUDIT.—The Sec-
retary shall, as a cost of any grant
made or contract entered into under this Act
the cost of an annual private audit con-
ducted by a certified public accountant to
carry out the provisions of this Act.

SEC. 10. ASSIGNMENT OF PERSONNEL.

(a) In general.—The Secretary may
enter into an agreement with Papa Ola
Lokahi or any of the Native Hawaiian health
organizations to provide financial assistance
in the form of a scholarship to Native Hawai-
ian community health workers or health
professionals to pursue education or training
programs.

(b) ELIGIBILITY.—Subject to the avail-
ability of amounts appropriated under sub-
section (a), the Secretary shall provide to
Papa Ola Lokahi, through a direct grant or a
cooperative agreement, funds for the purpose
of providing scholarship and fellowship assis-
tance, counseling, and placement service
assistance to students who are Native Hawai-
ians.

(c) PRIORITY.—A priority for scholarships
under subsection (a) shall be provided to
Native Hawaiian community health workers,
health professionals, or any other Act, to carry out Native Hawaiian
health care services for the assignment of personnel
in the Department of Health and Human
Services to Native Hawaiian healing practices;

(d) ELIGIBILITY.—To the maximum extent
practicable, the Secretary shall select schol-
mask recipients from a list of eligi-
ble applicants submitted by Papa Ola
Lokahi.

(3) OBLIGATED SERVICE REQUIREMENT.—
(4) IN GENERAL.—An obligated service re-
requirement for each scholarship recipient (ex-
cept for a recipient receiving assistance
under paragraph (G)) shall be fulfilled th-
in-service, in order of priority, in—
(i) any of the Native Hawaiian health
care systems; or
(ii) the Native Hawaiian health care sys-
tem of the United States.

(5) ASSIGNMENT.—The placement service
for a scholarship shall assign an Native Hawaiian scholarship recipient to 1 or more
appropriate sites for service in accordance with clause (1).

(6) COUNSELING, RETENTION, AND SUPPORT
SERVICES.—The provision of academic and
personal counseling, retention and other sup-
port services—
(i) shall not be limited to scholarship re-
ipients under this section; and
(ii) shall be made available to recipients
of other scholarship and financial aid pro-
grams enrolled in appropriate health profes-
sions training programs.

(7) FINANCIAL ASSISTANCE.—After con-
sultation with Papa Ola Lokahi, financial as-
sistance may be provided to a scholarship re-
ipient during the period that the recipient is
fulfilling the service requirement of the recipient in any of—
(i) the Native Hawaiian health care sys-
tems; or
(ii) the Native Hawaiian health centers.

(8) DISTANCE LEARNING RECIPIENTS.—A
scholarship may be provided to a Native Ha-
awaiian scholarship recipient to 1 or more
appropriate sites for distance learning programs offered by an accred-
ted educational institution.

(2) FELLOWSHIPS.—
(A) In general.—Papa Ola Lokahi may
provide financial assistance in the form of a
fellowship to a Native Hawaiian profes-
sional who—
(i) is a Native Hawaiian community health
representative, outreach worker, or health
program administrator in a professional
training program;
(ii) is a Native Hawaiian provider of health
services; or
(iii) is a Native Hawaiian enrolled in a cert-
tificated program provided by traditional
Native Hawaiian healers in any of the tradi-
tional Native Hawaiian healing practices (in-
cluding lomi-lomi, la’au lapa’au, and
ho’oponopono).

(2) RIGHTS AND BENEFITS.—An individual
who is a health professional designated in
section 338A of the Public Health Service Act
(42 U.S.C. 254) who receives a scholarship
under this subsection while fulfilling a ser-
vice requirement under that Act shall retain
the same rights and benefits as members of
the National Health Service Corps during the
period of service.

(3) NO INCLUSION OF ASSISTANCE IN GROSS
INCOME.—For tax purposes, any assistance
provided under this section shall be considered to be
qualifed scholarships for the purpose of sec-


(4) TRANSFER OF FEDERAL FUNDS.—
There are authorized to be appropriated such
sums as are necessary to carry out sub-
sections (a) and (c)(2) for each of fiscal years
through 2014.

SEC. 12. REPORT.

For each fiscal year, the President shall,
at the time at which the budget of the
United States is submitted under section
1105 of title 5, United States Code, submit to
Congress a report on the progress made in
meeting the purposes of this Act, including—
(1) a review of programs established or as-
signed by the Secretary under this Act;
(2) an assessment of and recommenda-
tions for additional programs or additional
assistance necessary to provide, at a min-
imum, health services to Native Hawaiians,
and ensure a health status for Native Hawai-
ians, that are at a parity with the health
services available to, and the health status of,
the general public of the United States.

SEC. 13. USE OF FEDERAL GOVERNMENT FACILI-
TIES AND SOURCES OF SUPPLY.

(a) In general.—The Secretary shall per-
mit an organization that enters into a con-
tact or receives grant under this Act to use
in carrying out projects or activities under
the contract or grant all existing facilities
under the jurisdiction of the Secretary (in-
cluding all equipment and supplies), in
accordance with such terms and conditions
as may be agreed on for the use and mainte-
nance of the facilities or equipment.

(b) DONATION OF PROPERTY.—The Sec-
retary may donate to an organization that
enters into a contract or receives grant under
this Act, for use in carrying out a project or activity under the contract or grant, any personal or real property deter-
mmed to be in excess of the needs of the De-
partment or the General Services Adminis-
tration.

(c) ACQUISITION OF SURPLUS PROPERTY.—
The Secretary may acquire excess or surplus
Federal Government personal or real prop-
erty for donation to a Native Hawaiian
organization under subsection (b) if the Secretary
determines that the property is appropriate for use by
the organization for the purpose for which a
contract entered into or grant received by
the organization is authorized under this Act.

SEC. 14. DEMONSTRATION PROJECTS OF Na-
TIONAL SIGNIFICANCE.

(a) AUTHORITY AND INTEREST.—
(1) In general.—The Secretary, in con-
sultation with Papa Ola Lokahi, may allo-
cate amounts made available under this Act,
or any other Act, to carry out Native Hawai-
ian demonstration projects of national sig-
nificance.

(2) AREAS OF INTEREST.—A demonstration project described in paragraph (1) may relate to such areas of interest as—
(A) the development of a centralized data-
based and information system relating to the health care status, health care needs, and
wellness of Native Hawaiians;
(B) the education of health professionals,
and other individuals in institutions of high-
erness in Native Hawaiian practices, including Native Hawaiian healing practices;
“(C) the integration of Western medicine with complementary healing practices, including traditional Native Hawaiian healing practices;

“(D) the use of telehealth and telecommunications in—

“(i) chronic and infectious disease management; and

“(ii) health promotion and disease prevention;

“(E) the development of appropriate models of health care for Native Hawaiians and other indigenous peoples, including—

“(i) the provision of culturally competent health services; and

“(ii) related activities focusing on wellness concepts;

“(F) the establishment of—

“(i) a Native Hawaiian Center of Excellence for Nursing at the University of Hawai‘i at Hilo;

“(ii) a Native Hawaiian Center of Excellence for Mental Health at the University of Hawai‘i at Manoa;

“(iii) a Native Hawaiian Center of Excellence for Maternal Health and Nutrition at the Waimanalo Health Center;

“(iv) a Native Hawaiian Center of Excellence for Research, Training, Integrated Medicine at Molokai General Hospital; and

“(v) a Native Hawaiian Center of Excellence for Complementary Health and Health Education and Training at the Waianae Coast Comprehensive Health Center.

“(G) CENTERS OF EXCELLENCE.—Papa Ola Lokahi shall establish Centers of Excellence under section 485F and 903(b)(2)(A) of the Public Health Service Act (42 U.S.C. 297c–32, 297a–1).

“(b) NONREDUCTION IN OTHER FUNDING.—The allocation of funds for demonstration projects under subsection (a) shall not result in any reduction in funds required by the Native Hawaiian health systems, the Native Hawaiian Health Centers, the Native Hawaiian Health Scholarship Program, or Papa Ola Lokahi to carry out the respective responsibilities of those entities under this Act.

“SEC. 15. RULE OF CONSTRUCTION.

“Nothing in this Act restricts the authority of the State to require licensing of, and issue licenses to, health practitioners.

“SEC. 16. COMPLIANCE WITH BUDGET ACT.

“Authority described in subparagraph (A) or (B) of section 401(c)(2) of the Congressional Budget Act of 1974 (42 U.S.C. 651(c)(2)) that is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided for in Acts of appropriation.

“SEC. 17. SEVERABILITY.

“If any provision of this Act, or the application of any such provision to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, the remainder of this Act, and the application of the provision to persons or circumstances other than that to which the provision is held invalid, shall not be affected by that holding.”

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

S. 77. A bill to amend title XXI of the Social Security Act to provide for equal coverage of mental health services under the State Children's Health Insurance Program; to the Committee on Finance.

Mr. KERRY. Mr. President, it is my great hope that Congress will move this year to see that the successful, bipartisan State Children’s Health Insurance Program, SCHIP, is allowed the opportunity to fulfill its promise to the low-income children of this country. For over 11 years it has provided, along with Medicaid, the type of meaningful and affordable health insurance coverage that each and every American child deserves. Yet there is much work to be done to provide this program, and the reauthorization of SCHIP gives us the opportunity to expand these successful programs to many of the nine million uninsured children in the country today, starting with the 6 million that are already eligible for public programs but not yet enrolled.

While expanding coverage to the uninsured is our top priority, it is equally important to ensure that the types of benefits offered to our Nation’s children are quality services that are uniformly available, especially when it comes to mental health coverage, that is too often not the case today. Therefore, I am introducing today, along with Senator Snowe, the Children’s Mental Health Parity Act which provides for equal coverage of mental health care for all children enrolled in the State Children’s Health Insurance Plan, SCHIP. This was passed as part of the SCHIP reauthorization last year, but unfortunately the bill was vetoed by Bush.

I am encouraged by the passage of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act in October 2008. It is now time to extend the same parity in mental health care to our children that we give to adults. Mental illness is a critical problem for the young people in this country today. The numbers are startling. Mental disorders affect about one in five American children and up to 10% experience serious emotional disturbances that severely impact their functioning. Low-income children, those the SCHIP program is designed to cover, have the highest rates of mental health problems.

Yet the sad reality is that an estimated 25% of all young people struggling with mental health disorders do not receive the care they need. We are failing our children when we do not provide appropriate treatment of mental health disorders, and the consequences of this failure could not be more severe. Without early and effective intervention, affected children are less likely to do well in school and more likely to have compromised employment and earnings opportunities. Moreover, untreated mental illness may increase a child’s risk of coming into contact with the juvenile justice system. Finally, children with mental disorders are at a much higher risk for suicide.

Unfortunately, many states have SCHIP programs that do not provide the type of mental health care coverage that our most vulnerable children deserve. Many States impose discriminatory limits on mental health care coverage that do not apply to medical and surgical care. These can include caps on coverage of inpatient days and outpatient visits, as well as cost and treatment restrictions that impair the ability of our physicians to make the best judgments for our kids.

The Children’s Mental Health Parity Act would prohibit discriminatory limits on mental health care in SCHIP plans by directing that any financial requirements or treatment limitations that apply to mental health and substance abuse services must be no more restrictive than the financial requirements or treatment limits that apply to other medical services. This bill would also eliminate a harmful provision in current law that authorizes states to lower the amount of mental health coverage they provide to children to just 75 percent of the coverage provided in other health care plans used by states.

The National Association of Children’s Behavioral Health, the National Association of Psychiatric Health Systems, and the National Council for Community Behavioral Health care delivered through SCHIP should be guaranteed that the mental health benefits they receive are just as comprehensive as those for medical and surgical care. It is no less important to care for our kids’ mental health, and this unfair and unwise disparity should no longer be acceptable. As we debate many important features of the SCHIP program during reauthorization, I look forward to working with colleagues on both sides of the aisle to see that this important and the National Association for Children’s Behavioral Health, the National Association of Psychiatric Health Systems, and the National Council for Community Behavioral Health care delivered through SCHIP should be guaranteed that the mental health benefits they receive are just as comprehensive as those for medical and surgical care. It is no less important to care for our kids’ mental health, and this unfair and unwise disparity should no longer be acceptable. As we debate many important features of the SCHIP program during reauthorization, I look forward to working with colleagues on both sides of the aisle to see that this important

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

S.78. A bill to amend the Internal Revenue Code of 1986 to provide a full exclusion for gain from certain small business stocks; to the Committee on Finance.

Mr. KERRY. Mr. President, our economy is in the midst of the worst economic downturn since since the Great Depression. We all realize that small businesses are the backbone of our economy. During these difficult times, many small businesses are having trouble accessing credit which leads to a decline in job creation and innovation.

Many of our most successful corporations started as small businesses, including AOL, Apple Computer, Compac Computer, Datastream, Evergreen Solar, Intel Corporations, and Sun Microsystems. As you can see from this partial list, many of these companies played an integral role in making the Internet a reality.
Today, Senator SNowe and I are introducing the Invest in Small Business Act of 2009 to encourage private investment in small businesses by making changes to the existing partial exclusion for gain from certain small business stock.

Investing in small businesses is essential to turning around the economy. Not only will investment in small business spur job creation, it will lead to new technological breakthroughs. We are at an inflection point in developing technology to address global climate change. I believe that small business will repeat the role it played at the vanguard of the computer revolution—by leading the Nation in developing the technologies to substantially reduce carbon emissions. Small businesses already are at the forefront of these industries, and we need to do everything we can to encourage investment in small businesses.

Back in 1993, I worked with Senator Bumpers to enact legislation to provide a 50 percent exclusion for gain for individuals from the sale of certain small business stock that is held for 5 years. This provision provides a partial exclusion for gains for individuals from the sale of certain small business stock that is held for 5 years. Since the enactment of this provision, the capital gains tax rates have been lowered twice without any provision to the exclusion. Due to the lower capital rates, this provision no longer provides a strong incentive for investment in small businesses.

The Invest in Small Business Act of 2009 makes several changes to the existing provision. This legislation increases the exclusion amount from 50 percent to 100 percent and decreases the holding period from 5 to 4 years. This bill would allow corporations to invest in small businesses by increasing the exclusion from 50 percent to 100 percent and decreases the holding period from 5 to 4 years.

Currently, the exclusion is treated as a preference item for calculating the alternative minimum tax, AMT. The Invest in Small Business Act of 2009 would repeal the exclusion as an AMT preference item.

The Invest in Small Business Act of 2009 will provide an effective tax rate of 0 percent for the gain from the sale of certain small businesses. This lower capital gains rate will encourage investment in small businesses. In addition, the changes made by the Invest in Small Business Act of 2009 will make more taxpayers eligible for this provision.

I urge my colleagues to support the Invest in Small Business Act of 2009 which strengthens an existing tax incentive to provide an appropriate incentive to encourage innovation and entrepreneurship.

Mr. KERRY. Mr. President, my home State of Massachusetts is setting an example for the rest of the country by taking bold steps to provide quality health care for everyone. Now it is time for Washington to do the same by bringing meaningful, affordable health-care to all Americans, in Massachusetts and across America.

In Massachusetts the cost of health care is a major obstacle to the overall goal of universal coverage. The problem of the uninsured can’t be solved unless the issue of skyrocketing health costs to families and businesses is also tackled. And fully reforming the healthcare system requires that the Federal Government begin shouldering some of the burden to help alleviate costs.

Healthcare costs are highly concentrated in this country. The very few who suffer from catastrophic illness or injury drive costs up for everyone. One percent of patients account for 25 percent of all healthcare costs, and 20 percent of patients account for 80 percent of costs. To make healthcare more affordable, we must find a better way to share the immense burden of insuring the chronically ill and seriously injured.

Part of the reason that businesses and health plans today fail to cover their workers is an aversion to risk. Patients who are catastrophically ill or injured often face the tragic combination of medical and financial peril. But there’s a way to combat these costs.

Congress should make employers and healthcare plans an offer they can’t refuse. It’s called “reinsurance.” Reinsurance provides a backstop for the high costs of healthcare. The Federal Government will reimburse a percentage of the highest cost cases if employers agree to offer comprehensive health insurance benefits to all full time employees and limit out-of-pocket healthcare costs and health promotion benefits that are proven to make care affordable. This will result in lower costs and lower premiums for both employers and employees. If the Federal Government can help small and large businesses bear the burden of cost in the most expensive cases, we’ll dramatically improve the access to health care for everyone.

That is why I am introducing the Healthy Businesses, Healthy Workers Reinsurance Act, to make the federal government a partner in helping businesses with the heavy financial burden of those catastrophic cases. Specifically, this legislation is designed to assist those catastrophic cases that cost more than $50,000 in a single year. Healthy Businesses, Healthy Workers will protect business owners from skyrocketing premiums, and provide more working families affordable, quality healthcare. With reinsurance, health insurance premiums for all of us will go down, approximately 10 percent under this plan. This plan does have a cost associated with it, but the benefits will outweigh the costs. We spend hundreds of billions of dollars each year on inefficient and wasteful health expenditures. We need to make sure that these funds are being spent wisely to ensure that we can lower health care costs and improve coverage.

I believe that we must act now to address the health care crisis in America, taking steps that create real change and address both access to care and the cost of care. There is a growing bipartisan consensus that the Federal Government has a responsibility to help the catastrophically ill. As we take the next steps toward alleviating our nation’s health care crisis, a commonsense partnership between employers, families, and the government to share the costs of the sickest among us will lay the groundwork for achieving our ultimate goal: meaningful health care coverage for every single American. I ask all my colleagues to support this legislation.

By Mrs. FEINSTEIN:
S. 111. A bill for the relief of Joseph Gabra and Sharon Kamel; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am offering today private relief legislation to provide lawful permanent resident status to Joseph Gabra and his wife, Sharon Kamel, Egyptian nationals currently living with their children in Camarillo, California. Joseph Gabra and Sharon Kamel entered the United States legally on November 1, 1998, on tourist visas. They immediately filed for political asylum based on religious persecution.

The couple fled Egypt because they had been targeted for their active involvement in the Coptic Christian Church in Egypt. Mr. Gabra was employed from 1990–1998 by the Coptic Catholic Diocese Church in El-Fayoum as an accountant and “project coordinator for the Coptic Christian Social Elevation. He was responsible for building community facilities such as religious schools, among other things. His wife, Sharon Kamel, was employed as the Director for Training in the Human Resources Department of the Coptic Church.

Both Mr. Gabra and Ms. Kamel had paid full-time positions with the Coptic Church.

Unfortunately, they and their families suffered abuse because of their commitment to their church. Mr. Gabra was repeatedly jailed by Egyptian authorities because of his work for the church. In addition, Ms. Kamel’s cousin was murdered and her brother’s business was fire-bombed.

When Ms. Kamel became pregnant with their first child, the family was warned by a member of the Muslim Brotherhood that if they did not raise their child as a Muslim, the child would be kidnapped and taken from them.

Frightened by these threats, the young family sought refuge in the United States. Unfortunately, when
they sought asylum here, Mr. Gabra, who has a speech impediment, had difficulty communicating his fear of persecution to the immigration judge.

The judge denied their petition, telling the family that he did not see why they could not just move to another city in Egypt to avoid the abuse they were suffering. Since the time that they were denied asylum, Ms. Kamel’s brother, who lived in the same town and suffered similar abuse, was granted asylum.

I have decided to offer legislation on their behalf because I believe that, without it, this hardworking couple and their four United States citizen children would endure immense and unfair hardship.

First, in the ten years that Mr. Gabra and Ms. Kamel have lived here, they have worked to adjust their status through the appropriate legal channels. They left behind employment in Egypt and came to the United States on a lawful visa. Once here, they immediately notified authorities of their intent to seek asylum here. They have played by the rules and followed our laws.

In addition, during those ten years, the couple has had four U.S. citizen children who do not speak Arabic and are unfamiliar with Egyptian culture. If the family is deported, the children would have to acclimate to a different culture, language and way of life.

Jessica, age 10, is the Gabras’ oldest child, and in the Gifted and Talented Education program in Ventura County. Rebecca, age 9, and Rafael, age 8, are old enough to understand that they would be leaving their schools, their teachers, their friends and their home. Veronica, the Gabra’s youngest child, is just 3 years old.

More troubling is the very real possibility that if sent to Egypt, these four American children would suffer discrimination, persecution and maltreatment on account of their religion, just as the rest of their family reports.

Mr. Gabra and Ms. Kamel have made a positive life for themselves and their family in the United States. Both have earned college degrees in Egypt and once in the United States, Mr. Gabra passed the Certified Public Accountant Examination on August 4, 2003. Since arriving here, Mr. Gabra has consistently supported his family.

The positive impact they have made on their community is highlighted by the fact that I received a letter of support on their behalf signed by 160 members of their church and community. From everything I have learned about the family, we can expect that they will continue to contribute to their community in productive ways.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Joseph Gabra and Sharon Kamel.

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

S. 111

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of law, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Joseph Gabra and Sharon Kamel shall be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for adjustment of status to that of an alien lawfully admitted for permanent residence under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) upon filing an application for such adjustment of status.

(b) Application of Fees.—Subsection (a) shall apply only if the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of permanent resident status to Joseph Gabra and Sharon Kamel, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives to the country of birth of Joseph Gabra and Sharon Kamel under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152) or, if applicable, the total number of immigrant visas that are made available to natives to the country of birth of Joseph Gabra and Sharon Kamel under section 202(e) of that Act (8 U.S.C. 1152(e)).

By Mr. INOUYE:

S. 112. A bill to treat certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness; to the Committee on Finance.

Mr. INOUYE. Mr. President, the legislation I have reintroduced will extend to qualified teaching hospital support organizations the existing debt-financed safe harbor rule. Congress enacted that rule to support the public service activities of tax-exempt schools, universities, pension funds, and consortia of such institutions. Our teaching hospitals require similar support.

As a result, for-profit hospitals are moving from older areas to affluent locations where residents can afford to pay for treatment. These private hospitals typically have no mandate for community service. In contrast, nonprofit hospitals must fulfill a community service requirement. They must stretch their resources to provide increased penetration in their facilities, and maintain skilled staffing resulting in closures of nonprofit hospitals due to this financial strain.

The problem is particularly severe for teaching hospitals. Non-profit hospitals provide nearly all the postgraduate medical education in the United States. Post-graduate medical instruction is by nature not profitable. Instruction in the treatment of mental disorders and trauma is especially costly.

Despite their financial problem the Nation’s nonprofit hospitals strive to deliver a very high level of service. A study in the December 2006 issue of Archives of International Medicine had surveyed hospitals’ quality of care in four areas of treatment. It found that nonprofit hospitals consistently outperformed for-profit hospitals. It also found that teaching hospitals had a higher level of competence in treatment and diagnosis. It said that investment in technology and staffing leads to better care. And it recommended that alternative payments and sources of payments be considered to finance these improvements.

The success and financial constraints of nonprofit teaching hospitals is evident in work of the Queen’s Health Systems in my State. This 147-year-old organization maintains the largest, private, nonprofit hospital in Hawaii. It serves as the primary clinical teaching facility for the University of Hawaii’s medical residency programs in medicine, general surgery, orthopedic surgery, obstetrics-gynecology, pathology, and psychiatry. It conducts educational and training programs for nurses and allied health personnel. It operates the only trauma unit as well as the chief behavioral health program in the State. It maintains clinics throughout Hawaii, health programs for the Hawaiian hospital on a rural, economically depressed island. Its medical reference library is the largest in the State. Not the least, it annually provides millions of dollars in uncompensated health care services. To help pay for these community benefits, the Queen’s Health Systems, as other nonprofit teaching hospitals, relies significantly on income from its endowment.

In the past, the Congress has allowed tax-exempt schools, colleges, universities, and pension funds to invest their endowment in real estate so as to better meet their financial needs. Under the tax code these organizations can incur debt for real estate investments without triggering the tax on unrelated business activities.

If the Queen’s Health Systems were part of a university, however, a teaching hospital and its support organization ran into the tax code’s debt financing prohibition. Nonprofit teaching hospitals have the same if not more pressing needs as universities, schools, and pension trusts. The same safe harbor rule should be extended to teaching hospitals.

My bill would allow the support organizations for qualified teaching hospitals to engage in limited borrowing to enhance their endowment income. The proposal for teaching hospitals is actually more restricted than current law for schools, universities and pension trusts. Under safeguards developed by the Joint Committee on Taxation, a support organization for a teaching hospital could develop land on a commercial basis. The proposal is tied directly to the organization endowment. The staff’s revenue
estimates show that the provision with its general application will help a number of teaching hospitals.

The U.S. Senate several times has acted favorably on this proposal. The Senate adopted a similar provision in H.R. 1936, the Economic Growth and Tax Relief Act of 2001. The House referred on that bill, however, objected that the provision was unrelated to the bill’s focus on individual tax relief and the conference deleted the provision from the final legislation. Subsequently, the Finance Committee included the provision in H.R. 7, the CARE Act of 2002, and in S. 476, the CARE Act of 2003 which the Senate passed. In a previous Congress’ S. 6, the Marriage, Opportunity, Relief, and Empowerment Act of 2003, which the Senate leadership introduced, also included the proposal.

As the Senate Finance Committee’s recent hearings show, substantial health needs would go unmet if not for our charitable hospitals. It is time for the Congress to assist the Nation’s teaching hospitals in their charitable, educational service.

Mr. President, I ask unanimous consent that the text of 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. 112

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

SECTION 1. TREATMENT OF CERTAIN HOSPITAL TEACHING HOSPITALS.—For purposes of subparagraph (9) of section 514(c) of the Internal Revenue Code of 1986, the term ‘eligible indebtedness’ means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property, or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such refinancing of such an eligible indebtedness is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be deemed if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred on or after the date of the enactment of this Act.

By Mr. INOUYE:

S. 113. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise today, again, to introduce the Rural Preventive Health Care Training Act, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs. Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 3 million people living in underserved rural areas are without access to a primary care provider. Even in areas where providers do exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to care.

Compound these problems with limited financial resources, and the result is that many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly, and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected, and often develop into full-blown disorders. To reduce the financial and human costs of such disorders. In carrying out this sub-section, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

(c) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the Secretary to be practicing, or desiring to practice, in a rural area.

(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

(3) to provide in appropriate research and program evaluation skills in rural communities;

(4) to create and implement innovative programs and curricula with a specific prevention component; and

logical sciences. Interdisciplinary team prevention training will also facilitate operations at sites with both health and mental health clinics by facilitating routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the overall health of rural communities.

The Rural Preventive Health Care Training Act would implement the risk-reduction model described in the record. This model uses the identification of risk factors and targets specific interventions for those risk factors. The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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

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

S. 113

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘Rural Preventive Health Care Training Act of 2009’.

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after section 754 the following:

‘‘SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applications to prevent health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such grants shall, to the extent practicable, include training in health care to prevent both physical and mental health problems before the occurrence of such disorders. In carrying out this sub-section, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the Secretary to be practicing, or desiring to practice, in a rural area.

(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

(3) to provide in appropriate research and program evaluation skills in rural communities;

(4) to create and implement innovative programs and curricula with a specific prevention component; and

...
"(5) for other purposes as the Secretary determines to be appropriate.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the District of Columbia $5,000,000 for each of fiscal years 2010 through 2013."

By Mr. INOUYE:

S. 114. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise, again, today to reintroduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research. Social workers provide a multitude of health care delivery services throughout the United States to our children, families, the elderly, and persons suffering from various forms of abuse and neglect. The purpose of this center is to support and disseminate information about the basic role social work plays in the search and training, with emphasis on service to underserved and rural populations.

While the Federal Government provides funding for various social work research activities through the National Institutes of Health and other Federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our Nation’s children, families, the elderly, and others.

In order to meet the increasing challenges of bringing cost-effective, research-based quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and central role that the Center for Social Work can provide in facilitating their work.

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

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

S. 114

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

SECTION 1. SHORT TITLE. This Act may be cited as the “National Center for Social Work Research Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) social workers focus on the improvement of individual and family functioning and the creation of effective health and mental health promotion and treatment interventions in order for individuals to become more productive members of society;

(2) social workers provide front line prevention services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

(3) social workers are in a unique position to provide valuable research information on these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinary, family-centered and community-based approach.

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

(a) In general.—Section 481c(a) of the Public Health Service Act (42 U.S.C. 281c(a)) is amended by adding at the end the following:

"(26) The National Center for Social Work Research."

(b) Establishment.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

"Subpart 7—National Center for Social Work Research"

"SEC. 485L. PURPOSE OF CENTER.

The general purpose of the National Center for Social Work Research (referred to in this subpart as the ‘Center’) is the conduct and support of, and dissemination of, targeted research concerning social work methods and outcomes related to problems of significant social concern. The Center shall—

(1) promote research and training that is designed to inform social work practices, thus increasing the knowledge base which promotes a healthier America; and

(2) provide for empirically-based research information to enable policymakers to better understand complex social issues and make informed decisions about service effectiveness and cost efficiency.

SEC. 485J. SPECIFIC AUTHORITIES.

(a) In general.—To carry out the purpose described in section 485L, the Director of the Center may provide research training and instruction and establish, in the center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, the association of socio-economic status, gender, ethnicity, age and geographical location and health, the social and support of, and dissemination of targeted research concerning social work methods and outcomes related to problems of significant social concern expressed in paragraph (3) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

(2) Ex officio members.—The ex officio members of the advisory council shall include—

(A) the Secretary of Health and Human Services, the Director of NIH, the Director of Health and Human Services, the Director of the Division of Epidemiology and Services Research, the Assistant Secretary of Health and Human Services for the Administration for Children and Families, the Assistant Secretary of Education for the Office of Educational Research and Improvement, the Assistant Secretary of Housing and Urban Development for Community Planning and Development, and the Assistant Attorney General for Office of Justice Programs (or the designee of such officer); and

(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out section 485J; and

(3) Appointed members.—The Secretary shall appoint to the advisory council, of which—

(A) no more than two-thirds of such individuals shall be appointed from among the leading representatives of the health and scientific disciplines (including public health, criminology, politics, public policy, law, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of the members do not expire in the same year.

(c) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council.

(3) Charges for services.—The advisory council, or individuals engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily rate paid to individuals in a position at grade GS-15 of the General Schedule.
By Mrs. FEINSTEIN: S. 116. A bill to require the Secretary of the Treasury to allocate $10,000,000,000 of Troubled Asset Relief Program funds to local governments that have suffered significant losses due to the collapse of financial institutions, or that have suffered losses due to failed financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. MR. President, I rise to introduce legislation that will provide relief to local governments that have suffered losses due to highly-rated investments with failed financial institutions, such as Lehman Brothers and Washington Mutual.

The TARP Assistance for Local Governments Act would require the Secretary of the Treasury to provide $10 billion in TARP funds to local governments that have suffered losses due to investments in failed financial institutions; and limit relief to local governments with investments in failed financial institutions that were highly rated, as determined by the Treasury Secretary.

This legislation is necessary because local governments are in jeopardy of losing up to $10 billion as a result of these investments.

In California 28 cities and counties could lose nearly $300 million.

These investments include basic operational funds which cities and counties rely upon to function.

For many cities and counties that are already struggling with budget shortfalls, the consequences of these losses are severe.

Public safety, education, public health, infrastructure, and transit will be compromised.

Communities large and small are significantly impacted.

These are examples from my State that demonstrate the gravity of this situation.

This list was included in a December 22 letter to Secretary Paulson, and to date, I have not received a response. San Mateo County sustained a loss of $30 million, which will require the county to abandon plans for a new and urgently needed county jail. The current jail will continue to operate in overcrowded conditions, far beyond the rating of the facility. The result will be unsafe working conditions for the corrections personnel and the likelihood that convicted criminals will be released into the community early and in large numbers.

The City of Shafter, a small community of 15,000 in the San Joaquin Valley, sustained a loss of $300,000, or nearly 4 percent of its annual budget. The City will be forced to make across-the-board cuts in all services, including police and fire.

Monterey County is facing a $30 million loss. Amid numerous other cuts, hardest hit will be programs targeting gang activities, including a special task force and the construction of new adult and juvenile corrections facilities to manage these criminals.

The San Mateo County Transportation Authority sustained a loss of more than $25 million, which will mean delays and higher costs for major projects that will reduce emissions and traffic, specifically the electrification of the Caltrain Peninsula Commuter Rail Service. Similarly, cuts in high-speed rail service will increase the number of people on the local roads for longer times at a major cost in compromised air quality.

The City of Culver City has lost $1 million. This will result in a substantial reduction in police and fire and higher liability exposure from accidents, greater environmental degradation from storm water drain off, and worsened traffic congestion in a region of the U.S. ranked as one of the worst for traffic.

The Hillsborough City School District lost over $824 million. Projects to create more classrooms for increased enrollment will not take place, increasing the class size. Combined with other budget cuts from the State, all the District’s programs are threatened.

The Vallejo Sanitation and Flood Control District, which provides sanitary sewer and storm water services to the City of Vallejo and nearby areas of Solano County, sustained losses of $4.5 million in Lehman Brothers investments and $1.46 million in Washington Mutual investments. The result is that aging infrastructures in this community will not be replaced. The City of Vallejo recently declared Chapter 9 Municipal bankruptcy.

Sacramento County sustained an injury in costs of $8 million related to an interest rate swap agreement with Lehman. This increase means fewer funds for sheriff’s patrol and investigations and probation supervision, resulting in an increased risk to the safety of the residents of this community.

The City of Folsom lost $700,000, which has caused the City to indefinitely postpone staffing and equipping a new fire station.

The San Mateo County Community College District sustained a loss of $25 million in voter-approved bond funds. As a result, the District will be forced to abandon a program to build more classrooms, and, therefore, turn away thousands of potential students, many of them unemployed adults seeking job training.

The economic rescue legislation included a provision to require the Secretary of the Treasury to consider the impact of these losses on local governments when disbursing TARP funds. But, to date, the Secretary has not exercised his authority to assist local governments with such funds.

The TARP Assistance for Local Governments Act of 2009 will change this, and ensure that communities remain solvent and taxpayers are protected.

Given the urgency of this situation, we can no longer afford to wait.

I hope that my colleagues will join me in supporting this important legislation.
By Mr. KOHL (for himself, Ms. COLLINS, Mrs. LINCOLN, Mrs. BOXER, and Ms. MIKULSKI):

S. 117. A bill to protect the property and security of homeowners who are subject to foreclosure proceedings, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I am introducing the Foreclosure Rescue Fraud Act of 2009 with my colleagues Senators COLLINS and LINCOLN. This legislation, which we introduced last Congress, is more difficult for financial predators to take advantage of homeowners in foreclosure.

Foreclosure rescue scams are another consequence of the housing crisis that is plaguing the country. Foreclosure filings have been climbing across the country for the past two years and in Wisconsin, filings have risen 22 percent over the past year. Additionally, the Federal Reserve estimates that 2.5 million Americans will be facing foreclosure in 2009. As default rates and foreclosure filings have steadily increased, so have financial scams which prey on homeowners. The Better Business Bureau listed foreclosure rescue scams as one of the top ten financial scams in 2008.

For most people, their home is their greatest asset. When a homeowner falls behind in their payments, it can cause a great deal of emotional stress on the family. Scam artists prey on owner’s desperation and give them a false sense of security, claiming they can help “save their home.” The types of scams vary, but the end result is that the homeowner is left in a more desperate situation than before.

The Foreclosure Rescue Fraud Act aims to prevent these cruel abuses by increasing disclosure and creating stricter requirements for a person or entity offering foreclosure-rescue services. The legislation prohibits a “foreclosure consultant” from collecting any fee or compensation before completing contracted services, and from obtaining a power of attorney from a homeowner. It also requires full disclosure of third-party consideration in the property and creates a 3-day right to cancel the foreclosure-rescue contract. Finally, the legislation creates a federal “floor” of protection and allows states without rescue-fraud laws to use these provisions as a way to help scam victims. The Foreclosure Rescue Fraud Act will make it easier for states and the Federal Government to combat these schemes and protect people who are already financially distressed from being made worse off.

The past year has exposed the irregularities and inadequacies of our banking regulations. As Congress continues to work on proposals to restore confidence in our financial industry, it is imperative that we put in place strong rules and regulations that better protect consumers in order to avoid further economic strain.

By Mr. KOHL (for himself, Mr. SCHUMER, Mr. DURBIN, Mr. BROWN, Mr. NELSON of Florida, Ms. STABENOW, Mr. LEAHY, and Mr. CASEY):

S. 118. A bill to amend section 202 of the Housing Act of 1959 to improve the program under such section for supportive housing for the elderly, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I am introducing the Section 202 Supportive Housing for the Elderly Act of 2008 with my colleague Senator CHARLES SCHUMER for the purpose of expanding and improving the Department of Housing and Urban Development’s Section 202 Supportive Housing for the Elderly Program. Section 202 provides capital grants to nonprofit community organizations for the development of supportive housing and provision of rental assistance exclusively for low-income seniors. This program supplies housing that includes access to supportive services to allow seniors to remain safely in their homes and in place. Access to supportive services reduces the occurrence of costly nursing home stays and helps save both seniors and the Federal government money.

There are over 300,000 seniors living in 6,000 Section 202 developments across the country. Unfortunately, the program is far from meeting the growing demand. Approximately 730,000 additional supportive housing units will be needed by 2020 in order to address the future housing needs of low-income seniors. There are currently 10 seniors vying for each unit that becomes available, with many seniors waiting years before finding a home. To make matters worse, we are losing older Section 202 properties to developers of high-priced condominiums and apartments. As a result, many seniors currently participating in the program could end up homeless.

Congress needs to act now to address the demand for safe, affordable senior housing. Our legislation would promote the construction of new senior housing facilities as well as preserve and improve upon existing facilities. The legislation would also support the conversion of existing facilities into assisted living facilities that provide a wide variety of additional supportive health and social services. Under current law, these facilities are time-consuming and bureaucratic, often requiring waivers and special permission from HUD. Finally, our legislation provides priority consideration for our homeless seniors seeking a place to call their own. With this bill, we hope to reduce current impediments and increase the availability of affordable and supportive housing for our Nation’s most vulnerable seniors.

I want to thank the American Association of Homes and Services for the Aging as well as the Wisconsin Association of Homes and Services for the Aging for being champions of this legislation and for working with us to develop a comprehensive bill that will help meet the growing need for senior housing in this Nation.

Senior citizens deserve to have housing that will help them maintain their independence. I urge that my colleagues and I join Senator SCHUMER and I in our efforts to help ensure that our older Americans have a place to call home during their golden years.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be called as the “Section 202 Supportive Housing for the Elderly Act of 2009”.

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

Sec. 1. Short title and table of contents.
Sec. 2. Title I—New Construction Reforms.
Sec. 3. Title II—Refinancing.
Sec. 4. Title III—Assisted Living Facilities.
Sec. 5. Title IV—Facilitating Affordable Housing Preservation Transitions.
Sec. 6. Title V—National Senior Housing Clearinghouse.
Sec. 7. Title I—New Construction Reforms.

SEC. 101. PROJECT RENTAL ASSISTANCE.

Paragraph (2) of section 202(c) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(2)) is amended—

(1) by inserting after “ASSISTANCE”—” the following: “(A) Initial Project Rental Assistance Contract,”

(2) in the last sentence, by striking “may” and inserting “shall”;

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

“(B) Renewal of and Increases in Contract Amounts.—

“(i) Expiration of Contract Term.—Upon the expiration of such contract term, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, and any increases, including adequate reserves, supportive services, and service coordinators, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

“(ii) Emergency Situations.—In the event of emergency situations that are outside the
control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.

SEC. 102. SELECTION CRITERIA.
Section 202(h)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(1)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) (as so redesignated by paragraph (2) of this subsection) the following new subparagraph (I): "(I) the extent to which the applicant has ensured that a service coordinator will be employed and retained for the housing unit, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of section 524(a)(4);"

SEC. 103. DEVELOPMENT COST LIMITATIONS.
Section 202(b)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(1)) is amended, in the matter preceding subparagraph (A), by inserting "reasonable" before "development cost limitations".

SEC. 104. OWNER DEPOSITS.
Section 202(k)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(k)(3)(A)) is amended by inserting after the period at the end the following:

"(B) the owner demonstrates that the support services used by the owner of such multifamily housing project (as defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k))) are sufficient to meet the needs of the elderly resident who is a home health care provider, including a semicolon; and"

SEC. 105. DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.
Subparagraph (B) of section 202(k)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(k)(4)(B)) is amended by inserting before the semicolon the following: "(B) the owner demonstrates that the support services used by the owner of such multifamily housing project (as defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k))) are sufficient to meet the needs of the elderly resident who is a home health care provider, including.

SEC. 106. PREFERENCES FOR HOMELESS ELDERLY.
Subsection (j) of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following new paragraph:

"(j) PREFERENCES FOR HOMELESS ELDERLY.—The Secretary shall permit an owner of housing units that is a private nonprofit organization project sponsor, or private nonprofit organization project owner, or private nonprofit organization project transferee, to receive priority in the application for the grant of the initial reserve deposits, and transaction costs of the sale of the project, if the following: "(A) such preference is consistent with paragraph (2); and "(B) the owner demonstrates that the support services identified pursuant to subparagraph (A) are sufficient to meet the needs of the elderly resident who is a home health care provider, including a semicolon; and"

SEC. 107. NONMETROPOLITAN ALLOCATION.
Paragraph (3) of section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting after the period at the end the following: "In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan allocation or make allocations to regional offices of the Department of Housing and Urban Development.

SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.
Subsection (a) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) in the matter preceding paragraph (1), by inserting "for the project or the sponsor of the seller, in an amount equal to the lesser of the purchase price or the appreciated value of the project, as each is reduced by the cost of prepaying any outstanding indebtedness on the project and transaction costs of the sale; or "(2) by striking "or private nonprofit organization project sponsor, or private nonprofit organization project transferee, to receive priority in the application for the grant of the initial reserve deposits, and transaction costs of the sale of the project, if the following: "(A) such preference is consistent with paragraph (2); and "(B) the owner demonstrates that the support services used by the owner of such multifamily housing project (as defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k))) are sufficient to meet the needs of the elderly resident who is a home health care provider, including a semicolon; and"

SEC. 202. USE OF UNEXPENDED AMOUNTS.
The last sentence of section 811(b) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by inserting after "National Housing Act," the following: "or other purposes approved by the Secretary, for which the Secretary's approval is required," after "Affordable Housing Act"; and

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

"(2) the payment of equity, if any, to— "(A) the prepayment may involve refinancing of the loan if such refinancing results in— "(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or "(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing: "(1) the rent charges for assisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to section (e); and "(2) the overall cost for providing rental assistance under section 6 for the project (if any) is not increased, except, upon approval by the Secretary to— "(A) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by nonprofit organizations; or "(B) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k))), and; "(1) by amending the following:

"(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2) of this section involves an Incentive Fee Refinancing, or only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower;

SEC. 203. USE OF UNEXPENDED AMOUNTS.
Subsection (c) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking "(6) by awarding a loan refinanced with risk sharing as standing indebtedness on the project and transaction costs of the sale; or "(7) the payment of equity, if any, to— "(A) in the case of a sale, to the seller or the successor of the seller, in an amount equal to the lesser of the purchase price or the appreciated value of the project, as each is reduced by the cost of prepaying any outstanding indebtedness on the project and transaction costs.

SEC. 204. USE OF PROJECT RESIDUAL RECEIPTS.
Paragraph (1) of section 811(d) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended by adding after the period at the end the following:

"(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to provide for the prepayment of the loan on the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide such project-financed amount for the project under a senior preservation rental assistance contract, as follows:

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"(f) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to provide for the prepayment of the loan on the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide such project-financed amount for the project under a senior preservation rental assistance contract, as follows:

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“(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

“(A) for a term of at least 20 years, subject to negotiation and regulatory oversight by the Secretary; and

“(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937.

“(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continuing affordability of the facilities held in the portfolio and the term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.”

“(f) MORTGAGE SALE DEMONSTRATION.—

“(1) IN GENERAL.—The Secretary may sell mortgages associated with loans made under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act) in accordance with the relevant terms for sales of subsidized loans on multifamily housing projects under section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 171z-11). For the purpose of demonstrating the efficiency, effectiveness, and timeliness of asset management and regulatory oversight of certain portfolios of such mortgages by State housing finance agencies under section 203 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 171z-11), the Secretary shall carry out a demonstration program, in not more than 5 States, to sell portfolios of such mortgages to State housing finance agencies for a price not to exceed the unpaid principal balances of such mortgages and otherwise in accordance with the requirements of such section 203.

“(2) LIMITATIONS.—In carrying out the demonstration program required under paragraph (1), the Secretary shall—

“(A) prohibit State housing finance agencies with experience in managing and maintaining a housing preservation revolving loan fund, and

“(B) require such agencies to allow, in accordance with this section, for the refinancing of any loans made under section 202 of the Housing Act of 1959 with a loan selected by the owners, except that any use restrictions on the property for which the loans were made shall remain in effect for the duration provided under the original terms of such loan; and

“(C) only carry out the demonstration program in States with experience in generating and maintaining a housing preservation revolving loan fund.

“(3) STUDY.—The Secretary shall conduct a study to evaluate the performance and results of the demonstration program carried out under paragraph (1). In conducting such study, the Secretary shall place particular emphasis on whether the asset management and regulatory oversight functions and activities related to loans and properties held in the portfolios sold to State housing finance agencies under such demonstration program have been accomplished in a timely, effective, and efficient manner, including an analysis of approvals of refinancings and preservation transactions, rental increases, and operating income to the extent available to the Secretary, and to the extent such data is available, provides for the Secretary to conduct an analysis of the activities of the family, as described in section 232(b)(6)(B) of the National Housing Act (12 U.S.C. 1715q-4(c)(3)).

“(A) the findings of the study required under paragraph (3); and

“(B) any recommendations the Secretary may have for expanding the demonstration program required by this subsection.

“(g) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the project as affordable housing.

“(1) the Secretary shall establish and operate a clearinghouse for the purpose of facilitating the sale of mortgages associated with the collection and prepayment of loans made under section 202 in connection with the transfer of ownership of the property, project, or facility described in paragraph (1); and

“(2) the availability of—

“(A) ownership of the property, project, or facility described in paragraph (1); and

“(B) the availability of mortgage sales and refinancing transactions, including an analysis of approvals of refinancings and preservation transactions, rental increases, and operating income to the extent available to the Secretary, and to the extent such data is available, provides for the Secretary to conduct an analysis of the activities of the family, as described in section 232(b)(6)(B) of the National Housing Act (12 U.S.C. 1715q-4(c)(3)).

“(h) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project be subordinate to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 171z-1a) in order to provide for the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 171z-1a) in order to provide for the flexibility of such a form of financing, in the case of a project if the Secretary determines that the owner of the project has provided the tenants with an opportunity to comment on the owner’s request for approval of a prepayment, including a description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impact on project rents, tenant contributions, or the affordability restrictions for the project; and

“(i) taken such comments into consideration.

“(j) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term ‘private nonprofit organization’ has the meaning given such term in section 203(k) of the Housing Act of 1959 (12 U.S.C. 171zq-5).

“TITLE III—ASSISTED LIVING FACILITIES

“SEC. 301. DEFINITION OF ASSISTED LIVING FACILITY.

“Section 202(b)(1) of the Housing Act of 1959 (12 U.S.C. 171q-2(g)) is amended by striking paragraph (1) and inserting the following new paragraph:

“(1) the term ‘assisted living facility’ means a facility that—

“(A) is owned by a private nonprofit organization; and

“(B) is licensed and regulated by a State or if there is no State law providing for such licensing and regulation by the State, by the Secretary of Housing and Urban Development or by another agency designated by the Secretary.

“(i) makes available, directly or through recognized and experienced third party service providers, to residents at the assisted living facility, such services as the Secretary determines are appropriate to assist the residents in carrying out the activities of daily living, as described in section 232(b)(6)(B) of the National Housing Act (12 U.S.C. 1715q-4(c)(3)); and

“(ii) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the
(4) the estimated cost to a potential tenant to rent or reside in each available unit in any property, project, or facility described in paragraph (1); 
(5) the availability of a waiting list for entry into any available unit in each property, project, or facility described in paragraph (1); 
(6) the number of persons on the waiting list for entry into any available unit in each property, project, or facility described in paragraph (1); 
(7) any other criteria the Secretary determines necessary to achieve the purposes of this section.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1152), in any area of the United States, the Secretary of Housing and Urban Development shall conduct an annual survey requesting information from each owner of a property, project, or facility described in subsection (1) regarding the availability of any property, project, or facility described in paragraph (1) to the public with specific information regarding the availability of housing in multi-family developments for elderly tenants; and 

(c) FUNCTIONS.—The clearinghouse established under subsection (a) shall— 
(1) receive inquiries from State and local governments, other organizations, and individuals requesting information regarding the availability of housing in multifamily developments for elderly tenants; 
(2) make such information publicly available via the Internet website of the Department of Housing and Urban Development, which shall include— 
(A) access via electronic mail; and 
(B) an easily searchable, sortable, downloadable database that itemizes the availability of housing in multi-family developments for elderly tenants by State, county, and zip code; 
(3) establish a toll-free number to provide the public with specific information regarding the availability of housing in multi-family developments for elderly tenants; and 
(4) operate a website to establish a toll-free number to provide the public with specific information regarding the availability of housing in multi-family developments for elderly tenants; and 
(5) any other criteria determined appropriate by the Secretary.

(b) COLLECTION AND UPDATING OF INFORMATION.— 
(1) INITIAL COLLECTION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct an annual survey requesting information from each owner of a property, project, or facility described in subsection (a) regarding the provisions described in paragraphs (2) through (11) of such subsection. 

(2) RESPONSE TIME.—Not later than 30 days after receiving the request described under paragraph (1), the owner of each such property, project, or facility shall submit such information to the Secretary of Housing and Urban Development.

(3) PUBLIC AVAILABILITY.—Not later than 60 days after the Secretary of Housing and Urban Development receives the submission of any information required under paragraph (2), the Secretary shall make such information publicly available through the clearinghouse.

(4) UPDATES.—The Secretary of Housing and Urban Development shall conduct an annual survey of each owner of a property, project, or facility described in subsection (a) for the purpose of updating or modifying the information provided in the initial collection under paragraph (1). Not later than 30 days after receiving such a request, the owner of each such property, project, or facility shall submit such updates or modifications to the Secretary. Not later than 60 days after receiving such updates or modifications, the Secretary shall inform the clearinghouse of such updated or modified information.

(c) FUNCTIONS.—The clearinghouse established under subsection (a) shall— 
(1) receive inquiries from State and local governments, other organizations, and individuals requesting information regarding the availability of housing in multifamily developments for elderly tenants; 
(2) make such information publicly available via the Internet website of the Department of Housing and Urban Development, which shall include— 

By Mrs. FEINSTEIN: 
S. 119. A bill for the relief of Guy Privat Tape and Lou Nazie Raymonde Toto; to the Committee on the Judiciary. 

Mrs. FEINSTEIN. Mr. President, today I am reintroducing a private relief bill on behalf of Guy Privat Tape and his wife Lou Nazie Raymonde Toto. Mr. Tape and Ms. Toto are citizens of the Ivory Coast, but have been living in the San Francisco area of California for approximately 15 years.

The story of Ms. Toto is compelling and I believe they merit Congress’ special consideration for such an extraordinary form of relief as a private bill.

Mr. Tape and Ms. Toto were previously political activists who were subjected to numerous atrocities in the early 1990s in the Ivory Coast. After a demonstration in which both were promoting peace, they were jailed and tortured by their own government. Ms. Toto was brutally raped by her captors and in 1997 learned that she had contracted HIV.

Despite the hardships that they suffered, Mr. Tape and Ms. Toto were able to make a better life for themselves in the United States. Mr. Tape arrived in the U.S. on a B2 non-immigrant visa. Ms. Toto entered without a grant visa. Ms. Toto entered without a grant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to that of an alien lawfully admitted for permanent residence under section 245 of such Act (8 U.S.C. 1182). She is an assemblywoman for the Assembly of Easter Hill United Methodist Church.

They are active members of Easter Hill United Methodist Church.

They are active members of Easter Hill United Methodist Church. They are community members of the church community in support of their community and have embraced the American dream with their strong work ethic and family values.

Since arriving in the United States, this family has dedicated themselves to community involvement and a strong work ethic. They pay taxes and own their own home in Hercules, CA. They are active members of Easter Hill United Methodist Church.

Mr. Tape works full-time as a security guard with Universal Protective Services. He also manages a small business, Melody’s Carpet Cleaning & Upholstery. He employs four other individuals, all U.S. citizens. Unfortunately, in 2002, Mr. Tape was diagnosed with urologic cancer. While his doctor states that the cancer is currently in remission, he will continue to require lifelong surveillance to monitor for recurrence of the disease.

In addition to raising their two children, Ms. Toto became a certified Nursing Assistant in 2001 and currently works at Creekside Health Care in San Pablo, CA. She hopes to finish her schooling so that she can become a Licensed Nurse. Ms. Toto continues to receive medical treatment for HIV.

According to her doctor, without adequate lab and lab testing, she is at risk of developing life threatening illnesses.

Mr. Tape and Ms. Toto applied for asylum when they arrived in the U.S., but after many years of litigation, the claim was ultimately denied by the 9th Circuit Court of Appeals.

Although the regime which subjected Mr. Tape and Ms. Toto to imprisonment and torture is no longer in power, Mr. Tape has been afraid to return to the Ivory Coast due to his prior association with President Gbagbo. Mr. Tape strongly believes that his family will be targeted if they return to the Ivory Coast.

One of the most compelling reasons for permitting the family to remain in the United States is the impact their deportation would have on their two children. For Melody and Emmanuel, the United States is the only country they have ever known. Mr. Tape believes that if his family returns to the Ivory Coast, these two young children will be forced to enter the army.

We are the only hope for this family who seeks to remain in the United States. To send them back to the Ivory Coast, where they will likely face persecution and will not be able to obtain adequate medical treatment for their illnesses would be devastating to them. They are contributing members of their community and have embraced the American dream with their strong work ethic and family values. I have received approximately 50 letters from the church community in support of this family.

Representative GEORGE MILLER has also requested that we address this family.

I ask my colleagues to support this private bill. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

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

S. 119

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

SECTION 1. PERMANENT RESIDENT STATUS FOR GUY PRIVAT TAPE AND LOU NAZIE RAYMONDE TOTO.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1152), in any area of the United States, the Secretary of Housing and Urban Development shall each be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawfully permanent residence.

(b) ADJUSTMENT OF STATUS.—If Gty Privat Tape or Lou Nazie Raymonde Toto enters the United States before the filing deadline established in subsection (a), Gty Privat Tape or Lou Nazie Raymonde Toto, as appropriate, shall be considered to have entered
and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for the issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon granting an immigrant visa or permanent residence to Guy Privat Tape and Lou Nazie Raymonde Toto, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Guy Privat Tape and Lou Nazie Raymonde Toto under section 202(e) of such Act (8 U.S.C. 1152(e)).

By Mrs. FEINSTEIN:

S. 120. A bill for the relief of Denes Fulop and Gyorgyi Fulop; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today a private immigration relief bill to provide lawful permanent residence status to Denes and Gyorgyi Fulop, Hungarian nationals who have lived in the United States since the early 1980s. The Fulops are the parents of six U.S. citizen children.

I first introduced this bill in June, 2000. Today, the Fulops continue to face deportation having exhausted all administrative remedies under our immigration system.

The Fulops' story is a compelling one and one which I believe merits Congress' consideration for humanitarian relief.

The most poignant tragedy to affect this family occurred in May of 2000, when the Fulops' eldest child, Robert "Bobby" Fulop, an accomplished 15-year-old teenager, died suddenly of a heart condition. Mr. Fulop's brother build his home. Mr. Fulop's brother build his home. Mrs. Fulop is a valuable asset to our school and community. As Pastor Peter Petrovic of the Apostolic Christian Church of San Diego says in his letter of support, "[t]he family is an exceptional asset to their community." Mrs. Fulop has served as a Sunday school teacher and volunteers regularly at Heritage K-8 Charter School in Escondido. Mrs. Morris, a Heritage K-8 Charter School faculty member says in her letter of support that Mrs. Fulop is "... a valuable asset to our school and community."

Mr. President, this is a tragic situation. Essentially, as happened to many families under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, their stay in Hungary would not have been a factor in their immigration case and they would have been eligible for adjustment of status to lawful permanent residents. Indeed, in 1996, Mr. and Mrs. Fulop applied to the Immigration and Naturalization Service for INS, for permanent resident status. Due to large backlogs, the INS did not interview them until 1998. By the time their applications were considered, the new 1996 immigration law had taken effect.

Given the family's 10 day trip outside the United States, they were statutorily ineligible for relief pursuant to the cancellation of removal provisions of the Immigration and Nationality Act.

One cannot help but conclude that had the INS acted on the Fulops' application for relief from deportation in a timelier manner, they would have qualified for suspension of deportation under the pre-1996 law, given that they were admitted to the United States with U.S. citizen children and many positive factors in their favor.

The irony of this situation is that the Fulops were gone from the United States for nearly five months in 1995 because they returned to Hungary to help Mr. Fulop's brother build his home. Mr. Fulop's brother build his home. The Fulops are good and decent people. Mr. Fulop is a masonry contractor and the owner and President of his own construction company—Sumeg International. He has owned this business for almost 14 years.

The couple is active in their church and community. As Pastor Peter Petrovic of the Apostolic Christian Church of San Diego says in his letter of support, "[t]he family is an exceptional asset to their community." Mrs. Fulop has served as a Sunday school teacher and volunteers regularly at Heritage K-8 Charter School in Escondido. Mrs. Morris, a Heritage K-8 Charter School faculty member says in her letter of support that Mrs. Fulop is "... a valuable asset to our school and community."

Mr. President, this is a tragic situation. Essentially, as happened to many families under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the rules of the game were changed in the middle. When the Fulops applied for relief from deportation they were eligible for suspension of deportation. By the time the INS got around to their application, nearly three years later, they were no longer eligible and in fact suspension of deportation as a form of relief ceased to exist.

The Fulops today have been in the United States since the early 1980s. Most harmful is the effect that their deportation will have on the children. Mr. and Mrs. Fulop have lived in the United States for over 20 years. Two of their five children, Nayely, age 23, and Cindy, age 19, also stand to benefit from this legislation. Their other three children, Roberto, age 16, Daniel, age 13, and Saray, age 11, are United States citizens. Today, Mr. and Mrs. Arreola and their two eldest children face deportation.

The story of the Arreola family is compelling and I believe they merit Congress' special consideration for such an extraordinary form of relief as a private bill.
The Arreolas are in this uncertain situation in part because of grievous errors committed by their previous counsel, who has since been disbarred. In fact, the attorney’s conduct was so egregious that it compelled an immigration judge to write the Executive Office of Immigration Review seeking his disbarment for the disservice he caused his immigration clients.

Mr. Arreola has lived in the United States since 1986. He was an agricultural migrant worker in the fields of California for several years, and has such would have been eligible for permanent residence through the Seasonal Agricultural Workers, SAW, program, had he known about it.

Mrs. Arreola was living in the United States at the time she became pregnant with her daughter Cindy, but returned to Mexico to give birth so as to avoid any problems with the Immigration and Naturalization Service.

Given the length of time that the Arreolas have lived in the United States it is quite likely that they would have qualified for relief from deportation pursuant to the cancellation of removal provisions of the Immigration and Nationality Act, but for the conduct of their previous attorney.

Perhaps one of the most compelling reasons for permitting the family to remain in the United States is the devastation of imposing their deportation would have on their children. All of whom are U.S. citizens—and the other two who have lived in the United States since they were toddlers. For these children, this country is the only country they really know.

Nayely, the oldest, recently graduated from Fresno Pacific University with a degree in Business Administration and was recently hired as a substitute teacher in Tulare County. She was the first in her family to graduate from high school and the first to graduate college. She attended Fresno Pacific University, a regionally ranked university, on a full tuition scholarship package and worked part-time in the admissions office.

At her young age, Nayely has demonstrated a strong commitment to the ideals of citizenship in her adopted country. She has worked hard to achieve her full potential both in her academic endeavors and through the service she provides her community. As the Associate Dean of Enrollment Services, Cary Templeton, at Fresno Pacific University states in a letter of support, “[t]he leaders of Fresno Pacific University saw in Nayely, a young person who will become exemplary of all that is good in the American dream.”

In high school, Nayely was a member of Advancement Via Individual Determination, AVID, a college preparatory program in which students commit to determine their own futures through achieving a college degree. Nayely was also President of the Key Club, a community service organization. She helped mentor freshmen and participates in several other student organizations in her school. Perhaps the greatest hardship to this family, if forced to return to Mexico, will be her lost opportunity to realize her dreams and further contribute to her community and this country.

It is clear to me that Nayely feels a strong sense of responsibility for her community and country. By all indications, this is the case as well for all of the members of her family.

The Arreolas have other family who are lawful permanent residents of this country or United States citizens. Mrs. Arreola has three brothers who are U.S. citizens and Mr. Arreola has a sister who is a U.S. citizen. It is also my understanding that they have no immediate family in Mexico.

According to immigration authorities, this family has never had any problems with law enforcement. I am told that they have filed their taxes for every year from 1990 to the present. They have a strong record to support themselves. As I previously mentioned, Mr. Arreola was previously employed as a farm worker, but now has his own business repairing electronics. His business has been successful enough to enable him to purchase a home for his family.

It seems so clear to me that this family has embraced the American dream and their continued presence in our country would do so much to enhance the values we hold dear. Enactment of the legislation I have reintroduced today will enable the Arreolas to continue to make significant contributions to their community as well as the United States.

I ask my colleagues to support this private bill.

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

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

S. 121

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of law or any order, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Esidronio Arreola-Saucedo, Maria Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola shall be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible to immigrate as permanent residents under such Act.

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the applicant pays the applicable fee not later than 2 years after the date of enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the grant of immigrant visas to Esidronio Arreola-Saucedo, Maria Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola, the Secretary of State shall instruct the proper officer to reduce by 4, during the current or subsequent fiscal year, the total number of immigrant visas that are made available under the country of birth of Esidronio Arreola-Saucedo, Maria Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola under section 202(e) of such Act (8 U.S.C. 1152(e)).

By Mrs. FEINSTEIN:

S. 122. A bill for the relief of Robert Liang and Alice Liang; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Robert Kuang Liang and his wife, Chun-Mei, Alice, Hsu-Liang, for nationals who live in San Bruno, California.

I have decided to reintroduce private relief immigration bills on their behalf because I believe that, without them, this hardworking couple and their three United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

The Liangs are foreign nationals facing deportation because of their relatives and friends behind in Taiwan, a country whose language and culture is unfamiliar to them. I can only imagine how much more difficult their lives would be if they were required to leave.

The immigration judge who presided over the Liangs’ case in 1997 concluded that there was no question that the Liang children would be adversely impacted if they were required to leave their relatives and friends behind in Taiwan to follow their parents to California. Because they overstayed the terms of their temporary visas, they now face deportation from the United States.

After living here for so many years, removal from the United States would not come easily or perhaps without tearing this family apart. The Liangs have three children born in this country: Wesley, 17 years old, Bruce, 13 years old, and Eva, 11 years old. Young Wesley suffers from asthma and has a history of social and emotional anxiety.

The immigration judge who presided over the Liangs’ case in 1997 concluded that there was no question that the Liang children would be adversely impacted if they were required to leave their relatives and friends behind in Taiwan to follow their parents to California. Because they overstayed the terms of their temporary visas, they now face deportation from the United States.
are financially successful. Since they arrived in the United States, they have pursued and, to a degree, achieved the American Dream.

Mr. and Mrs. Liang’s quest to legalize their immigration status began in 1993 when they filed for relief from deportation before an immigration judge.

The Immigration and Naturalization Service, however, did not act on their application until nearly 5 years later, in 1998. The time the immigration laws had significantly changed.

According to the immigration judge, had the INS acted on their application for relief from deportation in a timely manner, they would have qualified for suspension of deportation, given that they were long-term residents of this country with U.S. citizen children and other positive factors. By the time INS processed their application, however, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which changed the requirements for relief from removal to the Liangs’ disadvantage.

I supported the changes of the 1996 law. Nonetheless, there are exceptions which merit special consideration. The Liangs are such a couple and family. Perhaps what distinguishes this family from many others is that through hard work and perseverance, Mr. Liang has achieved a significant degree of success in the United States while battling a severe form of Post Traumatic Stress Disorder.

According to his psychologist, this disorder stems from the persecution he, his family and community experienced in his native country of Laos during the Vietnam War.

Throughout his childhood and adolescence, Mr. Liang was exposed to numerous traumatic experiences, including the murder of his mother by the North Vietnamese and frequent episodes of wartime violence. He also routinely witnessed the brutal persecution and deaths of others in his village. In 1975, he was granted refugee status in Taiwan.

The emotional impact of Mr. Liang’s experiences in his war-torn native country has been profound and continues to haunt him. His psychologist has also indicated that he suffers from severe clinical depression, which has been exacerbated by the prospect of being deported to Taiwan, where on account of his nationality, he believes he and his family would be treated as second-class citizens.

Moreover, Mr. Liang believes that the pursuit of further mental health treatment in Taiwan would only exacerbate the stigma of being an outsider in a country whose language he does not speak. With these prospects, he also fears the impact such a stigma would have on the well-being and future of his children.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of the Liangs. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 122

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of law or any order, for the purpose of adjusting the status of Robert Liang and Alice Liang shall be deemed to have been lawfully admitted to, and remained in, the United States from the date on which they were long-term residents of this country with U.S. citizen children and other positive factors. By the time INS processed their application, however, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which changed the requirements for relief from removal to the Liangs’ disadvantage.

I supported the changes of the 1996 law. Nonetheless, there are exceptions which merit special consideration. The Liangs are such a couple and family. Perhaps what distinguishes this family from many others is that through hard work and perseverance, Mr. Liang has achieved a significant degree of success in the United States while battling a severe form of Post Traumatic Stress Disorder.

According to his psychologist, this disorder stems from the persecution he, his family and community experienced in his native country of Laos during the Vietnam War.

Throughout his childhood and adolescence, Mr. Liang was exposed to numerous traumatic experiences, including the murder of his mother by the North Vietnamese and frequent episodes of wartime violence. He also routinely witnessed the brutal persecution and deaths of others in his village. In 1975, he was granted refugee status in Taiwan.

The emotional impact of Mr. Liang’s experiences in his war-torn native country has been profound and continues to haunt him. His psychologist has also indicated that he suffers from severe clinical depression, which has been exacerbated by the prospect of being deported to Taiwan, where on account of his nationality, he believes he and his family would be treated as second-class citizens.

Moreover, Mr. Liang believes that the pursuit of further mental health treatment in Taiwan would only exacerbate the stigma of being an outsider in a country whose language he does not speak. With these prospects, he also fears the impact such a stigma would have on the well-being and future of his children.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of the Liangs. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 122

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of law or any order, for the purpose of adjusting the status of Robert Liang and Alice Liang shall be deemed to have been lawfully admitted to, and remained in, the United States from the date on which they were long-term residents of this country with U.S. citizen children and other positive factors. By the time INS processed their application, however, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which changed the requirements for relief from removal to the Liangs’ disadvantage.

I supported the changes of the 1996 law. Nonetheless, there are exceptions which merit special consideration. The Liangs are such a couple and family. Perhaps what distinguishes this family from many others is that through hard work and perseverance, Mr. Liang has achieved a significant degree of success in the United States while battling a severe form of Post Traumatic Stress Disorder.

According to his psychologist, this disorder stems from the persecution he, his family and community experienced in his native country of Laos during the Vietnam War.

Throughout his childhood and adolescence, Mr. Liang was exposed to numerous traumatic experiences, including the murder of his mother by the North Vietnamese and frequent episodes of wartime violence. He also routinely witnessed the brutal persecution and deaths of others in his village. In 1975, he was granted refugee status in Taiwan.

The emotional impact of Mr. Liang’s experiences in his war-torn native country has been profound and continues to haunt him. His psychologist has also indicated that he suffers from severe clinical depression, which has been exacerbated by the prospect of being deported to Taiwan, where on account of his nationality, he believes he and his family would be treated as second-class citizens.

Moreover, Mr. Liang believes that the pursuit of further mental health treatment in Taiwan would only exacerbate the stigma of being an outsider in a country whose language he does not speak. With these prospects, he also fears the impact such a stigma would have on the well-being and future of his children.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of the Liangs. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
They have worked hard. They have invested in their neighborhood. They are active in the PTA and their local church. I believe the Buendia family should be allowed to continue to live in this country that has become their own. If this legislation is approved, the Buendias will be able to continue to contribute significantly to the United States. It is my hope that Congress passes this private legislation.

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

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

S. 213

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

SECTION 1. PERMANENT RESIDENT STATUS FOR JOSE BUENDIA BALDERAS, ALICIA ARANDA DE BUENDIA, AND ANA LAURA BUENDIA ARANDA.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent resident visa or permanent residence to Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jose Buendia Balderas, Alicia Aranda De Buendia, or Ana Laura Buendia Aranda enter the United States before the filing deadline specified in subsection (c), Jose Buendia Balderas, Alicia Aranda De Buendia, or Ana Laura Buendia Aranda, as appropriate, shall be considered to have entered and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for the issuance of an immigrant visa or the application for adjustment of status to that of an alien lawfully admitted for permanent resident visa or permanent residence, as appropriate, does not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or next following fiscal year:

(1) the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 202(a) of such Act (8 U.S.C. 1152(e)); or

(2) if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 202(a) of such Act (8 U.S.C. 1152(e)).

By Mrs. FEINSTEIN:

S. 214. A bill for the relief of Shigeru Yamada; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Shigeru Yamada, a 24-year-old Japanese national who lives in Chula Vista, California. The House passed a private relief bill on behalf of Mr. Yamada last year, but unfortunately he was unable to move the bill in the Senate before the end of the 110th Congress.

I have decided to re-introduce a private bill on his behalf because I believe that Mr. Yamada represents a model American citizen, for whom removal from this country is not only an unfair hardship. Without this legislation, Mr. Yamada will be forced to return to a country in which he lacks any linguistic, cultural or family ties.

Mr. Yamada legally entered the United States with his mother and two sisters in 1992 at the young age of 10. The family was fleeing from Mr. Yamada's alcoholic father, who had been physically abusive to his mother, the children and even his own parents. Since then he has lived with his father and is unsure if he is even alive. Tragically, Mr. Yamada experienced further hardship when his mother was killed in a car crash in 1995. Orphaned at the age of 13, Mr. Yamada has spent time living with his aunt before moving to Chula Vista to live with a close friend of his late mother.

The death of his mother marked more than a personal tragedy for Mr. Yamada; it also served to impede the process for him to legalize his status. At the time of her death, Mr. Yamada's family was living legally in the United States. His mother had acquired a student visa for herself and her children qualified as her dependents. Her death revoked his legal status in the United States.

In addition, Mr. Yamada's mother was engaged to an American citizen at the time of her death. Had she survived, her son would likely have become an American citizen through this marriage. Mr. Yamada has exhausted all administrative options under our current immigration system. Throughout high school, he contacted attorneys in the hope of legalizing his status, but his attempts were unsuccessful. Unfortunately, time has run out and, for Mr. Yamada, the only option available to him today is private relief legislation.

For several reasons, it would be tragic for Mr. Yamada to be deported from the United States and forced to return to Japan.

First, since arriving in the United States, Mr. Yamada has lived as a model American. He graduated with honors from Eastlake High School in 2000, where he excelled in both academics and athletics. Academically, he earned a number of awards including being named an "Outstanding English Student" his freshman year, an All-American Scholar, and earning the United States National Minority Leadership Award.

His teacher and coach, Mr. John describes him as being "responsible, hard working, organized, honest, caring and very dependable." His role as the vice president of the Associated Student Body his senior year is an indication of Mr. Yamada's high level of leadership, as well as, his popularity and trustworthiness among his peers.

As an athlete, Mr. Yamada was named the "Most Inspirational Player of the Year" in junior varsity baseball and football, as well as, varsity football. His football coach, Mr. Jose Mendez, expressed his admiration by saying that Mr. Yamada "spoke highly of Mr. Yamada the responsibility, dedication and loyalty that the average American holds to be virtuous."

Second, Mr. Yamada has distinguished himself as a local volunteer. As a member of the Eastlake High School Link Crew, he helped freshman find their way around campus, offered tutoring and mentoring services, and set an example of how to be a successful member of the student body. After graduating, Mr. Yamada volunteered his time for 4 years as the coach of the Eastlake High School Girl's softball team. The former head coach, who has since retired, Dr. Charles Sorge, describes him as an individual full of "infinite potential." When he understands that as a coach it is important to work as a "team player."

His level of commitment to the team was further illustrated to Dr. Sorge when he discovered, halfway through the season, that Mr. Yamada's commute to and from practice was 2 hours long each way. It takes an individual with character to volunteer his time to coach and never bring up the issue of how long his commute takes him each day. Dr. Sorge expects that, once Mr. Yamada legalizes his immigration status, he will be formally hired to continue coaching the team.

Third, sending Mr. Yamada back to Japan would be an immense hardship for him and his family. For Mr. Yamada, Japan would be an immense hardship. He is unaware of the nation's current cultural trends. And, he has no immediate family members that he knows of in Japan. All of his family lives in California. Sending Mr. Yamada back to Japan would serve to split his family apart and separate him from everyone and everything that he knows.

His sister contends that her younger brother would be "lost" if he had to return to live in Japan on his own. It is unlikely that he would be able to find any gainful employment in Japan due to his inability to speak or read the language.

As a member of the Chula Vista community, Mr. Yamada has distinguished himself as an honorable individual. His teacher, Mr. Robert Hughes, describes him as being an "upstanding 'All-American' young man". Until being picked up during a routine check of his immigration status on a city bus, he had never been arrested or convicted of any crime. Mr. Yamada is not, and has never been, a burden on
the State. He has never received any Federal or State assistance.

With his hard work and giving attitude, Shigeru Yamada represents the ideal American citizen. Although born in Japan, he is truly American in every other sense.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Mr. Yamada. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 124

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

SECTION 1. PERMANENT RESIDENT STATUS FOR SHIGERU YAMADA.

(a) In General.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Shigeru Yamada shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) for adjustment of status to lawful permanent resident.

(b) Adjustment of Status.—If Shigeru Yamada enters the United States before the filing deadline specified in subsection (c), Shigeru Yamada shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) Application and Payment of Fees.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) Reduction of Immigrant Visa Numbers.—Nothing in this Act shall affect the numbers of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 202(e) of that Act (8 U.S.C. 1152(e)).

By Mrs. FEINSTEIN:

S. 129. A bill for the relief of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation to provide lawful permanent resident status to Alfredo Plascencia Lopez and his wife, Maria del Refugio Plascencia, Mexican nationals who live in the San Bruno area of California.

I have decided to offer legislation on their behalf. I believe that, without it, this hardworking couple and their four United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

The Plascencias’ have worked for years to adjust their status through the appropriate legal channels, only to have their efforts thwarted by inattention and beaureaucracy. The Plascencias’ lawyer refused to return their calls or otherwise communicate with them in anyway. He also failed to forward crucial immigration documents, or even notify the Plascencias that their case of one of the poor: "We never represent them back, because we never heard of a case that we got a representation they received, Mr. and Mrs. Plascencia only became aware that they had been ordered to leave the country 15 days prior to their deportation.

Although the family was stunned and devastated by this discovery, they acted quickly to secure legitimate counsel and to file the appropriate paperwork to delay their deportation to determine if any other legal action could be taken for them.

For several reasons, it would be tragic for this family to be removed from the United States.

First, since arriving in the United States in 1988, Mr. and Mrs. Plascencia have proven themselves to be a responsible and civic-minded couple who share our American values of hard work, dedication to family, and devotion to community.

Second, Mr. Plascencia has been gainfully employed at Vince’s Shellfish for the over 14 years, where his dedication and willingness to learn have propelled him from part-time work to a managerial position. He now oversees the market’s entire packing operation and several employees.

The president of the market, in one of the several letters I have received in support of Mr. Plascencia, referred to him as “a valuable and respected employee” who “handles himself in a very professional manner” and serves as “a role model” to other employees. Others who have written to me praising Mr. Plascencia’s hard work, dedication to family, and devotion to community.

Third, like her husband, Mrs. Plascencia has distinguished herself as a medical assistant at a Kaiser Permanente hospital in the Bay Area. Not satisfied with working as a maid at a local hotel, Mrs. Plascencia went to school, earned her high school equivalency degree and improved her skills to become a medical assistant.

Those who know me in support of Mrs. Plascencia, of which there are several, have described her work as “responsible,” “efficient,” and “compassionate.”

In fact, Kaiser Permanente’s Director of Internal Medicine, Nurse Rose Carino, wrote to say that Mrs. Plascencia is “an asset to the community and exemplifies the virtues we Americans extol: hardworking, devoted to her family, trustworthy and loyal, and someone who has served in her community. She and her family are a solid example of the type of immigrant that America should welcome wholeheartedly.”

Mrs. Carino went on to write that Mrs. Plascencia is “an excellent employee and role model for her colleagues. She works in a very demanding unit, Oncology, and is valued and depended on by the physicians she works with.

Together, Mr. and Mrs. Plascencia have used their professional successes to realize many of the goals dreamed of by all Americans. They saved up and bought a home. They own a car. They have good health care benefits and they have begun saving for retirement. They want to send their children to college and give them an even better life.

This legislation is important because it would preserve these achievements and ensure that Mr. and Mrs. Plascencia will be able to make substantive contributions to the community in the future.

It is important, also, because of the positive impact it will have on the children, Mr. and Mrs. Plascencia and their four children, of whom one is a United States citizen and each of whom is well on their way to becoming productive members of the Bay Area community.

Christina, 17, is the Plascencias’s oldest child, and an honor student. Erika, 14, and Alfredo, Jr., 12, have worked hard at their studies and received praise and good grades from their teachers. In fact, the principal of Erika’s school has recognized her as the Most Artistic’ student in her class. Erika’s teacher, Mrs. Nascon, remarked on a report card, “Erika is a bright spot in my classroom.”

The Plascencias also have two young children: 6-year-old Daisy and 2-year-old Juan-Pablo.

Removing Mr. and Mrs. Plascencia from the United States would be tragic for their children. Children who were born in the United States and who through no fault of their own have been thrust into a situation that has the potential to dramatically alter their lives.

It would be especially tragic for the Plascencias’ older children—Christina, Erika, and Alfredo—to have to leave the United States. They are old enough to understand that they are leaving their schools, their teachers, their friends, and their home. They would leave everything that is familiar to them.

Their parents would find themselves in Mexico without a job and without a house. The children would have to acclimate to a different culture, language, and way of life.

The only other option would be for Mr. and Mrs. Plascencia to leave their children behind with relatives. This separation is a choice which no parents should have to make.

Many of the words I have used to describe Mr. and Mrs. Plascencia are not my own. They are the words of the American who lives and work with the Plascencias day in and day out and who find them to embody the American spirit.
I have sponsored this legislation, and asked my colleagues to support it, because I believe that this is a spirit that we must nurture wherever we can find it. Forcing the Plascencias to leave the United States would extinguish that spirit. I ask my colleagues to support this private bill on behalf of the Plascencia family.

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

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

S. 125

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

SECTION 1. PERMANENT RESIDENT STATUS FOR ALFREDO PLASCENCIA LOPEZ AND MARIA DEL REFUGIO PLASCENCIA.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Alfredo Plascencia Lopez and Maria Del Refugio Plascencia shall each be eligible for the issuance of an immigrant visa or for adjustment of status to permanent resident to the United States before the filing deadline specified in subsection (c), Alfredo Plascencia Lopez or Maria Del Refugio Plascencia, as appropriate, shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(b) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—The Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia under section 202(e) of such Act (8 U.S.C. 1152(e)).

By Mrs. FEINSTEIN:
S. 126. A bill for the relief of Claudia Marquez Rico; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am offering today private relief legislation to provide lawful permanent resident status to Claudia Marquez Rico, a Mexican national living in Redwood City, CA.

Born in Jalisco, Mexico, Claudia was brought to the United States by her parents 16 years ago. Claudia was just 6 years old at the time. She has two younger brothers, Jose and Omar, who came to America with her, and a sister, Maribel, who was born in California and is a U.S. Citizen. America is the only home they know.

Eight years ago that home was visited by tragedy when their aunt and uncle, Hortencia and Patricio Alcala, were killed in a horrific traffic accident when their car collided with a truck on an isolated rural road. The children came with their aunt and uncle, Hortencia and Patricio Alcala. The Alcalas are a generous and loving couple. They are U.S. citizens with two children of their own and took the Marquez children in and did all they could to comfort them in their grief. They supervised their schooling, and made sure they received the counseling they needed, too. The family is active in their parish at Buen Pastor Catholic Church, and Patricio Alcala serves as a youth soccer coach. In 2001, the Alcalas were appointed the legal guardians of the Marquez children.

Sadly, the Marquez family received poor legal representation. At the time of their parents' death, Claudia and Jose were minors, and qualified for special immigrant juvenile status. This category was enacted by Congress to protect children like them from the hardship that would result from deportation under such extraordinary circumstances, when a State court deems them to be dependent due to abuse, abandonment or neglect.

Today, their younger brother Omar is a U.S. Citizen, due to his adjustment as a special immigrant juvenile. Unfortunately, the family's previous lawyer failed to secure this relief for Claudia, and she has now reached the age of majority without having resolved her immigration status.

I should note that their former lawyer, Walter Pineda, is currently answering charges on 20 counts of professional incompetence and 5 counts of moral turpitude for mishandling immigration cases and appears on his way to being disbarred.

I am offering legislation on Claudia's behalf because I believe that, without it, this family would endure an immense and unfair hardship. Indeed, without this legislation, this family will not remain a family for much longer.

Despite the adversity they encountered, Claudia finished school. She supports herself, her 17-year-old sister, Maribel, and her younger brother Omar. Again, both Maribel and Omar are now U.S. Citizens.

Claudia has no close relatives in Mexico. She has never visited Mexico, and she was so young when she was brought to America that she has no memories of it. How can we expect her to start a new life there now?

It would be a gross injustice to add to this family's misfortune by tearing these siblings apart. This is a close family, and they have come to rely on each other heavily in the absence of their deceased parents. This bill will prevent the added tragedy of another wrenching separation.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Claudia Rico.

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

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

S. 126

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

SECTION 1. PERMANENT RESIDENT STATUS FOR CLAUDIA MARQUEZ RICO.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Claudia Marquez Rico shall be eligible for issuance of an immigrant visa or for adjustment of status to lawful permanent resident to the United States before the filing deadline specified in subsection (c). Claudia Marquez Rico, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Claudia Marquez Rico under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Claudia Marquez Rico under section 202(e) of such Act (8 U.S.C. 1152(e)).

By Mrs. FEINSTEIN:
S. 127. A bill for the relief of Jacqueline W. Coats; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent resident status to Jacqueline Coats, a 28-year-old widow currently living in San Francisco.

Mrs. Coats came to the U.S. in 2001 from Kenya on a student visa to study Mass Communications at San Jose State University. Her visa status lapsed in 2003, and the Department of
Homeland Security began deportation proceedings against her.

Mrs. Coats married Marlin Coats on April 17, 2006, after dating for several years. The couple was happily married and planning to start a family when, on May 13, Mr. Coats tragically died in a heroic attempt to save two young boys from drowning.

The couple had been on a Mother’s Day outing at Ocean Beach with some of Mr. Coats’ nephews when they heard cries for help. Having worked before as a lifeguard in the past, Mr. Coats instinctively dove into the water. The two children were saved with the help of a rescue crew, but Mr. Coats, caught in a riptide, died. Mrs. Coats received a medal honoring her husband.

Four days before Mr. Coats’ death, the couple prepared and signed an application for a green card at their attorney’s office. Unfortunately the petition was not filed until after his death, rendering it invalid. Mrs. Coats, currently before an immigration judge in San Francisco on August 24, but her attorney has informed my staff that she has no relief available to her and will be ordered deported.

Mrs. Coats, devastated by the loss of her husband, is now caught in a battle for her right to stay in America. At a recent news conference with her lawyer, Thip Ark, she explained of her situation, “I feel like I have nothing to live for. I have lived up to go home... I’ve been here four years... It would be like starting a new life.”

Mr. Ark explains that Mrs. Coats is extremely close with her late husband’s family, with whom she lives in San Leandro, California. Mrs. Coats has said that her husband’s large family has become her own. Ramona Burton of San Francisco, one of Marlin Coats’ seven brothers and sisters explains, “She spent her first American Christmases, her first American Thanksgiving... I can’t imagine looking around and not seeing her there. She needs to be there.”

The San Francisco and Bay Area community has rallied strong support for Mrs. Coats. The San Francisco chapters of the NAACP, the San Francisco Board of Supervisors, and the San Francisco Police Department, have all passed resolutions in support of Mrs. Coats’ right to remain in the country.

Unfortunately, this private relief bill is not approved, this young woman, and the Coats family, will face yet another disorienting and heartbreaking tragedy. Mrs. Coats will be deported to Kenya, a country she has not lived in since she was 21. In her time of grieving, she will be forced to leave her home, her job with AC Transit, her new family, and everything she has known for the past 5 years.

I cannot think of a compelling reason why the United States should not allow this young widow to continue the green card process. Had her husband lived, Mrs. Coats would have filed the papers without difficulty. It was because of her husband’s selfless and heroic act that Mrs. Coats must now struggle to remain in the country. As one concerned California constituent wrote to me, “If ever there was a case where common fairness, morality and decency should reign over legal technicalities, in this country, need to reward heroism and good.”

I believe that we can reward the late Mr. Coats for his noble actions by granting his wife citizenship. It is what he intended for her. It can even be argued that his wife is one of his dying wishes, as the papers were signed just 4 days prior to his death.

For these reasons, I reintroduce this private relief immigration bill and ask my colleagues to support it on behalf of Mrs. Coats.

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

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

S 127

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

SECTION 1. PERMANENT RESIDENT STATUS FOR JACQUELINE W. COATS.

(a) In General.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Jacqueline W. Coats shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) Adj ustment of Status.—If Jacqueline W. Coats enters the United States before the filing deadline specified in subsection (c), Jacqueline W. Coats shall be considered to have entered and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of enactment of this Act.

(c) Application and Payment of Fees.—Subsections (a) and (b) apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) Reduction of Immigrant Visa Numbers.—Upon the granting of an immigrant visa or permit to Jacqueline W. Coats, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Jacqueline W. Coats under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jacqueline W. Coats under section 202(e) of that Act (8 U.S.C. 1152(e)).

By Mrs. FEINSTEIN:

S. 128. A bill for the relief of Jose Alberto Martinez Moreno, Micaela Lopez Martinez and their daughter, Adilene Martinez—Mexican nationals now living in San Francisco, California.

This family embodies the true American success story and I believe they merit Congress’ special consideration for such an extraordinary form of relief as a private bill.

Jose Martinez came to the United States eighteen years ago from Mexico. He started working as a bus boy in restaurants in San Francisco. In 1990, he began working as a cook at Palio D’Asti, an award winning Italian restaurant in San Francisco.

According to the people who worked with him, he “never made mistakes, never lost his temper, and never seemed to sweat.”

Over the years, Jose Martinez has worked his way through the ranks. Today he is the chef at Palio D’Asti, where he is respected by everyone in the restaurant, from dishwashers to cooks, busboys to waiters, managers to the public.

Mr. Martinez has unique skills: he is an excellent chef; he is bilingual; he is a leader in the workplace. He is described as “an exemplary employee” who is not only “good at his job, but is also a great boss to his subordinates.”

He and his wife, Micaela, have made a home in San Francisco. Micaela has been working as a housekeeper. They have three daughters, two of whom are United States citizens. Their oldest child Adilene, 20, is undocumented. Adilene recently graduated from the Immaculate Conception Academy and is attending San Francisco City College.

One of the most compelling reasons for allowing the family to remain in the United States is that they are eligible for immediate family permanent resident status under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jose Alberto Martinez Moreno and Micaela Lopez Martinez and their daughter, Adilene Martinez—Mexican nationals now living in San Francisco, California.

On January 6, 2009, the Senate passed a bill, S. 128, for the relief of Jose Alberto Martinez Moreno, Micaela Lopez Martinez and their daughter, Adilene Martinez—Mexican nationals now living in San Francisco, California.

In May 2002, Mr. and Mrs. Martinez filed for political asylum. Their case was denied and a subsequent application for a Cancellation of Removal was also denied because the immigration court judge could not find “requisite hardship” required for this relief.

Ironically, the immigration judge who reviewed their case found that Mr. Martinez’s culinary ability was a negative factor—as it indicated that he could find a job in Mexico.

In 2001, his sister, who has legal status, petitioned for Mr. Martinez to get a green card. Unfortunately, because of the current green card backlog, Mr. Martinez has several years to wait before he is eligible for a green card.
Finally, Daniel Scherrotter, the executive chef and owner of Pallo D’Asti, has petitioned for legal status for Mr. Martinez based on Mr. Martinez’s unique skills as a chef. Although Mr. Martinez’s work petition was approved by U.S. Citizenship and Immigration Services, officials told him there would be no way to process his case other than to deport him, and Mr. Martinez is on a waiting list for a green card through this channel, as well.

Mr. and Mrs. Martinez have no other administrative options available to them at this point and if deported, they will face a 5 to 10 year ban from returning to the United States. In addition, this bill remains the only means for Adlène to gain legal status.

The Martinez family has become an important and valued part of their community. They are active members of their church, their children’s school, and Comite de Padres Unido, a grassroots immigrant organization in California. They volunteer extensively—advocating for safe new parks in the community for the children, volunteering at their children’s school, and working on a voter registration campaign, even though they are unable to vote themselves.

In fact, I have received 46 letters of support from teachers, church members, and members of their community who attest to their honesty, responsibility, and long-standing commitment to their community. Their supporters include Immigrant Legal Resource Center, Mark Silverman.

This family has truly embraced the American dream. I believe their continued presence in our country would do much to enhance the values we hold dear. Enactment of the legislation will be printed in the RECORD.

There being no objection, the text of the bill be printed in the RECORD.

Ruben Mkoian, Asmik Karapetian, and Arthur Mkoian; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing a private relief bill on behalf of Ruben Mkoian, his wife, Asmik Karapetian and their son, Arthur Mkoian. The Mkoian family are Armenian nationals who have been living and working in Fresno, California, for over a decade. The story of the Mkoian family is compelling and I believe they merit Congress’s special consideration for such an extraordinary form of relief as a private bill.

Let me first start with how the Mkoian family arrived in the United States. While in Armenia, Mr. Mkoian worked as a police sergeant in a division dealing with vehicle licensing. As a result of his position, he was offered a bribe to register 20 stolen vehicles. He refused the bribe and reported the incident to the police chief. He later learned that his co-worker had registered the vehicles at the request of the chief.

After he reported the offense, Mr. Mkoian’s supervisor informed him that the department was to undergo an inspection. Mr. Mkoian was instructed to take a vacation during this time period. Mr. Mkoian believed that the inspection was a result of the complaint that he had filed with the higher authorities.

During the inspection, however, Mr. Mkoian worked at a store that he owned rather than taking a vacation. During that time, individuals kept entering his store and attempted to damage it and break merchandise. When he threatened to call the police, he received threatening phone calls telling him to ‘shut up’ or else he would ‘regret it.’ Mr. Mkoian believed that these threats were related to the illegal vehicle registrations occurring in his department because he had nothing else to be silent about.

Later that same month, three men grabbed his wife and attempted to kidnap his child, Arthur, on the street. Mrs. Mkoian was told that her husband should ‘shut up.’ No one suffered any injuries from the incident. In October 1991, a bottle of gasoline was thrown into the Mkoian’s residence and their house was burned down. The final incident occurred on April 1, 1992, when four or five men assaulted Mr. Mkoian in his store. He was beaten and hospitalized for 22 days.

Following that experience, Mr. Mkoian left Armenia for Russia, and then came to the United States on a visitor’s visa in search of a better life. Three years later his wife Asmik and his then 2-year-old son Arthur to the United States, also on visitor’s visas. The family applied for political asylum, but the 9th Circuit Court of Appeals denied their request in January 2008. Thus, the family has no further legal recourse by which to remain in the country other than this bill.

Since arriving in the United States, the family has thrived. Arthur is now 18 years old and the family has expanded to include Arsen, who is a U.S. citizen.

Both Arthur and Arsen are special children. In high school, Arthur maintained a 4.0 grade average and was a valedictorian for the class of 2008. I first introduced this bill on his graduation day. Today, Arthur is a freshman at the University of California, Davis. Arsen is following in his older brother’s footsteps. At age 12, he stands out among his peers and is on the honor roll at Tenaya Middle School in Fresno.

In addition to raising two outstanding children, Mr. and Mrs. Mkoian have maintained steady jobs and have devoted time and energy into the community and their church. Mr. Mkoian is working at HB Medical Transportation, as a driver in Fresno. His wife, Asmik, has two jobs as a medical receptionist with Dr. Kumar in Fresno and as a sales clerk at Gottschalks Department Store. In addition, she has taken classes at Fresno Community College and has completed her Medical Assistant Program.

The family are active members of the St. Paul Armenian Church, and Mr. Mkoian is a member of the PTA of the St. Paul Armenian Saturday School.

There has been an outpouring of support for this family from their church, the schools their children attend, and the community at large.

To date, we have received over 200 letters of support for the family in addition to numerous telephone calls. I also note that I have letters from both Congressman GEORGE RADANOVICH and JIM COSTA, requesting that I offer this bill for the Mkoian family.

This case warrants our compassion and our extraordinary consideration.

I ask my colleagues to support this private bill. Mr. President, I ask by unanimous consent that the text of the bill be printed in the RECORD.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, in the year two thousand and nine.

SECTION 1. ADJUSTMENT OF STATUS.

(a) In GENERAL.—Notwithstanding any other provision of law, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Jose Alberto Martinez Moreno, Micaela Lopez Martinez, and Adilene Martinez shall each be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for adjustment of status to that of an alien lawfully admitted for permanent residence under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) upon filing an application for such adjustment of status.

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) SPECIAL VISA NUMBERS.—Upon the granting of permanent resident status to Jose Alberto Martinez Moreno, Micaela Lopez Martinez, and Adilene Martinez by the Secretary of State shall instruct the proper officer to reduce by 3, during the current or subsequent fiscal year, the total number of immigrant visas that would otherwise be available to each of the country of the birth of Jose Alberto Martinez Moreno, Micaela Lopez Martinez, and Adilene Martinez under section 202(e) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152(e) and 1153(a)), as applicable.

By Mrs. FEINSTEIN:

S. 129. A bill for the relief of Ruben Mkoian, Asmik Karapetian, and Arthur Mkoian; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing a private relief bill on behalf of Ruben Mkoian, his wife, Asmik Karapetian and their son, Arthur Mkoian. The Mkoian family are Armenian nationals who have been living and working in Fresno, California, for over a decade.

The story of the Mkoian family is compelling and I believe they merit Congress’s special consideration for such an extraordinary form of relief as a private bill.

Let me first start with how the Mkoian family arrived in the United States. While in Armenia, Mr. Mkoian worked as a police sergeant in a division dealing with vehicle licensing. As a result of his position, he was offered a bribe to register 20 stolen vehicles. He refused the bribe and reported the incident to the police chief. He later learned that his co-worker had registered the vehicles at the request of the chief.

After he reported the offense, Mr. Mkoian’s supervisor informed him that the department was to undergo an inspection. Mr. Mkoian was instructed to take a vacation during this time period. Mr. Mkoian believed that the inspection was a result of the complaint that he had filed with the higher authorities.

During the inspection, however, Mr. Mkoian worked at a store that he owned rather than taking a vacation. During that time, individuals kept entering his store and attempted to damage it and break merchandise. When he threatened to call the police, he received threatening phone calls telling him to ‘shut up’ or else he would ‘regret it.’ Mr. Mkoian believed that these threats were related to the illegal vehicle registrations occurring in his department because he had nothing else to be silent about.

Later that same month, three men grabbed his wife and attempted to kidnap his child, Arthur, on the street. Mrs. Mkoian was told that her husband should ‘shut up.’ No one suffered any injuries from the incident. In October 1991, a bottle of gasoline was thrown into the Mkoian’s residence and their house was burned down. The final incident occurred on April 1, 1992, when four or five men assaulted Mr. Mkoian in his store. He was beaten and hospitalized for 22 days.

Following that experience, Mr. Mkoian left Armenia for Russia, and then came to the United States on a visitor’s visa in search of a better life. Three years later his wife Asmik and his then 2-year-old son Arthur to the United States, also on visitor’s visas. The family applied for political asylum, but the 9th Circuit Court of Appeals denied their request in January 2008. Thus, the family has no further legal recourse by which to remain in the country other than this bill.

Since arriving in the United States, the family has thrived. Arthur is now 18 years old and the family has expanded to include Arsen, who is a U.S. citizen.

Both Arthur and Arsen are special children. In high school, Arthur maintained a 4.0 grade average and was a valedictorian for the class of 2008. I first introduced this bill on his graduation day. Today, Arthur is a freshman at the University of California, Davis. Arsen is following in his older brother’s footsteps. At age 12, he stands out among his peers and is on the honor roll at Tenaya Middle School in Fresno.

In addition to raising two outstanding children, Mr. and Mrs. Mkoian have maintained steady jobs and have devoted time and energy into the community and their church. Mr. Mkoian is working at HB Medical Transportation, as a driver in Fresno.

His wife, Asmik, has two jobs as a medical receptionist with Dr. Kumar in Fresno and as a sales clerk at Gottschalks Department Store. In addition, she has taken classes at Fresno Community College and has completed her Medical Assistant Program.

The family are active members of the St. Paul Armenian Church, and Mr. Mkoian is a member of the PTA of the St. Paul Armenian Saturday School.

There has been an outpouring of support for this family from their church, the schools their children attend, and the community at large.

To date, we have received over 200 letters of support for the family in addition to numerous telephone calls. I also note that I have letters from both Congressman GEORGE RADANOVICH and JIM COSTA, requesting that I offer this bill for the Mkoian family.

This case warrants our compassion and our extraordinary consideration.

I ask my colleagues to support this private bill. Mr. President, I ask by unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill be printed in the RECORD.
January 6, 2009

CONGRESSIONAL RECORD—SENATE

S. 130. A bill for the relief of Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, and Jorge Rojas Gonzalez.

By Mrs. FEINSTEIN:

S. 130. A bill for the relief of Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, and Jorge Rojas Gonzalez; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing a private relief bill on behalf of Jorge Rojas Gutierrez, his wife, Oliva Gonzalez Gonzalez, and son, Jorge Rojas Gonzalez. The Rojas family members are Mexican nationals living in the San Jose area of California.

The story of the Rojas family is compelling, and I believe they merit Congress' special consideration for such an extraordinary form of relief as a private bill.

Mr. Rojas and his wife Ms. Gonzalez originally came to the United States in 1990 when their son Jorge Rojas, Jr. was just 2 years old. In 1995, they left the country to return to Mexico, and then re-entered on visitors' visas.

The family has since expanded to include a son, Alexis Rojas, now age 16, and a daughter Tania Rojas, now age 14.

Since arriving in the United States, this family has dedicated themselves to community involvement, a strong work ethic and volunteerism. They have been paying taxes since their arrival in 1990. The family has been described by their friends and colleagues as a "model American family." I would like to tell you some more about each member of the Rojas family.

Mr. Rojas has worked as a landscaping individual who has been employed by Valley Crest Landscape Maintenance in San Jose, California, for the past 14 years. Currently, Mr. Rojas works on commercial landscaping projects. He is well-respected by his supervisor and his peers.

In addition to supporting his family, Jorge has volunteered his time and talents to provide modern green landscaping and a recreational jungle gym to Sherman Oaks Community Charter School. He has also sponsored two youngest children attend school.

Ms. Gonzalez, in addition to raising her three children, has been very active in the local community. She has worked to help other immigrants assimilate to American life by working as a translator and a tutor for immigrant children at Sherman Oaks Community Charter School and the Y.M.C.A. Kids after-school program. She has placed soccer teams, and has recently directed a Thanksgiving food drive. Ms. Gonzalez also devotes many hours of her time to the organization People Acting in Community Together, PACT, where she works to prevent crime, gangs and drug dealing in San Jose neighborhoods and schools.

Perhaps one of the most compelling reasons for permitting the family to remain in the United States is the impact their deportation would have on their three children. Two of the children, Alexis and Tania, are U.S. citizens. Jorge Rojas, Jr. has lived in the United States since he was a toddler. For these children, this country is the only country they really know.

Jorge Rojas, Jr., who entered the United States as an infant with his parents, is now 20 and is currently working at Jamba Juice. He graduated from Del Mar High School in 2007 and is currently taking classes at San Jose City College. Alexis and Tania are students at Sherman Oaks Community Charter School. They are described by their teachers as "fantastic, wonderful, and gifted" students. In fact, the principal at Sherman Oaks has described all three of the children as "honest, hardworking academic honors students" and have commended all of them for their on-campus leadership.

It seems so clear to me that this family has embraced the American dream. They are a part of what we in our country would do so much to enhance the values we hold dear. I have received 30 letters from the community in support of this family. Enactment of the legislation I have reintroduced today will enable the Rojas family to continue to make significant contributions to their community as well as the United States.

Mr. President, I ask my colleagues to support this private bill. 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. 130

To amend the Truth in Lending Act to provide for enhanced disclosure under an open end credit plan; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, today I am introducing the Credit Card Modernization Act. This bill would help American consumers by requiring banks to notify credit card holders of the true cost if
they choose to make the minimum payment each month.

Americans today own more credit cards than ever before. The average American has approximately four credit cards. In 2007, 1 in 7 Americans held more than four.

Unsurprisingly, this increase in credit card ownership has resulted in a dramatic increase in credit card debt.

Over the past 2 decades, Americans’ combined credit card debt has nearly tripled—from $238 billion in 1989 to a staggering $971 billion in 2008.

Today, the average American household has approximately $10,678 in credit card debt, up 29 percent from 2000.

Among credit card users, 55 percent carry a balance on their credit card, a 2 percent increase from last year.

Approximately 1 in 6 families with credit cards pays only the minimum due every month.

Young Americans are using credit cards to finance everything from daily expenses to college tuition. Forty-one percent of college students have a credit card, and, of those, only 65 percent pay their bills in full every month.

Over the past year, as economic conditions have worsened, it has become even harder for families to pay off their debt. Whether it is a mortgage, or tuition, or medical expenses, people are finding it harder than ever to meet all of their expenses.

In July of this year, 23 percent of people surveyed reported that their ability to pay off their credit card balances has become more strained.

This increasing debt is contributing to and more Americans filing for bankruptcy.

Ever since the Bankruptcy Reform Act was enacted in 2005, non-business bankruptcies have been increasing at a rapid pace. The numbers this year already show a staggering hike. Between September 2007 and September 2008, Americans filed over one million non-business bankruptcies, up 30 percent from the previous year.

Many of these personal bankruptcies are people who are turning to credit cards to finance their expenses. Today’s families have even more credit card debt than usual—sometimes because they have been struggling to pay a mortgage and have started using credit cards for daily expenses.

One family, the Forsyths, found themselves in trouble after moving to a new State for a better job opportunity. Unable to sell their old house, they rented. But when the renter stopped making payments, the family became overwhelmed with two mortgage payments. Credit cards helped at first—providing payment for food, utilities, and clothes—but the family quickly accumulated $20,000 in debt and was left with no alternative other than bankruptcy.

The benefits offered by credit cards are attractive, but these cards also pose enormous financial risk. Dianne McLeod discovered this in a painful way after back-to-back medical emergencies depleted her finances. Although credit cards initially enabled her to maintain her lifestyle, before long these cards and two mortgages meant that she later found that she was spending more than 40 percent of her monthly income on interest payments, in addition to thousands of dollars annually in fees.

Today, credit cardholders receive no information on the impact of carrying a balance with compounding interest. As a result, many consumers make only the minimum payment. After a few years, they find that the interest on the debt is almost twice the amount of their original purchases—and they do not know what to do about it.

I first introduced the Credit Card Minimum Payment Notification Act during the debate on the 2005 bankruptcy bill. As I said then, I believe the bill failed to balance responsibility and fairness. Consumers should not be so harshly penalized when they do not have the basic tools and information they need to make informed choices.

The Credit Card Minimum Payment Notification Act would help prevent this problem by requiring credit card companies to add two items to each consumer’s monthly credit card statement:

A general notice that would read: "Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance."

An individualized notice to credit card holders that specifies clearly on their bill how much time it will take to repay their debt and the total amount they will pay if they only make the minimum payments.

For consumers with variable rate cards, the bill would also require companies to provide a toll-free number where cardholders can access credit-counseling services.

The disclosure requirements in the bill would only apply if the consumer has a minimum payment that is less than 10 percent of the debt on the credit card. Otherwise, none of these disclosures would be required on their statement.

Last year, a Gallup—Experian poll found that about 11 percent of credit cardholders consistently make only the minimum payment on their cards each month.

Consider what this could mean for the average household.

For example, for a typical average American with $10,678 in credit card debt, the average fixed credit card interest rate is approximately 12 percent. If the 2 percent minimum payment is all that is paid on its debt each month, it would take more than 85 years to pay off the bill if the interest rate is 20 percent and the total cost would be $21,652.66—and that’s just the minimum assuming that the family didn’t ever charge another dime on that bill.

In other words, the family would need to pay $10,374.66 in interest just to repay $10,678 in original debt.

For individuals or families with more than average debt, the pitfalls are even greater. $20,000 of credit card debt at the average 12 percent interest rate will take over 36 years and more than $28,261 to pay off if only the minimum payments are made.

Twelve percent is relatively low, average interest rates. Interest rates around 20 percent are more common on credit cards, and penalty interest rates can reach as high as 32 percent.

A family that has the average debt with a 20 percent interest rate and makes only the minimum payments will need a lifetime over 85 years—and $62,158 to pay off the initial $10,678 bill.

That’s $51,480 just in interest—an amount that approaches 5 times the original debt.

Credit cards are an important part of everyday life, and they help the economy operate more smoothly by giving consumers and merchants a reliable, convenient way to exchange funds. But the bottom line is that for many consumers, the two percent minimum payment is a financial trap.

The Credit Card Minimum Payment Notification Act is designed to ensure that people are not caught in this trap through lack of information.

Last month, the Federal Reserve Board approved new rules that will improve disclosures, but the rules do not go far enough. Under the rules, starting July 1, 2010, credit card companies will have to warn consumers about the effect of making minimum payments on the length of time it will take to pay off their balances. But the warnings may be only examples and will not show the effect on the amount that consumers pay over time.

Before approving the final rules, the Federal Reserve Board interviewed consumers who typically carried credit card balances. Those consumers found disclosures most helpful when they were given specific information and included warnings about the amount that would have to be paid over time.

The Credit Card Minimum Payment Notification Act would provide the straightforward disclosure that consumers find most helpful and most effective.

This disclosure will ensure that consumers know exactly what it means for them to carry a balance and make minimum payments, so they can make informed decisions on credit card use and repayment.

In addition, the burden on banks will be minimal. Calculations like these are purely formulaic. Credit card companies already complete similar calculations to determine credit risk and when they tell consumers what their required minimum payment is each month.

The harsh effects of the 2005 bankruptcy bill are becoming apparent. During the debate over that bill, I had hoped that Congress would succeed in balancing the need to incentivize consumers to act responsibly with the promise of a fresh start for those who fell impossible behind. I do not believe that that balance was reached.
I continue to believe that consumers need a meaningful disclosure informing them of the effects of making minimum payments.

Today, as Americans face increasing struggles with debt and expenses, the bill is needed more than ever. I urge my colleagues to support this legislation.

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

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

S. 132. A bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senators HATCH, KERRY, MURRAY, KYL, and SPECTER in introducing comprehensive anti-gang legislation—the Gang Abatement and Prevention Act of 2009.

This bill has changed significantly since Senator HATCH and I began introducing provisions that expanded and strengthened anti-gang provisions. As we continue to work on this bill, I will focus on the following:

- A meaningful disclosure informing consumers about the root causes of gang violence.
- Identifying successful community programs that prevent young people from joining gangs.

The bill constitutes a balanced approach to fighting the gang problem, with authorization for hundreds of millions of dollars to be used for proven gang prevention and intervention programs, as well as strong enforcement provisions.

The rise of criminal street gangs and the effect these gangs have on our nation are two of the fundamental issues facing us today. This country is in the midst of an epidemic of gang violence that cuts across every age and every race and plagues our cities, suburbs and rural areas. This violence often involves teens and children as both victims and perpetrators.

Almost every day, gang violence is in the news across the country, with gang-related killings of children and innocent bystanders almost too numerous to count. A person only needs to pick up a newspaper or watch the evening news to see how gang violence is affecting our communities.

A snapshot of gang violence that occurred over a 4-day period in Los Angeles in March 2008 illustrates how insidious these issues are. According to media reports, Chris’ death has sparked much anger in the community over growing gang violence in the area.

Across the country, in rural areas, suburbs, and cities, gang violence is literally holding neighborhoods hostage and Congress needs to do something about it. Our national gang problem is immense and growing, and it is not going away.

On January 18, 2007, FBI Director Mueller acknowledged that gang crime has become “a part of a clear national trend.” FBI statistics show that there are over 30,000 criminal street gangs operating in the United States, with significant resources in schools and religious and community organizations to prevent young people from joining gangs in the first place.

Mr. President, I am pleased to join Senators HATCH, KERRY, MURRAY, KYL, and SPECTER in introducing comprehensive anti-gang legislation—the Gang Abatement and Prevention Act of 2009.

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According to the FBI, gangs have an impact on at least 2,500 communities across the Nation. These criminal street gangs engage in drug trafficking, robbery, extortion, gun trafficking, and murder. They recruit children and teens, destroy families, cripple families, and kill innocent people.

In California, the State Attorney General has estimated that there are 171,000 juveniles and adults committed to criminal street gangs and their way of life. That's greater than the population of 28 California counties.

From 1992 to 2003, there were more than 7,500 gang-related homicides reported in California. In 2007, 469 of the 2,258 homicides in California were gang-related.

Los Angeles Police Department Chief Bill Bratton put it bluntly: “There is nothing more insidious than these gangs. They are worse than the Mafia. Show me a year for over a decade, the Mafia indiscriminately killed 300 people. You can’t.”

It’s not just a California problem or an issue limited to big cities. In Chicago, the FBI estimates that there are over 60,000 gang members. A 2008 DOJ Report notes the rapid spread of gangs and violence to suburban areas. FBI Director Mueller recently recognized the national scope of the gang problem when he said: “Gangs are no longer limited to Los Angeles. Like a cancer, gangs are spreading to communities across America.”

Our cities and States need our help—a long-term commitment to combat gang violence and a Federal helping hand to get our youth out of gangs and keep them from joining gangs in the first place.

Senator HATCH and I have now been introducing comprehensive Federal gang legislation for over a decade. Our gang bills have been modified and reformed over the years, most recently in the bill that passed in the Senate in the 110th Congress by unanimous consent.

The bill that we introduce today is a balanced and measured approach to dealing with the gang problem. It has no death penalty provisions, no mandatory minimums, and we have eliminated juvenile justice changes that previously proved to be an impediment to the larger bill’s passage.

The bill that we offer today provides a Federal helping hand to fight the gang problem. It provides a comprehensive approach to gang violence, combining enforcement, prevention, and intervention efforts in a collaborative approach that has proven effective in models like Operation Ceasefire.

The bill recognizes that the Federal Government needs to fight gangs and that more tools must be made available to Federal law enforcement agents and prosecutors to stop the epidemic of gang violence. To this end, the bill establishes new, common sense Federal anti-gang crimes and tougher Federal penalties.

Existing Federal street gang laws are frankly weak, and are almost never used. Currently, a person committing a gang crime might have extra time tacked on to the end of their Federal sentence. That is because Federal law currently focuses on gang violence only as a sentencing enhancement, rather than as a crime unto itself.

The bill that I offer today would make it a separate Federal crime for any criminal street gang member to commit, conspire or attempt to commit violent crimes—including murder, kidnapping, extortion—in furtherance of the gang.

The penalties for gang members committing such crimes would increase considerably.

For gang-related murder, kidnapping, aggravated sexual abuse or maiming, the penalties would range up to life imprisonment.

For any other serious violent felony, the penalty would range up to 30 years.

For other crimes of violence—defined as the actual or intended use of physical force against the person of another—the penalty could bring up to 20 years in prison.

The bill also creates a new crime for recruiting juveniles and adults into a criminal street gang, with a penalty of up to 10 years, or if the recruiting involved a juvenile or recruiting from prison, up to 20 years.

It also creates new Federal crimes for committing violent crimes in connection with drug trafficking, and increases existing penalties for violent crimes in aid of racketeering.

Finally, the bill provides a host of other violent crime reforms, including closing a loophole that allows carjackers to avoid convictions, increasing the penalties for those who use guns in violent crimes or transfer guns knowing they will be used in crimes, and limiting bail for violent felons who possess firearms.

But the bill also recognizes that we cannot simply arrest our way out of the gang problem. It focuses on prevention and intervention strategies to prevent our youth from joining street gangs and to give existing gang members a way out of that lifestyle.

Specifically, the bill would authorize over $1 billion in new funds over the next 5 years to address the gang problem, including: $411.5 million to fund gang prevention and intervention programs, like Operation Ceasefire, a proven gang prevention and intervention program successfully used in communities across the country; $187.5 million to establish High Intensity Interstate Gang Activity Areas—Federal, State, and local law enforcement task forces to combat gangs and implement prevention programs; $100 million to fund the DOJ’s Project Safe Neighborhood Program, the Federal Government’s primary anti-gang initiative; $50 million for the Project Safe Streets Program, the FBI’s primary gang investigation tool; $100 million for more prosecution, and equipment for gang investigations; $270 million for State witness protection programs in gang cases.

This balanced approach—of prevention and intervention plus common sense enforcement—will send a clear message to gang members: a new day has arrived and the Federal Government will no longer sit on the sidelines while gang violence engulfs the country.

This bill will provide gang members with new opportunities, with schools and social services agencies empowered to make alternatives to gangs a realistic option. But if gang members continue to engage in violence, they will face new and serious Federal consequences.

For more than 10 years now, Senator HATCH and I have been trying to pass Federal anti-gang legislation. There have been times when we have gotten close, including last session when the Senate passed this same bill. Unfortunately, while Congress as a whole has failed to act, violent street gangs have only expanded nationwide and become more entrenched in other States and communities.

I believe this bill can again pass in the Senate and be enacted into law. The time has arrived for us to finally address this problem, and I believe this bill is well-suited to help solve it.

I urge my colleagues to consider this legislation in the 111th Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record. There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

SEC. 1. SHORT TITLE.
This Act may be cited as the “Gang Abatement and Prevention Act of 2009”.

SEC. 2. TABLE OF CONTENTS.
The table of contents of this Act is as follows:
Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.

TITLE I—NEW FEDERAL CRIMINAL LAWS NEEDED TO FIGHT VIOLENT NATIONAL, INTERNATIONAL, REGIONAL, AND LOCAL GANGS THAT AFFECT INTERSTATE AND FOREIGN COMMERCE

Sec. 101. Revision and extension of penalties related to criminal street gang activity.

TITLE II—VIOLENT CRIME REFORMS TO REDUCE GANG VIOLENCE

Sec. 201. Violent crimes in aid of racketeering activity.
Sec. 203. Expansion of rebuttable presumption against release of persons charged with firearms offenses.
Sec. 204. Statute of limitations for violent crime.
Sec. 205. Study of hearsay exception for forfeiture by wrongdoing.

Sec. 206. Possession of firearms by dangerous felons.

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

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This Act may be cited as the “Gang Abatement and Prevention Act of 2009”.

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TITLES

TITLE I—NEW FEDERAL CRIMINAL LAWS NEEDED TO FIGHT VIOLENT NATIONAL, INTERNATIONAL, REGIONAL, AND LOCAL GANNS THAT AFFECT INTERSTATE AND FOREIGN COMMERCE

SEC. 101. REVISION AND EXTENSION OF PENALTIES.

(a) In general.—Chapter 26 of title 18, United States Code, is amended to read as follows:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec. 521. Definitions.

"Sec. 522. Criminal street gang prosecutions.

"Sec. 523. Recruitment of persons to participate in a criminal street gang.

"Sec. 524. Violent crimes in furtherance of criminal street gangs.

"Sec. 525. Forfeiture.

SEC. 521. DEFINITIONS.

"In this chapter:

"(1) CRIMINAL STREET GANG.—The term ‘criminal street gang’ means a formal or informal group, organization, or association of 5 or more individuals—

"(A) each of whom has committed at least 1 gang crime; and

"(B) who collectively commit 3 or more gang crimes (not less than 1 of which is a serious violent felony), in separate criminal episodes (not less than 1 of which occurs not later than 5 years after the date of enactment of the Gang Abatement and Prevention Act of 2006), and the last of which occurs not later than 5 years after the commission of a prior gang crime (excluding any time of imprisonment for that individual).

"(2) GANG CRIME.—The term ‘gang crime’ means an offense under Federal law punishable by imprisonment for more than 1 year, or a felony offense under State law that is punishable by a term of imprisonment of 5 years or more in any of the following categories:

"(A) A crime that has as an element the use, attempted use, or threatened use of physical force against the person of another, or is burglary, arson, kidnapping, or extortion.

"(B) A crime involving obstruction of justice, or tampering with or retaliating against a witness, victim, or informant.

"(C) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise trafficking in a controlled substance or listed chemical as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(D) Any conduct punishable under—

"(i) section 844 (relating to explosive materials);

"(ii) subsection (a)(1), (d), (g)(1) where the underlying conviction is a violent felony or a serious violent felony or a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act),

"(iii) subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 (relating to penalities);

"(iv) section 930 (relating to possession of firearms and dangerous weapons in Federal facilities);

"(v) section 931 (relating to purchase, ownership, or possession of body armor by violent felons);

"(vi) sections 1028 and 1029 (relating to fraud, identity theft, and related activity in connection with identification documents or access devices);

"(vii) section 1084 (relating to transmission of wagering information);

"(viii) section 1952 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises);

"(ix) section 1956 (relating to the laundering of the proceeds of certain crimes); and

"(x) section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity); or

"(xi) any section 2312 through 2315 (relating to the theft or fraud with respect to vehicles or vehicles in transit) or any section 232 (relating to interstate transportation of stolen motor vehicles or stolen property).

"(E) Any conduct punishable under section 272 (relating to bringing in certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importing of aliens for immoral purposes) of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, and 1328).

"(F) Each crime for which an individual is sentenced to a term of imprisonment of 5 years or more of the different offenses listed in subparagraphs (C), (D), and (E).

"(2) CRIMINAL STREET GANG ACTIVITY.—The term ‘criminal street gang activity’ means any activity of an individual in furtherance of a criminal street gang, including—

"(A) membership in the gang;

"(B) recruitment of persons to participate in the gang;

"(C) the use of violence, intimidation, or threats of violence;

"(D) the use of the mail or wire communications;

"(E) the lending or giving of money or other property;

"(F) the purchase of weapons or other property;

"(G) the use of a computer or other electronic device;

"(H) the use of any means to obstruct justice or to interfere with a judicial proceeding; or

"(I) any other activity of a nature similar to any of the preceding.

"(3) ADJACENT PROPERTY.—For purposes of this section, the term ‘adjacent property’ means property that—

"(A) is owned or leased by the gang;

"(B) is used by the gang; or

"(C) is the subject of the activity of the gang.

"(B) Violent crimes in furtherance of criminal street gangs.

"C. Crimes committed in Indian country.

"C. Crimes committed in or affecting Indian country.

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SEC. 524. VIOLENT CRIMES IN FURTHERANCE OF CRIMINAL STREET GANGS.

(a) In General.—It shall be unlawful for any person, for the purpose of gaining entrance to or maintaining or increasing in influence or activity in a criminal street gang, or in furtherance of, or in association with, a criminal street gang, or as consideration for anything of value to or from a criminal street gang, to knowingly commit or threaten to commit, or attempt or conspire to do so, if the activities of that criminal street gang occur in or affect interstate or foreign commerce.

(b) Penalty.—Any person who violates subsection (a) shall be punished by a fine under this title and, if the circumstances of the violation consist of the conduct described in paragraph (1), by imprisonment for not more than 10 years, or both; and

(c) Definition of Criminal Street Gang.—For the purposes of this section, the term ‘criminal street gang’ means a gang or unlawful association that has the characteristics of a gang or unlawful association as described in section 3559 of title 18, United States Code.

SEC. 525. FORFEITURE.

(a) Criminal Forfeiture.—A person who is convicted of a violation of this chapter shall forfeit to the United States—

(1) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation; and

(2) any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the violation.

(b) Forfeiture of Property Not Otherwise Subject to Forfeiture.—Pursuant to section 2641(c) of title 29, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 833), except subsections (a) and (d) of that section, shall apply to the criminal forfeiture of property under this section.

(c) Amendment Relating to Priority of Forfeiture Over Orders for Restitution.—Section 3663(c)(4) of title 18, United States Code, is amended by striking ‘‘chapter 46’’ and inserting ‘‘chapter 26, chapter 46, or’’.

(d) Money Laundering.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ‘‘, section 522 (relating to criminal gang investigations), 523 (relating to the sale, purchase, or receipt of property of persons to participate in a criminal street gang), and 524 (relating to violent crimes in furtherance of criminal street gangs)’’ before ‘‘, section 541’’.

(e) Amendment of Special Sentencing Provision Prohibiting Prisoner Communications.—Section 3582(d) of title 18, United States Code, is amended—

(1) by inserting ‘‘chapter 26 (criminal street gangs),’’ before ‘‘chapter 95’’; and

(2) by inserting ‘‘a criminal street gang or’’ before ‘‘an illegal enterprise’’.

TITLe II—VIOLent CRIME ReFORMS TO REDUCE GANt VIOlENCE

SEC. 201. VIOLent CRImES IN AIR OF RACKETEERING ACTIVITY.

Section 1952 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1) (A) by inserting ‘‘or in furtherance of or in aid of an enterprise involved in racketeering activity,’’ before ‘‘murders,’’; and

(2) in paragraph (1), by inserting ‘‘conduct that would violate section 2241 if the conduct occurred in the special maritime and territorial jurisdiction of the United States, or resulting in serious bodily injury’’.

SEC. 202. MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.

(a) In General.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

SEC. 424. MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.

(a) In General.—Whoever, during and in relation to any drug trafficking crime, knowingly commits any crime of violence against any individual that is an offense under Federal law punishable by imprisonment for more than 1 year or a felony offense under State law that is punishable by a term of imprisonment of 5 years or more, or threatens, attempts or conspires to do so, shall be punished by a fine under title 18, United States Code, and—

(1) if the murder, kidnapping, conduct that would violate section 2241 if the conduct occurred in the special maritime and territorial jurisdiction of the United States, or maiming, by imprisonment for any term of years for or life;

(2) for a serious violent felony other than one described in paragraph (1), by imprisonment for not more than 30 years; and

(3) in any other case, by imprisonment for not more than 20 years.

(b) Categorical Enhancement.—In addition to the penalty described in subsection (a), the defendant—

(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

(2) if the defendant—

(A) has no prior conviction for a violent felony, or a violent felony committed while the defendant was a minor; or

(B) has any prior conviction for a violent felony, the defendant shall be fined under this title, imprisoned not more than 30 years, or both; and

(c) amendment relating to priority of forfeiture over orders for restitution.—Section 3663(c)(4) of title 18, United States Code, is amended by striking ‘‘chapter 46’’ and inserting ‘‘chapter 26, chapter 46, or’’.

(d) Amendment of Special Sentencing Provision Prohibiting Prisoner Communications.—Section 3582(d) of title 18, United States Code, is amended—

(1) by inserting ‘‘chapter 26 (criminal street gangs),’’ before ‘‘chapter 95’’; and

(2) by inserting ‘‘a criminal street gang or’’ before ‘‘an illegal enterprise’’.
paragraph (3), by inserting after “that the person committed” the following: “an offense under subsection (g)(1) (where the underlying conviction is a drug trafficking crime (as those terms are defined in section 924(c)), (g)(2), (g)(3), (g)(4), (g)(5), (g)(6), (g)(8), (g)(9), (g)(10), or (g)(11) of section 922.)

SEC. 204. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.

(a) In General.—Chapter 213 of title 18, United States Code, is amended, by adding at the end of section 991 the following heading under section 994A:

“§ 994A. Violent crime offenses

“(1) A person shall be prosecuted, tried, or punished for any drug trafficking crime, for which an underlying conviction is a drug trafficking crime (as defined in subsection (g)), (g)(2), (g)(3), (g)(4), (g)(5), (g)(6), (g)(8), (g)(9), or (g)(10) of section 922, or for conspiracy offense.

“(b) Amendments to Sentencing Guidelines

Sec. 205. STUDY OF HEARSAY EXCEPTION FOR WITNESS TIMIDATION.

The Judicial Conference of the United States shall study the necessity and desirability of amending section 804(b) of the Federal Rules of Evidence to permit the introduction of statements against a party by a witness who has been made unavailable where it is reasonably foreseeable by that party that the statement would make the declarant unavailable.

SEC. 206. POSSESSION OF FIREARMS BY DANGEROUS FELONS.

(a) In General.—Section 924(e) of title 18, United States Code, is amended by striking paragraph (1) and inserting the following:

“(1) In the case of a person who violates section 924(g) of this title and has previously been convicted by any court referred to in section 922(g)(1) of a violent felony or a serious drug offense shall—

“(A) in the case of 1 such prior conviction, where a period of not more than 10 years has elapsed since the date of the later of conviction or the date of release of the person from imprisonment for that conviction, be imprisoned for not more than 15 years, fined under this title, or both; and

“(B) in the case of 2 or more such prior convictions, committed on occasions different from one another, and where a period of not more than 10 years has elapsed since the later of the date of conviction or the date of release of the person from imprisonment for the most recent such conviction, be imprisoned for not more than 20 years, fined under this title, or both:

“(1) in the case of 1 such prior conviction, where a period of not more than 10 years has elapsed since the later of the date of conviction or the date of release of the person from imprisonment for that conviction, be imprisoned for not more than 15 years, fined under this title, or both;

“(2) in the case of 2 or more such prior convictions, committed on occasions different from one another, and where a period of not more than 10 years has elapsed since the later of the date of conviction or the date of release of the person from imprisonment for the most recent such conviction, be imprisoned for not more than 20 years, fined under this title, or both:

“(A) in the case of 1 such prior conviction, where a period of not more than 10 years has elapsed since the later of the date of conviction or the date of release of the person from imprisonment for that conviction, be imprisoned for not more than 15 years, fined under this title, or both; and

“(B) in the case of 2 or more such prior convictions, committed on occasions different from one another, and where a period of not more than 10 years has elapsed since the later of the date of conviction or the date of release of the person from imprisonment for the most recent such conviction, be imprisoned for not more than 15 years, fined under this title, or both:

“(1) in the subsection heading, by striking “EIGHT-YEAR” and inserting “TEN-YEAR”;

“(2) in the first sentence, by striking “8 years” and inserting “10 years”.

SEC. 211. CRIMES COMMITTED IN INDIAN COUNTRY OR EXCLUSIVE FEDERAL JURISDICTION AS RACKETEERING PREDECESSORS.

Section 1961(1)(A) of title 18, United States Code, is amended, by inserting“, or would have been so chargeable if the act or threat (other than gambling) had not been committed in Indian country (as defined in section 1151) or in any other area of exclusive Federal jurisdiction,” after “chargeable under State law”.

SEC. 212. PREDICATE CRIMES FOR AUTHORIZATION OF PERSECUTION OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

“(1) by striking “or” and the end of paragraph (r); and

“(2) by redesignating paragraph (s) as paragraph (r); and

“(3) by inserting after paragraph (r) the following:

“(w) any violation of section 424 of the Controlled Substances Act (relating to murder and other violent crimes in furtherance of a drug trafficking crime);

“(x) any violation of section 522, 523, or 524 (relating to criminal sanctions for terrorism).

SEC. 213. CLARIFICATION OF HOBBS ACT.

Section 1951(b) of title 18, United States Code, is amended—

“(1) in paragraph (1), by inserting “including the unlawful impersonation of a law enforcement officer (as that term is defined in section 242(c) of this title),” after “by means of corruption or by other participant in a State criminal proceeding,”;

“(2) in paragraph (2), by inserting “including the unlawful impersonation of a law enforcement officer (as that term is defined in section 242(c) of this title),” after “by wrongful use of actual or threatened force,”.

SEC. 214. INTERSTATE TAMPERING WITH OR RETALIATION AGAINST A WITNESS, VICTIM, OR INFORMANT IN A STATE CRIMINAL PROCEEDING.

(a) In General.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1513 the following:

“§ 1513A. Interstate tampering with or retaliation against a witness, victim, or informant in a state criminal proceeding.

“(a) In General.—It shall be unlawful for any person—

“(1) to travel in interstate or foreign commerce, or to use the mail or any facility in interstate or foreign commerce, or to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to do the same, with the intent to—

“(A) use or threaten to use any physical force against any witness, informant, victim, or other participant in a State criminal proceeding in an effort to influence or prevent participation in such proceeding, or to retaliate against such individual for participating in such proceeding;

“(B) threaten, influence, or prevent from testifying any actual or prospective witness in a State criminal proceeding; or

“(2) to attempt or conspire to commit an offense described in subparagraph (a) or (B) of paragraph (1).

“(b) Penalties.

“(1) USE OF FORCE.—Any person who violates subsection (a) shall—

“(A) be fined not more than $250,000 or imprisoned not more than 20 years, or both; and

“(B) if death, kidnapping, or serious bodily injury results, be fined not more than $250,000 or imprisoned not more than 20 years, or both.

“(2) RETALIATION AGAINST A WITNESS, VICTIM, OR INFORMANT.—Any person who violates subsection (a) shall—

“(A) be fined not more than $250,000 or imprisoned not more than 20 years, or both; and

“(B) if death, kidnapping, or serious bodily injury results, be fined not more than $250,000 or imprisoned not more than 20 years, or both.

“(b) Retaliation against a witness, victim, or informant in a State criminal proceeding.

“(1) Aggravated Retaliation.—A person who violates subsection (a) shall—

“(1) by striking “or” and the end of paragraph (r); and

“(2) by redesignating paragraph (s) as paragraph (r); and

“(3) by inserting after paragraph (r) the following:

“(w) any violation of section 424 of the Controlled Substances Act (relating to murder and other violent crimes in furtherance of a drug trafficking crime);

“(x) any violation of section 522, 523, or 524 (relating to criminal sanctions for terrorism).

SEC. 215. CRIMINAL PENALTIES.

Chapter 213 of title 18, United States Code, is added—

“(1) by striking “or” and the end of paragraph (r); and

“(2) by redesignating paragraph (s) as paragraph (r); and

“(3) by inserting after paragraph (r) the following:

“(w) any violation of section 424 of the Controlled Substances Act (relating to murder and other violent crimes in furtherance of a drug trafficking crime);

“(x) any violation of section 522, 523, or 524 (relating to criminal sanctions for terrorism).
imposed under section 424 of the Controlled Substances Act (21 U.S.C. 841 et seq.), as added by this Act, shall run consecutively, to an extent that the Sentencing Commission determines to be appropriate, to the sentence imposed for the underlying drug trafficking offense;

(5) account for any aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(6) ensure reasonable consistency with other relevant judicial, legislative, other sentencing guidelines, and statutes;

(7) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(8) ensure that the guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

TITLE III—INCREASED FEDERAL RESOURCES TO DETEER AND PREVENT SERIOUSLY AT-RISK YOUTH FROM JOINING ILLEGAL STREET GANGS AND FOR OTHER PURPOSES

SEC. 301. DESIGNATION OF AND ASSISTANCE FOR HIGH INTENSITY GANG ACTIVITY AREAS.

(a) DEFINITIONS.—In this section:

(1) GOVERNOR.—The term "Governor" means a Governor of a State, the Mayor of the District of Columbia, the tribal leader of an Indian tribe, or the chief executive of a Commonwealth, territory, or possession of the United States.

(2) HIGH INTENSITY GANG ACTIVITY AREA.—The term "high intensity gang activity area" or "HIGAAA" means an area within 1 or more States or Indian country that is designated as a high intensity gang activity area under subsection (b)(1).

(3) INDIAN COUNTRY.—The term "Indian country" has the meaning given the term in section 1151 of title 18, United States Code.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) STATE.—The term "State" means a State of the United States, the Distric of Columbia, and any commonwealth, territory, or possession of the United States.

(6) TRIBAL LEADER.—The term "tribal leader" means the chief executive officer representing the governing body of an Indian tribe.

(b) HIGH INTENSITY GANG ACTIVITY AREAS.—

(1) DESIGNATION.—The Attorney General, after consultation with the Governors of appropriate States, may designate as a high intensity gang activity areas, specific areas that are located within 1 or more States, which include more than 1 or more municipalities, counties, or other jurisdictions as appropriate.

(2) ASSISTANCE.—In order to provide Federal assistance for gang activity areas, the Attorney General shall—

(A) establish local collaborative working groups, which shall include—

(i) criminal street gang enforcement teams, consisting of Federal, State, tribal, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in high intensity gang activity area;

(ii) educational, community, and faith leaders in the area;

(iii) service providers in the community, including those experienced at reaching youth and adults who have been involved in violent crime, residential and gang youth groups, to provide gang-involved or seriously at-risk youth with positive alternatives to gangs and other violent groups and to address the needs of those who leave gangs and other violent groups, and those reentering society from prison; and

(E) provide all necessary funding for the operation of each local collaborative working group established under subparagraph (A) for each high intensity gang activity area;

(F) coordinate with the Department of Justice and the Attorney General in the District of Columbia, the tribal leader of an Indian tribe, or the chief executive of a Commonwealth, territory, or possession of the United States, to provide or to assist in the provision of training to law enforcement and other agencies, schools, community groups, social
service agencies, job agencies, faith-based organizations, and other organizations have committed resources to—
(i) respond to the gang crime problem; and
(ii) participate in a gang enforcement team;
(D) the extent to which a significant increase in the allocation of Federal resources would respond to the gang crime activities in the area; and
(E) any other criteria that the Attorney General considers to be appropriate.
(5) HIDTAs.—If the Attorney General establishes a high intensity gang activity area that substantially overlaps geographic areas designated as high intensity drug trafficking areas (in this section referred to as a "HIDTA"), the Attorney General shall direct the local collaborative working group to identify the local high intensity gang activity area to enter into an agreement with the Executive Board for that HIDTA, providing that—
(A) the Executive Board of that HIDTA shall establish a separate high intensity gang activity area law enforcement steering committee, and select (with a preference for Federal law enforcement agencies that are within the geographic area of that high intensity gang activity area) the members of that committee, subject to the concurrence of the Attorney General;
(B) the high intensity gang activity area law enforcement steering committee established under subparagraph (A) shall administer and, if needed under subparagraph (g)(1) for the criminal street gang enforcement team, after consulting with, and consistent with the goals and strategies established by, that local collaborative working group;
(C) the high intensity gang activity area law enforcement steering committee established under subparagraph (A) shall select, from Federal, State, and local law enforcement agencies within the geographic area of that high intensity gang activity area, the members of the Criminal Street Gang Enforcement Team, in accordance with paragraph (3); and
(D) the Criminal Street Gang Enforcement Team of that high intensity gang activity area, and its law enforcement steering committee, may, with approval of the Executive Board of that HIDTA, which high intensity gang activity area substantially overlaps, utilize the intelligence-sharing, administrative, and other resources of that HIDTA.
(c) REPORTING REQUIREMENTS.—
(1) IN GENERAL.—Not later than December 1 of each year, the Attorney General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Appropriations of Congress and the Director of the Office of Management and Budget and the Domestic Policy Council that describes, for each designated high intensity gang activity area—
(A) the specific long-term and short-term goals and objectives;
(B) the measurements used to evaluate the performance of the local collaborative working group established under subparagraph (A) and law enforcement agencies within the geographic area of that high intensity gang activity area; and
(C) the number and nature of crimes committed by gangs and gang members;
(D) the definition of the term "gang" used by the local collaborative working group established under subparagraph (A); and
(E) the age, composition, and membership of gangs.
(2) PROGRAMPATIC OUTCOMES AND FUNDING NEEDS.—
(A) The Committee shall hold a hearing on the progress of the Institute.
(B) The Director of the Office of Federal Defender Programs and the Director of the Office of Justice Programs shall report to the Committee on the status of the national demonstration sites, the Institute’s research, evaluation, crime prevention, and reentry strategies, and the range of particular gang-related issues. After establishing primary national demonstration sites, the Institute shall establish such other secondary sites, to the extent and in a manner the Committee shall determine, to receive evaluation, research, and technical assistance through the primary sites, as it may determine appropriate.
(d) DISSEMINATION OF INFORMATION.—Not later than 180 days after the date of its formation, the Institute shall develop and begin dissemination of information about methods that successfully reduce and prevent gang violence, including guidance, research, and assessment models, case studies, evaluations, and best practices. The Institute shall also create a website, designed to support the implementation of successful gang violence prevention models, and disseminate appropriate information to assist jurisdictions in reducing gang violence.
(2) GAN InterventioN AcadEmies.—Not later than 6 months after the date of its formation, the Institute shall, either directly or through contracts with qualified nonprofit organizations, establish at least 1 training academy, located in a high intensity gang activity area, to promote effective gang intervention and community policing.
(3) To the extent that funds made available under this paragraph shall be to increase professionalism of gang intervention workers, improve officer training for working with gang intervention workers, create best practices for independent cooperation between officers and intervention workers, and develop training for community policing.
(3) NATIONAL DEMONSTRATION SITES.—Not later than 180 days after the date of its formation, the Institute shall establish and implement a core research agenda designed to address areas of particular challenge, including—
(A) how best to apply and continue to test the models described in paragraph (2) in particular large jurisdictional situations;
(B) how to foster and maximize the continuing impact of community moral voices in this context;
(C) how to ensure the long-term sustainability of reduced violent crime levels once initial levels of enthusiasm may subside; and
(D) how to apply existing intervention frameworks to emerging local, regional, national, or international gang problems, such as the emergence of the gang known as MS-13.
(e) EVALUATION.—The National Institute of Justice shall evaluate, on a continuing basis, comprehensive gang violence prevention, intervention, suppression, and reentry strategies supported by the Institute, and shall report the results of these evaluations by no later than October 1 each year to the Committee on Appropriations of Congress and the Committee on the Judiciary of the House of Representatives.
(f) FUNDS.—The Attorney General shall ensure that no more than 5 percent, of the amounts made available under this section to establish and operate the Institute.
(g) USE OF FUNDS.—Of amounts made available to a local collaborative working group under this section for fiscal years that are remaining after the costs of hiring a full time coordinator for the local collaborative effort—
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(1) 50 percent shall be used for the operation of criminal street gang enforcement teams; and
(2) 50 percent shall be used—
(A) to provide youth with positive alternatives to gangs and other violent groups and to address the needs of those who leave gangs and other violent groups through—
(i) service providers in the community, including schools and school districts; and
(ii) faith leaders and other individuals experienced in reaching youth who have been involved in violence and violent gangs or groups;
(B) for the establishment and operation of the National Gang Research, Evaluation, and Policy Institute; and
(C) to support and provide technical assistance to research in criminal justice, social services, and community gang violence prevention collaborations.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $70,000,000 for each of fiscal years 2009 through 2013. Any funds made available under this subsection shall remain available until expended.

SEC. 302. GANG PREVENTION GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice may make grants, in accordance with this section, to the Attorney General, States, units of local government, tribal governments, and qualified private entities, to develop community-based programs that provide crime prevention, research, and intervention services that are designed for gang members and at-risk youth.

(b) USE OF GRANT AMOUNTS.—A grant under this section may be used (including through subgrants for) (1) preventing initial gang recruitment and involvement among at-risk youth; (2) reducing gang involvement through nonviolent and constructive activities, such as community service programs, development of nonviolent conflict resolution skills, employment and legal assistance, family counseling, and other safe, community-based alternatives for high-risk youth; (3) in school and after-school gang safety, control, education, and resistance procedures and programs; (4) identifying and addressing early childhood risk factors associated with gang involvement; (5) in-school and after-school gang safety, control, education, and resistance procedures and programs; (6) developing and identifying investigative programs designed to deter gang recruitment, involvement, and activities through effective intelligence gathering; (7) developing programs and youth centers for first-time nonviolent offenders facing alternative penalties, such as mandated participation in community service, restitution, counseling, and education and prevention programs; (8) implementing regional, multidisciplinary approaches to combat gang violence through coordinated programs for prevention and intervention (including street outreach programs and other peacekeeping activities) or coordinated law enforcement activities (including regional task force and regional crime mapping strategies that enhance focused prosecutions and reintegartion strategies for offender reentry); or

(9) identifying at-risk and high-risk students through home visits organized through joint efforts between law enforcement, faith-based organizations, schools, and social workers.

(c) GRANT REQUIREMENTS.—

(1) MAXIMUM.—The amount of a grant under this section may not exceed $1,000,000.

(2) CONSULTATION AND COOPERATION.—Each recipient under this section shall submit to the Attorney General, for each year in which funds from a grant received under this section are expended, a report containing—

(1) a strategic plan for the year following the year described in paragraph (1); (2) the identification and cooperation and coordination of efforts to reduce violent crime; (3) the identification and cooperation and coordination of efforts to reduce gang violence; (4) the identification and cooperation and coordination of efforts to reduce gang recruitment; (5) the identification and cooperation and coordination of efforts to reduce gang involvement; (6) the identification and cooperation and coordination of efforts to reduce gang membership; (7) the identification and cooperation and coordination of efforts to reduce gang leadership; (8) the identification and cooperation and coordination of efforts to reduce gang finances; and (9) any other information that the Attorney General may require.

(3) ANNUAL REPORT.—Each recipient of a grant under this section shall submit to the Attorney General, for each year in which funds from a grant received under this section are expended, a report containing—

(1) a strategic plan for the year following the year described in paragraph (1); (2) the identification and cooperation and coordination of efforts to reduce violent crime; (3) the identification and cooperation and coordination of efforts to reduce gang violence; (4) the identification and cooperation and coordination of efforts to reduce gang recruitment; (5) the identification and cooperation and coordination of efforts to reduce gang involvement; (6) the identification and cooperation and coordination of efforts to reduce gang membership; (7) the identification and cooperation and coordination of efforts to reduce gang leadership; (8) the identification and cooperation and coordination of efforts to reduce gang finances; and (9) any other information that the Attorney General may require.

(b) NATIONAL GANG ACTIVITY DATABASE.—

(1) IN GENERAL.—The Attorney General shall establish a National Gang Activity Database to be housed at and administered by the Office of Justice Programs in coordination with a lead law enforcement agency.

(2) DESCRIPTION.—The database required by paragraph (1) shall—

(A) be designed to disseminate gang information throughout the country and, subject to appropriate controls, to disseminate aggregate statistical information to other members of the criminal justice system, community leaders, academics, and the public;

(B) contain critical information on gangs, gang members, firearms, criminal activities, violence, and other information needed for investigators in solving and reducing gang-related crimes;

(C) operate in a manner that enables law enforcement agencies to—

(i) identify gang members involved in crimes;

(ii) track the movement of gangs and members throughout the region;

(iii) coordinate law enforcement response to gang violence;

(iv) enhance officer safety;

(v) provide realistic, up-to-date figures and statistical data on gang crime and violence; and

(vi) forecast trends and respond accordingly;

and (D) use more easily solve crimes and prevent violence;

and (E) be subject to guidelines, issued by the Attorney General, specifying the criteria for adding information to the database, the appropriate period for retention of such information, and a process for removing individuals from the database, and prohibiting disseminating gang information to any entity that is not a law enforcement agency, except aggregate statistical information where appropriate.

(c) USE OF RISS SECURE INTRANET.—From amounts made available to carry out this section, the Attorney General shall provide the Regional Information Sharing Systems such sums as are necessary to use the secure intranet known as RISSNET to electronically connect existing gang information systems (including the RISSGang National Database) with the National Gang Activity Database, thereby facilitating the automated information exchange of existing gang data by all connected systems without the need for additional databases or data replication.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 through 2013.

SEC. 303. ENHANCEMENT OF PROJECT SAFE NEIGHBORHOODS INITIATIVE TO IMPROVE ENFORCEMENT OF CRIMINAL LAWS AGAINST VIOLENT GANGS.

(a) IN GENERAL.—While maintaining the focus of Project Safe Neighborhoods as a comprehensive, strategic approach to reducing gun violence in America, the Attorney General is authorized to expand the Project Safe Neighborhoods program to require each United States attorney to—

(1) identify, investigate, and prosecute significant criminal street gangs operating within their districts; (2) coordinate the identification, investigation, and prosecution of criminal street gangs among Federal, State, and local law enforcement agencies throughout the region; (3) identify, investigate, and prosecute members throughout the region; (4) identify, investigate, and prosecute members throughout the region; (5) identify, investigate, and prosecute members throughout the region; (6) identify, investigate, and prosecute members throughout the region; (7) identify, investigate, and prosecute members throughout the region; (8) identify, investigate, and prosecute members throughout the region; (9) identify, investigate, and prosecute members throughout the region; (10) identify, investigate, and prosecute members throughout the region; (11) identify, investigate, and prosecute members throughout the region; and

(12) identify, investigate, and prosecute members throughout the region.

(2) A VAILABILITY.—Any amounts appropriated under paragraph (1) shall remain available until expended.

(b) ADDITIONAL STAFF FOR PROJECT SAFE NEIGHBORHOODS.—

(1) IN GENERAL.—The Attorney General may hire Assistant United States attorneys, non-attorney coordinators, or paralegals to carry out the provisions of this section.

(2) ENFORCEMENT.—The Attorney General may hire Bureau of Alcohol, Tobacco, Firearms, and Explosives agents for, and otherwise expend additional resources in support of, the Project Safe Neighborhoods/Firearms Violence Reduction Program.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2009 through 2013.

SEC. 305. ADDITIONAL RESOURCES NEEDED BY THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE AND PROSECUTE VIOLENT CRIMINAL GANGS.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13602) is amended—

(1) in paragraph (3), by striking "and" at the end;

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

(3) by adding at the end the following:

"(5) to hire additional prosecutors to—

(A) allow more cases to be prosecuted; and

(B) reduce backlogs; and

(6) to fund technology, equipment, and training for prosecutors and law enforcement agencies to increase accurate identification of gang members and violent offenders, and to maintain databases with such information;
to facilitate coordination among law enforcement and prosecutors.”

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

"SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

"(a) EXPANSION.—Section 256(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 299(c)) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665(a)) is amended by adding at the end the following: "The Administrator shall expand the number of sites receiving such grants from 4 to 12."

(b) AUTHORIZATION OF PROGRAM.—Section 2906(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(c)) is amended—

(1) by striking "There are authorized" and inserting the following:

"(1) IN GENERAL.—There are authorized; and

(2) by adding at the end the following:

"(2) AUTHORIZATION OF APPROPRIATIONS FOR MENTORING INITIATIVE.—There are authorized to be appropriated to carry out the Mentoring Initiative for System Involved Youth Programs $4,800,000 for each of fiscal years 2009 through 2013.

SEC. 307. DEMONSTRATION GRANTS TO ENCOURAGE CREATING APPROACHES TO GANG AID AND AFTER-SCHOOL PROGRAMS.

(a) IN GENERAL.—The Attorney General may make grants to public or nonprofit private entities (including faith-based organizations) for the purpose of assisting the entities in carrying out projects involving innovative approaches to combat gang activity.

(b) CERTAIN APPROACHES.—Approaches under subsection (a) may include the following:

(1) Encouraging teen-driven approaches to gang activity prevention.

(2) Educating parents to recognize signs of problems and potential gang involvement in their communities.

(3) Teaching parents the importance of a nurturing family and home environment to keep children out of gangs.

(4) Establishing communication between parents and children, especially programs that have been evaluated and proven effective.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—The Attorney General may make a grant under this section only if the entity receiving the grant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward the cost of activities to be performed with that grant in an amount that is not less than 25 percent of such costs.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under paragraph (1) shall be in cash or in kind, fairly evaluated, including facilities, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to a significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) EVALUATION OF PROJECTS.—

(1) IN GENERAL.—The Attorney General shall establish criteria for the evaluation of projects involving innovative approaches under this section.

(2) GRANTEES.—A grant may be made under subsection (a) only if the entity involved—

(A) agrees to conduct evaluations of the approach in accordance with the criteria established under paragraph (1);

(B) agrees to submit to the Attorney General, in the event of need of protection or providing short term protection to witnesses in trials involving homicide or serious violent felony.

(2) ALLOCATION.—Each eligible prosecu-

(1) use the grant to identify witnesses in need of protection or provide witness protection (including tattoo removal services); or

(ii) pursuant to a cooperative agreement with the Short-Term State Witness Protection Section of the United States Marshals Service, credit the grant to the Short-Term State Witness Protection Section to cover the costs to the section of providing witness protection on behalf of the eligible prosecutor’s office.

(3) APPLICATION.—

(A) IN GENERAL.—Each eligible prosecutor’s office desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(B) CONTENTS.—The application submitted under paragraph (A) shall—

(i) describe the activities for which assistance under this subsection is sought; and

(ii) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $90,000,000 for each of fiscal years 2009 through 2011.

SEC. 309. WITNESS PROTECTION SERVICES.

Section 3526 of title 18, United States Code (Cooperation of other Federal agencies and State governments; reimbursement of expenses) is amended by adding at the end the following:

"(c) In any case in which a State government requests the Attorney General to provide temporary protection under section 3521(e) of this title, the costs of providing temporary protection are not reimbursable if the investigation or prosecution in any way relates to crimes of violent crime or a criminal street gang, as defined under the laws of the relevant State seeking assistance under this title."
(1) FAMILY ABDUCTION.—The term “family abduction” means the taking, keeping, or concealing of a child or children by a parent, other family member, or person acting on behalf of a member of the family, that prevents another individual from exercising lawful custody or visitation rights.

(2) FLAGGING.—The term “flagging” means the procedural law enforcement authority of the name and address of any person requesting the school records of an abducted child.

(3) STATE.—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any territory or possession of the United States, and any Indian tribe.

SEC. 312. STUDY ON ADOLESCENT DEVELOPMENT AND SENTENCES IN THE FEDERAL JUDICIAL SYSTEM

(a) IN GENERAL.—The United States Sentencing Commission shall conduct a study to examine the appropriateness of sentences for minor offenders in the Federal system.

(b) CONTENTS.—The study conducted under subsection (a) shall:

(1) incorporate the most recent research and expertise in the field of adolescent brain development and culpability;

(2) evaluate the toll of juvenile crime, particularly violent juvenile crime, on communities;

(3) consider the appropriateness of life sentences without possibility for parole for minor offenders in the Federal system;

(4) evaluate issues of recidivism by juveniles who are released from prison or detention after serving determinate sentences.

(c) FUNDING.—There is authorized to be appropriated to carry out this section $500,000 for fiscal year 2009 and such sums as may be necessary for each of fiscal years 2010 and 2011.

SEC. 313. NATIONAL YOUTH ANTI-HEROIN MEDIA CAMPAIGN

(a) IN GENERAL.—The National Institute of Justice shall establish a grant program to support public awareness and education regarding the dangers of heroin use, including cheese heroin.

(b) CONTENTS.—The grant program shall:

(1) support the development of public awareness and educational campaigns on issues relating to the dangers of heroin use, including cheese heroin;

(2) provide for the coordination of advertising and activities otherwise conducted under this section with activities conducted under other grants programs administered by the Federal Government.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,500,000, to remain available until expended, for fiscal years 2009 through 2012.

TITLE IV—CRIME PREVENTION AND INTERVENTION STRATEGIES

SEC. 401. SHORT TITLE

This title may be cited as the “Prevention Strategies for Eliminating Criminal Activity Using Tailored Interventions in Our Neighborhoods Act of 2009” or the “PRECAUTION Act”.

SEC. 402. PURPOSE

The purpose of this title is to—

(1) establish a commitment on the part of the Federal Government to provide leadership on successful crime prevention and intervention strategies; and

(2) establish a pre-conditions requirement that the Federal Government implement or interpret rigorous, outcome-based trials of promising evidence-based crime prevention and intervention strategies.

SEC. 403. PREVENTION OF HEROIN ABUSE

(a) IN GENERAL.—The National Institute of Justice shall establish a grant program to support community-based initiatives to prevent and reduce the use of heroin and other illegal drugs.

(b) CONTENTS.—The grant program shall:

(1) support the development of community-based initiatives to prevent and reduce the use of heroin and other illegal drugs;

(2) provide for the coordination of advertising and activities otherwise conducted under this section with activities conducted under other grants programs administered by the Federal Government.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000, to remain available until expended, for fiscal years 2009 through 2012.

TITLE V—PETITION FOR FURTHER CRIMINAL JUSTICE REFORM

SEC. 501. PETITION FOR FURTHER CRIMINAL JUSTICE REFORM

(a) IN GENERAL.—The Senate shall consider the petition for further criminal justice reform as a whole as part of this Act.

(b) CONTENTS.—The petition for further criminal justice reform shall:

(1) establish a commitment on the part of the Federal Government to provide leadership on successful crime prevention and intervention strategies; and

(2) establish a pre-conditions requirement that the Federal Government implement or interpret rigorous, outcome-based trials of promising evidence-based crime prevention and intervention strategies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000, to remain available until expended, for fiscal years 2009 through 2012.
(4) Term.—Each member shall be appointed for the life of the Commission.

(5) Time for initial appointments.—The appointment of the members shall be made not later than 60 days after the date of enactment of this Act.

(6) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(7) Ex officio members.—The Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, the Director of the Bureau of Justice Assistance, and the Director of Community Oriented Policing Services (or a representative of each such director) shall each serve in an ex officio capacity on the Commission to provide advice and information to the Commission.

(c) Operation.—

(1) Chairperson.—At the initial meeting of the Commission, the members of the Commission shall elect a chairperson from among their members, by a vote of 2/3 of the members of the Commission. The chairperson shall retain this position for the life of the Commission. If the chairperson leaves the Commission prior to its original appointment, the Commission shall select a successor, by a vote of 2/3 of the members of the Commission.

(2) Meetings.—The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the date on which all the members of the Commission have been appointed.

(3) Quorum.—A majority of the members of the Commission shall constitute a quorum to conduct business, and the Commission may establish a quorum for conducting hearings scheduled by the Commission.

(4) Rules.—The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this title or other applicable law.

(d) Public Hearings.—

(1) Notice and location.—The Commission shall hold public hearings. The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as are necessary for the conduct of its business. The Commission shall provide notice to all persons likely to be affected by its procedures, organized around the 3 subcategories.

(2) Witness expenses.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1921 of title 28, United States Code. The per diem and mileage allowances shall be paid from funds appropriated to the Commission.

(e) Comprehensive Study of Evidence-Based Crime Prevention and Intervention Strategies.—

(1) In general.—The Commission shall carry out a comprehensive study of the effectiveness of crime and delinquency prevention and intervention strategies, organized around the 3 subcategories.

(2) Matters included.—The study under paragraph (1) shall include:

(A) a summary of the keys to successful implementation for each strategy; and

(B) a list of references and other information on where further information on each strategy can be found;

(iii) recommended protocols for implementing crime and delinquency prevention and intervention strategies generally;

(iv) recommended protocols for evaluating the effectiveness of crime and delinquency prevention and intervention strategies and

(v) a summary of the materials relied upon by the Commission in preparation of the report.

(2) Consultation with outside authorities.—In developing the recommended protocols for implementation and rigorous evaluation of top-tier crime and delinquency prevention and intervention strategies and

(i) the findings and conclusions of the Commission;

(ii) the effectiveness of crime and delinquency prevention and intervention strategy;

III) a list of references and other information on where further information on each strategy can be found; and

IV) a list of references and other information on where further information on each strategy can be found;

A the types of crime or delinquency prevention and intervention strategy;

B the types of strategies for the application of prevention and intervention strategy;

and

(i) the issues and effectiveness of the strategy; and

(A) the type of crime or delinquency prevention or intervention strategy;

(B) the type of crime or delinquency prevention or intervention strategy;

(C) the types of partnerships with public or private entities through the course of the grant period;

and

D. the type and design of the effectiveness study conducted under section 405(b)(3) for that strategy;

(E) the results of the effectiveness study conducted under section 405(b)(3) for that strategy;

and

(F) lessons learned regarding implementation of that strategy or of the effectiveness study conducted under section 405(b)(3), including recommendations regarding which types of environments might best be suited for successful replication and

(G) recommendations regarding the need for additional research and development of the strategy.

(h) Personnel matters.—
shall be for a period of not more than

(c) EVIDENCE OF EFFECTIVENESS.— (1) A rigorous study on the effectiveness of that strategy shall be made for a period of not more than 3 years. 

(d) AMOUNT.—The amount of each grant under this section shall be $150,000 for each of fiscal years 2009 through 2013 to carry out this subsection. 

(e) APPLICATIONS.— (1) A public or private entity desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director of the National Institute of Justice may require. 

(f) COOPERATION WITH THE COMMISSION.—Grant recipients shall cooperate with the Commission in providing it with full information on the progress of the strategy being carried out with a grant under this section, including—

(i) hosting meetings by the members of the Commission to the site where the activities under the strategy are being carried out;

(ii) providing pertinent information on the logistics of the strategy for which the grant under this section was received, including details on partnerships, selection of participants, and any efforts to publicize the strategy.
provided to Bear Stearns in March, $200 billion available to Fannie Mae and Freddie Mac, $150 billion to AIG, $700 billion for TARP, plus the direct lending programs at the Federal Reserve— we are talking about well over 1 trillion dollars.

I certainly don’t think it is unreasonable for the public to know how their money is being spent, and I am not the only Member of Congress or elected official who feels this way.

In the face of questions posed by the Congressional Oversight Panel for Economic Stabilization, the Treasury Department noted that it was committed to rigorous oversight of executive compensation packages. This may be the case, but executive compensation is only the beginning.

While I am pleased that CEOs at some financial institutions that accepted Federal assistance did not accept their annual bonuses last year, we still do not have an official accounting of how bonuses were used.

Certainly Americans deserve assurances that struggling firms will not use public funds to pay exorbitant salaries or bonuses.

The same can be said for these funds going toward dividend payments, or mergers and acquisitions.

The Government Accountability Office, GAO, has reported that the Treasury Department had no strong accountability or oversight function to ensure that banks were using rescue assistance with the best interests of the public in mind.

It noted that Treasury had little ability to ensure that participating firms complied with laws already limiting executive compensation and conflicts of interest.

An investigation last month by the Associated Press found that many banks that have accepted Federal assistance are not able to say with certainty how they have used the money. Some of these banks would not even discuss the issue.

We cannot be sure that the rescue funds are being used to stabilize the economy if banks are not keeping proper accounting of their use, and those that do will not disclose it.

Shining light on how firms use public dollars not only makes good sense, but it will also act as a deterrent to irresponsible behavior.

On January 15, 2008, the Wall Street Journal reported that AIG, which received billions of dollars in Federal rescue funds, was continuing to lobby State regulators to delay implementation of strengthened licensing standards for mortgage brokers and lenders.

AIG was lobbying against sensible standards created by the SAFE Mortgage Licensing Act. This bill, introduced by Senator Martinez and myself, established basic minimum regulations for the mortgage industry to ensure consumers were adequately protected.

Before this bill, in some States virtually anyone—even those with criminal records—could go out and get a mortgage broker’s license.

Left unchecked, and with no regulations to stop them, unscrupulous mortgage brokers and lenders flooded the markets with subprime loans that they knew would never be repaid.

Of course, this has served as one of the catalysts for our current economic predicament.

And now AIG, propped up by billions in Government money after having succeeded to bad investments, was lobbying against the strong enforcement of State laws that might have helped prevent this catastrophe in the first place.

Senator Martinez and I wrote a letter to AIG and, to the company’s credit, CEO Edward Liddy immediately suspended the company’s lobbying operations.

I find it completely unacceptable that taxpayer dollars intended to stabilize the economy could find their way into the pockets of lobbying firms. The legislation which I am re-introducing today will make sure that does not happen.

I do not mean to pick on AIG, but they have also been the poster child for wasteful spending by financially troubled firms.

In September 2008, just days after receiving an $85 billion Federal lifeline, the management of AIG treated itself to a $444,000 spa weekend at the St. Regis resort in Monarch Beach, California. This included $150,000 for fine dining and $23,000 in spa charges.

AIG executives spent the last 2 days of September 2008 on a golf outing at Mandalay Bay in Las Vegas at a cost of up to $500,000. They were planning to follow this with a few days at the Ritz Carlton in Half Moon Bay, but cancelled after it hit the news and drew fire from congressional leaders.

As news of these wasteful expenditures reached the headlines, AIG received another $37.8 billion in emergency loans from the Federal Government.

Shortly thereafter, the Associated Press reported that—even as AIG was asking Congress for these loans—AIG executives were spending $86,000 on a pheasant hunting expedition in England. During the trip, they stayed at a 17th century manor.

One AIG executive named Sebastian Prell was quoted as saying that: ‘‘The recession will go on until about 2011, but the shooting was great today and we are relaxing fine.’’

Once these lapses in judgment came to light, AIG chief executive Edward Liddy informed Congress that he was putting this end to all nonessential expenditures. Yet weeks later, an undercover news crew caught AIG executives at the Hilton Squaw Peak Resort in Phoenix, hosting a seminar for financial planners complete with cocktails and tombstones.

One would think that a brush with collapse and total failure might have a sobering effect on some of these firms. But this penchant for wasteful junkets in the face of complete failure was not unique to AIG.

Following enactment of TARP, news reports have uncovered multiple instances in which rescued firms have been caught making unnecessary and outrageous expenditures, leading many taxpayers to question why these firms are receiving Federal assistance in the first place.

In November, Treasury Secretary Paulson announced that the $700 billion approved by Congress to stabilize financial markets would not be used to purchase illiquid assets but rather to make direct capital injections into financial institutions.

Given this new mission, the need for additional transparency and disclosure is striking.

We have learned that we cannot necessarily count on these firms and their executives to act sensibly and do what is right.

The public needs to know that their tax dollars are being put to good use. A simple ‘‘trust me’’ from the bank executives is not enough.

Americans are struggling, and the pain in my State of California, where unemployment is 8.4 percent, and foreclosure filings exceeded 750,000 last year, is especially acute.

This bill puts in place commonsense solutions to fix some of the deficiencies in the economic stabilization bill.

This legislation is significant and sorely needed.

We must act soon to help restore confidence in this effort and shed light on how public funds are used. We promised the American people transparency and oversight, and this legislation will make good on that promise.

I hope my colleagues will join me to ensure that taxpayer dollars are spent efficiently and responsibly.

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

A. A bill to amend the Internal Revenue Code of 1986 to repeal alternative minimum tax limitations on private activity bond interest, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today Senator SNOWE and I are introduce legislation to exempt private activity bond interest from the alternative minimum tax, AMT. My colleague from Massachusetts, Representative RICHARD Neal has introduced similar legislation. Under current law, interest paid on private activity bonds is subject to the alternative minimum tax. This results in the bonds not being very marketable in these difficult economic times.

Making private activity bonds no longer subject to the AMT would help with the issuance of bonds. This legislation would assist in needed relief to State and local governments across the Nation. It would provide more buyers to the market, resulting in interest savings for issuers, and ultimately taxpayers.
Subjecting private activity bond interest to the AMT could cost an issuer 25 to 30 more basis points when issuing an AMT bond compared to a non-AMT bond. However, the recent freezing of the municipal credit market has led the differences to rise as much as 100 basis points. The results for financial costs for various infrastructure projects including airports, docks and other transportation-related facilities; water, sewer and other utility facilities; and solid and hazardous waste disposal facilities.

Last Congress, I worked on a provision to exempt the interest from private activity housing bonds from the AMT and this provision was included in the Housing and Economic Recovery Act of 2008. The legislation Senator S’wowe and I are introducing builds on this provision by exempting interest from all private activity bonds from the AMT.

I believe this legislation will help spur the economy and create jobs. This legislation will provide better funding options for essential infrastructure projects and create jobs across the country. I look forward to working with my colleagues on this important legislation.

By Mrs. FEINSTEIN:

S. 139. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personally identifiable information, to disclose any breach of such information; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Data Breach Notification Act.

This is a commonsense bill that is aimed at protecting personal information and preventing identity theft. The bill would require businesses and government agencies to notify individuals whose sensitive personal information has been exposed in a data breach. As many of you know, I have been urging the Senate to adopt this legislation since 2003, when California first imposed a State notification requirement.

That legislation has helped consumers in my State. Federal data breach law would provide uniformity and protect consumers throughout the country.

With every year that passes, the evidence in support of this legislation has only continued to mount. The cost of identity theft is enormous—estimated at more than $50 billion per year. Some of the costs fall on businesses and banks, which suffer losses from fraud and identity theft.

Since the beginning of 2005, over 240 million data records containing individual personally identifiable information have been exposed in data breaches. It seems that not a week goes by without news of another security breach that exposes names, addresses, birth dates, social security numbers, or other personal data.

These breaches have spawned a vast online market in stolen identities. Today, each person whose identity is sold on the Internet faces a high risk of becoming a victim of identity theft. Each of them faces the expensive and time-consuming nightmare of trying to restore their finances and credit ratings.

According to a report by the Identity Theft Resource Center, the news media reported more than 620 breaches involving personal information during 2008. That works out to about one data security breach every 14 hours—and those are just the ones that are big enough to be covered in the media.

Recent reports of security breaches involving sensitive personal data point out the extent of the problem. In December 2008, during a website development project at the Florida Agency for Enterprise Innovation, the Social Security numbers of more than a quarter of a million people were accidentally posted online.

In August of last year, an employee working weekends at Countrywide copied customer information from an office computer and then sold the personal information of an estimated 2,000,000 mortgage applicants.

In May of 2007, a breach at the Transportation Security Administration resulted in the names, Social Security numbers, birth dates, payroll information, and bank account information of more than 100,000 former employees vulnerable to theft or sale.

In January of that same year, hackers accessed information held by TJX stores, including more than 45 million credit card numbers and more than 455,000 merchandise records containing customers’ drivers license numbers.

In May of 2006, there was a breach at the Department of Veterans Affairs that involved the names, birth dates, and Social Security numbers of every veteran discharged from the military since 1975—more than 28 million veterans—every veteran discharged from the military since then.

Another disturbing example took place last year at the State Department when the passport files of Senator CLINTON, Senator MCCAIN, and Senator OBAMA—the three leading presidential candidates at the time—were accessed by contractors working for the Department. Though the Department knew about the breaches right away, several months passed before our colleagues were told about the problem.

Unfortunately, this delay is not surprising—because there is currently nothing to require a Federal agency to tell us when a security breach affects our personal data.

That needs to change. That’s what this bill does.

Specifically, this legislation requires the Federal Government and private businesses to notify individuals when there has been a security breach involving their sensitive personal data: ensures that the notice is provided without unreasonable delay; creates very limited exceptions to notification for national security and law enforcement purposes; and where law enforcement certifies that there is no significant risk of harm to the individual; establishes penalties against those who do not provide the required notice. The provisions of the bill would be enforced by the Federal and State attorneys general; and pre-empts State laws so that there is a single, nationwide notification requirement.

Data security breaches have real consequences. For one thing, they are bad for business because they lead to a loss of confidence—especially in online commerce. A 2005 survey for Consumer Reports showed that 25 percent of Internet users stopped shopping online because of fears about identity theft. Of those who still shopped online, 29 percent said that they had cut back on how often they buy products on the Internet.

Data breaches also pose serious harms for consumers. A November 2007 report from the Federal Trade Commission revealed that identity theft victims spent as much as $5,000 of their own money—and as many as 1,200 hours of their time—recovering from the harm to their finances caused by identity theft.

While not all data breaches lead to identity theft, the cost of stolen identities is so enormous that we should be doing everything we can to solve this problem.

The situation requires action. While Congress has been slow to act, the States have not. In the almost 6 years since the California law took effect, 43 States, the District of Columbia, Puerto Rico, and the Virgin Islands have passed similar laws.

A report issued by the Federal Trade Commission in December 2008 noted that these State data breach notification laws have had direct benefits; many businesses across the country have strengthened their safeguard practices in order to avoid data breaches.

By forcing companies to consider the potential cost and liability that may ensue if information is compromised in a data breach, these laws have the indirect benefit of motivating companies to reassess their need to collect personal identifiable information in the first place.

The same benefits would flow from Federal legislation. Additionally, the Data Breach Notification Act would improve the law by creating a single, uniform standard. The December 2008 FTC report made the same point.

A Federal bill will simplify the process of compliance and notification for
businesses, while ensuring that all consumers get the information they need as soon as possible when breaches happen.

We have already waited too long. The Judiciary Committee endorsed this bill unanimously during the last Congress. The epidemic of data breaches in our nation continues unabated. This is a common-sense bill that we should take action on now.

I urge the Senate to pass the Data Breach Notification Act to give Americans the information they need to protect themselves from identity theft.

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

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

SEC. 1. SHORT TITLE.
This Act may be cited as the “Data Breach Notification Act”.

SEC. 2. NOTICE TO INDIVIDUALS.
(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information, notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.—
(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in inter-state commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this Act shall prevent or abrogate an agreement between an agency or business entity required under subsection (a) and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—
(1) IN GENERAL.—All notifications required under subsection (a) shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, and restore the security of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this Act, including evidence demonstrating the reasons for any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT.
(1) IN GENERAL.—If a Federal law enforce-
(2) NOTICE.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall provide notice in writing no later than 45 days after the date of receipt of the request for additional information.

(3) TIMING.—If the United States Secret Service requests additional information under subsection (1)(B), the United States Secret Service shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information within which an exemption under paragraph (1) is merited.

(b) SAFER HARBOR.—
(1) IN GENERAL.—An agency or business en-
(2) NOTICE.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity may not execute a certification under paragraph (1) to—

(4) SECRET SERVICE REVIEW OF CERTIFICATIONS.—
(A) IN GENERAL.—The United States Secret Service may review a certification provided by a business entity under paragraph (2) to determine whether an exemption under paragraph (1) is merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE.—
(A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is necessary to determine whether the exemption is merited.

(b) REQUIREMENT TO PROVIDE NOTICE.—Any agency or business entity that receives a request for additional information under paragraph (4)(A) shall cooperate with any such request.

(c) TIMING.—If the United States Secret Service requests additional information under paragraph (1)(B), the United States Secret Service shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information within which an exemption under paragraph (1) is merited.

(b) SAFe HARBOR.—
(1) IN GENERAL.—An agency or business en-
(2) NOTICE.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity may not execute a certification under paragraph (1) to—

(4) SECRET SERVICE REVIEW OF CERTIFICATIONS.—
(A) IN GENERAL.—The United States Secret Service may review a certification provided by a business entity under paragraph (2) to determine whether an exemption under paragraph (1) is merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE.—
(A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is neces-

January 6, 2009
CONGRESSIONAL RECORD—SENATE
S117

Be it enacted by the Senate and House of Repre-
sentatives of the United States of America in Congress assembled:

SEC. 1. SHORT TITLE. this Act may be cited as the “Data Breach Notification Act”.

SEC. 2. NOTICE TO INDIVIDUALS. (a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information, notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.— (1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in inter-state commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this Act shall prevent or abrogate an agreement between an agency or business entity required under subsection (a) and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.— (1) IN GENERAL.—All notifications required under subsection (a) shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, and restore the security of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this Act, including evidence demonstrating the reasons for any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT. (1) IN GENERAL.—If a Federal law enforce-
(2) NOTICE.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall provide notice in writing no later than 45 days after the date of receipt of the request for additional information.

(3) TIMING.—If the United States Secret Service requests additional information under subsection (1)(B), the United States Secret Service shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information within which an exemption under paragraph (1) is merited.

(b) SAFER HARBOR.— (1) IN GENERAL.—An agency or business en-
(2) NOTICE.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity may not execute a certification under paragraph (1) to—

(4) SECRET SERVICE REVIEW OF CERTIFICATIONS.— (A) IN GENERAL.—The United States Secret Service may review a certification provided by a business entity under paragraph (2) to determine whether an exemption under paragraph (1) is merited. Such review shall be completed not later than 10 business days after the date of receipt of the certification, except as provided in paragraph (5)(C).

(B) NOTICE.—Upon completing a review under subparagraph (A), the United States Secret Service shall immediately notify the agency or business entity, in writing, of its determination of whether an exemption under paragraph (1) is merited.

(C) EXEMPTION.—The exemption under paragraph (1) shall not apply if the United States Secret Service determines under this paragraph that the exemption is not merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE.— (A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is neces

Such notice shall be given to the consumer on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1)). The notice required under this section shall include, to the extent possible—

(1) the number of individuals whose sensitive personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number for the consumer to contact the agency or business entity;

(3) the attorney general of each State affected by the security breach;

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 4, such notice shall include, to the extent possible—

(1) (a) at least the number of individuals whose sensitive personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number for the consumer to contact the agency or business entity;

(3) the attorney general of each State affected by the security breach.

(b) ADDITIONAL CONTENT.—Notwithstanding section 4, such notice shall include also information regarding victim protection assistance provided for by that State.

(b) ADDITIONAL CONTENT.—Notwithstanding section 4, such notice shall include also information regarding victim protection assistance provided for by that State.

SEC. 5. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this Act and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this Act and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(c) CIVIL ACTIONS BY THE BUSINESS ENTITY.—In a civil action brought under subsection (a), the business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(d) FRAUD ALERT.—The Federal Trade Commission, the Federal Reserve Board, the Consumer Financial Protection Bureau, the United States Postal Service, and other appropriate agencies may take such action as may be necessary to prevent an unauthorized person from using such information.

(e) RULES OF CONSTRUCTION.—For purposes of this Act, any civil action brought under subsection (a), nothing in this Act regarding notification shall be construed to prevent an attorney general from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) subpoena the attendance of witnesses or the production of documentary and other evidence.

(f) NOTICE.—The notice required under subsection (a) may be brought in—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(g) NO PRIVATE CAUSE OF ACTION.—Nothing in this Act establishes a private cause of action against a business entity for violation of any provision of this Act.

SEC. 10. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this Act shall supersede any other provision of Federal law or any provision of law of any State relating to notification by a business entity engaged in interstate commerce or an agency of a security breach, except as provided in section 5(b).

SEC. 6. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 5,000 individuals as provided in section 4(a), the agency or business entity shall notify the major credit reporting agencies that compile and maintain files on consumers on a nationwide basis.

(a) SECRET SERVICE.—Any business entity or agency shall notify the United States Secret Service by a preponderance of the evidence to the extent possible—

(1) that the consumer’s financial information has or may have been compromised;'' after "identity theft report".

(2) any civil action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(g) NO PRIVATE CAUSE OF ACTION.—Nothing in this Act establishes a private cause of action against a business entity for violation of any provision of this Act.

SEC. 10. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this Act shall supersede any other provision of Federal law or any provision of law of any State relating to notification by a business entity engaged in interstate commerce or an agency of a security breach, except as provided in section 5(b).
SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this Act.

SEC. 12. REPORTING ON RISK ASSESSMENT EXEMPTIONS.

(a) IN GENERAL.—The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on—

(I) the number and nature of the security breaches described in the notices filed by business entities invoking the risk assessment exemption under section 3(b) of this Act in response of the United States Secret Service to such notices; and

(II) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 3(a) of this Act.

(b) REPORT.—Any report submitted under subsection (a) shall not disclose the contents of any risk assessment provided to the United States Secret Service under this Act.

SEC. 13. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) AGENCY.—The term "agency" has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term "affiliate" means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term "business entity" means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) ENCRYPTED.—The term "encrypted"—

(A) means the protection of data in electronic form, in storage or in transit, using an encryption technology that has been adopted by an established standards setting body which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(B) includes appropriate management and safeguards of such cryptographic keys so as to protect the integrity of the encryption.

(5) IDENTIFIABLE, IDENTIFIABLE INFORMATION.—The term "personally identifiable information" means any information, or compilation of information, in electronic or digital form that includes—

(i) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(I) A non-truncated social security number, driver's license number, passport number, or alien registration number;

(II) Mother's maiden name, if identified as such;

(III) Month, day, and year of birth.

(ii) Unique biometric data such as a fingerprint, voice print, a retina or iris image, or any other biometric trait that may be used for personal identification;

(iii) Any 2 of the following:

(I) Home address or telephone number.

(ii) A financial account number or credit or debit card number in combination with any security code, access code or password that is required for an individual to obtain money, goods, services or any other thing of value; or

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password that is required for an individual to obtain money, goods, services or any other thing of value.

(C) a financial account number or credit or debit card number in combination with any security code, access code or password that is required for an individual to obtain money, goods, services or any other thing of value; or

(D) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(E) EXCLUSION.—The term "security breach" does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(7) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term "sensitive personally identifiable information" means any information or compilation of information, in electronic or digital form that includes—

(1) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number;

(ii) Mother's maiden name, if identified as such;

(iii) Month, day, and year of birth.

(iii) Any 2 of the following:

(I) Home address or telephone number.

(ii) A financial account number or credit or debit card number in combination with any security code, access code or password that is required for an individual to obtain money, goods, services or any other thing of value; or

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password that is required for an individual to obtain money, goods, services or any other thing of value.

SEC. 14. EFFECTIVE DATE.

This Act shall take effect on the expiration of the 90 days after the date of enactment of this Act.

By Mrs. FEINSTEIN.

S. 140. A bill to modify the require-ments applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that will help address the threats to public health and safety caused by abandoned hardrock mines.

There are as many as 500,000 abandoned mines strewn across the western states—47,000 alone are found on California’s public lands.

The scope of this problem is huge. In the past two years, eight accidents at abandoned mine sites were reported in California. Throughout the United States, at least 37 deaths occurred between 1999 and 2007 and the potential for more is ominous.

Basic remediation efforts, such as warning signs and fencing, can provide protection.

However, some abandoned mines pose a more serious threat. Environmental impact studies have shown that important watersheds are being polluted by high levels of minerals such as mercury, lead, arsenic and asbestos.

In California alone, seventeen watersheds have been affected.

Yet not enough is being done to clean up these dangerous Gold Rush-era mines.

The bill that I am introducing today is not intended to be a comprehensive hardrock mining bill, but it is an important piece of the reform needed.

The Abandoned Mine Reclamation Act of 2009 would conform the 1972 Mining Law by establishing fees to support abandoned mine clean up; establishing a royalty payment system; and creating an Abandoned Mine Clean up Fund.

Unlike the coal industry, the metal mining industry does not pay to clean up its legacy of abandoned mines, making lack of funding the primary obstacle to abandoned hardrock mine clean up.

This legislation will help fund the clean up of abandoned mines by placing an Abandoned Mine Reclamation fee on all hardrock minerals, using the underground coal industry fee program as a model. Specifically, it would create a 0.3 percent reclamation fee on the gross value of all hardrock mineral mining, including mining on Federal, State, tribal, local and private lands.

The condition of abandoned coal mines has greatly improved since the Surface Mining Control and Reclamation Act of 1977 established a fee to finance restoration of land abandoned or inexorably restored by coal mining companies.

This fund has been able to raise billions of dollars for coal mine reclamation. I believe that a similar program could be part of the solution to hardrock abandoned mine clean up.

This legislation establishes a royalty fee on Hardrock Mining Claims.

Companies that mine for gold and silver on Federal lands are not currently required to pay any royalties to the Federal Government—even though we are experiencing near record high gold prices.

These companies should be required to pay their fair share.

The Abandoned Mine Reclamation Act establishes an 8 percent royalty on new mining operations located on Federal lands, and a 4 percent royalty for existing operations.

The legislation I am introducing today also creates an Abandoned Mine Fund.

In these times of budget deficits, it’s clear that we will not be able to simply appropriate the funds necessary to clean up the hundreds of thousands of abandoned hard rock mines.

So, this legislation will create an abandoned mine clean up fund to ensure that we have a lasting source of funding for this critical clean up effort.

Specifically, the fund will direct the royalties, as well as other payments collected from mining operations, and dedicate them to the clean up of abandoned hardrock mines.

I recognize the important role that mining has played in California’s history. The discovery of gold at Sutter Mill near Placerville, California in 1848 was a defining moment for my State and the U.S.

It is fair to say that without mining and the Gold Rush, California and the entire country would be a far different place than it is today.

The history of mining in California, however, is tarnished by the legacy of tens of thousands of abandoned mines. In particular, abandoned mine sites on Federal lands.

A recent report from the Department of the Interior’s Inspector General underscores the scope and the urgency of...
the abandoned mine problem on public lands—in particular, those managed by the Bureau of Land Management and the National Park Service.

The report concluded that public health and safety have been compromised by improper management, funding shortfalls and systematic neglect.

The report found the potential for more deaths and injuries is ominous. A number of abandoned mine sites on public lands present an immediate danger due to open shafts, collapsing mine walls and other unsafe structures. Some have deadly gases that accumulate in underground passages. And others leach hazardous chemicals like arsenic, lead and mercury into groundwater.

The Bureau of Land Management’s abandoned mines program has been neglected and understaffed. In some cases, staff were told by their supervisors to ignore these problems; and those who did come forward to identify contaminated sites were criticized or outright threatened.

The scope of the problem is less severe at the National Parks Service. But perennial funding shortfalls impede the clean up of known abandoned mines.

At the heart of the problem is a century-old law signed by President Ulysses S. Grant to promote the settlement of publicly-owned lands in the western states.

The 1872 Mining Law created national standards for hardrock mining operations on Federal public lands; however, it has not been substantially updated for 137 years. Under this outdated framework, the hardrock mining industry does not pay royalties for minerals taken from Federal land and is not obligated to share in the cost of clean up for abandoned mines. Since the enactment of this law, hundreds of thousands of mines have been abandoned.

Congress needs to move swiftly to address this issue before more damage and accidents occur.

Though this legislation is a significant step forward for the funding of abandoned mines, I know that there is much more mining reform to be done. I look forward to working with my colleagues to modernize our Nation’s mining laws and accelerate the clean up of dangerous abandoned mines.

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

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

S. 140

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 “Abandoned Mine Reclamation Act of 2009”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions and references.
Sec. 3. Application rules.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

Sec. 101. Royalty.
Sec. 102. Hardrock mining claim maintenance fee.
Sec. 103. Reclamation fee.
Sec. 104. Effect of payments for use and occupancy of claims.

TITLE II—ABANDONED MINE CLEANUP FUND

Sec. 201. Establishment of Fund.
Sec. 203. Use and objectives of the Fund.
Sec. 204. Eligible lands and waters.
Sec. 205. Expenditures.
Sec. 206. Availability of amounts.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.
(2)(a) If a plan of operations is approved for mineral activities on any claim or site referred to in paragraph (1) prior to the date of enactment of this Act but such operations are not conducted prior to the date of enactment of this Act—

(i) during the 10-year period beginning on the date of enactment of this Act, mineral activity on such claim or site shall be subject to such plan of operations;

(ii) during such 10-year period, modifications of any such plan may be made in accordance with the terms of law applicable to the enactment of this Act if such modifications are deemed minor by the Secretary concerned; and

(iii) the permittee shall bring such mineral activities into compliance with this Act by the end of such 10-year period.

(B) Where an application for modification of a plan of operations referred to in subparagraph (A)(i) has been timely submitted and an approved plan expires prior to Secretarial action on the application, mineral activities and reclamation may continue in accordance with the terms of the expired plan until the Secretary makes an administrative decision on the application.

(c) FEDERAL LANDS SUBJECT TO EXISTING PERMIT.—(1) Any Federal land shall be subject to the requirements of section 101(a)(2) if the land is—

(A) subject to an operations permit; and

(B) producing valuable locatable minerals in commercial quantities prior to the date of enactment of this Act.

(2) Any Federal land added through a plan modification to an operations permit on Federal land that is submitted after the date of enactment of this Act shall be subject to the terms of section 101(a)(3).

(d) APPLICATION OF ACT TO BENEFICIATION AND PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL LAND.—The provisions of this Act shall apply in the same manner and to the same extent to mining claims, millsite activities, or claim areas as the provisions of any Federal law applicable to the mining claims; and

(e) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), production of all locatable minerals from any mining claim located under the general mining laws and maintained in compliance with this Act, or mineral concentrates or products derived from locatable minerals from any such mining claim, as the case may be, shall not constitute a royalty of 8 percent of the gross income from mining. The claim holder or any operator to whom the claim holder has assigned the obligation to make royalty payments by the claim holder may sell, purchase, or sell locatable minerals, concentrate, or products derived therefrom in any manner, subject to the point of royalty computation in accordance with the terms of this Act and other Federal laws. The Secretary may prescribe by rule, taking into account the variety of circumstances on Federal lands, such methods of determining the royalty base as the Secretary determines in consultation with the appropriate Federal agencies.

(2) ROYALTY FOR FEDERAL LANDS SUBJECT TO EXISTING PERMIT.—The royalty under paragraph (1) shall be 4 percent in the case of any Federal land that—

(A) is covered by an operations permit on the date of enactment of this Act; and

(B) produces valuable locatable minerals in commercial quantities on the date of enactment of this Act.

(3) FEDERAL LAND ADDED TO EXISTING OPERATIONS PERMIT.—Any Federal land added through a plan modification to an operations permit that is submitted after the date of enactment of this Act shall be subject to the royalty that applies to Federal land under paragraph (1).

(d) DEPOSIT.—Amounts received by the United States as royalties under this subsection shall be deposited into the Abandoned Mine Cleanup Fund established by section 201(a).

(b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND TRANSPORTERS.—(1) A person—

(A) who is required to make any royalty payment under this section shall make such payments under section 102 to the United States at such times and in such manner as the Secretary may prescribe by rule; and

(B) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment that such person may have made of the obligation to make any royalty or other payment under a mining claim.

(2) Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is responsible for such payments due for all time periods for which such person has a payment responsibility. Such responsibility for the periods referred to in the preceding sentence shall apply to the period and to all additional amounts billed by the Secretary and determined to be due by final agency or judicial action. Any person liable for royalty payments but who has no payment obligation shall remain jointly and severally liable for all royalty payments due for the claim for the period.

(3) A person conducting mineral activities shall—

(A) develop and comply with the site security plan required by paragraph (2) of this subsection; and

(B) produce and maintain technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim. Upon the request of any officer or employee duly designated by the Secretary to conduct an audit pursuant to this section, the appropriate reports, records, or information that may be required by this section shall be made available to the Secretary, or grant access to information may, at the discretion of the Secretary, result in involuntary forfeiture of the claim.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of locatable minerals, concentrates, or products derived therefrom to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payment requirements) under section 406 of the Federal Inland Revenue Code of 1986. In the case of such agreements, the Secretary may prescribe by rule, taking into account the variety of circumstances on Federal lands, such methods of determining the royalty base as the Secretary determines in consultation with the appropriate Federal agencies.

(2) Cooperatives or other groups formed for the purpose of performing any audits necessary for the purposes of ensuring compliance with the requirements of this section, for purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

(e) INTEREST AND SUBSTANTIAL UNDERREPORTING OF ASSESSMENTS.—(1) In the case of any person who fails to file, or who files, periodic reports, records, or financial data required by this section, the Secretary may prescribe by rule, taking into account the variety of circumstances on Federal lands, such methods of determining the royalty base as the Secretary determines in consultation with the appropriate Federal agencies.

(2) The person may be assessed interest and, if it is determined that such person has underreported the production, the Secretary may impose a civil penalty under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of any such underreporting, the excess amount underreporting shall be treated as a civil penalty under section 6621(a)(2) of the Internal Revenue Code of 1986.

(f) PENALTIES.—(1) A person conducting mineral activities on any mining claim, or production resumes after more than 90 days of suspended mining, failure to notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed, or failure to comply with this section, shall be subject to penalties not in excess of double the amount of such deficiency.

(2) In the case of any underreporting of royalty owed on production from a claim for which royalty payments are not made, failure to file, or who files, periodic reports, records, or financial data required by this section, the Secretary shall assess a civil penalty not in excess of 25 percent of the amount of such underreporting.

(3) For the purposes of this subsection, the term "underreporting" means the difference...
between the royalty on the value of the produc-
tion that should have been reported and the royalty on the value of the production which was reported, if the value that should have been reported is greater than the value that was reported.

(4) The Secretary may waive or reduce the assessment provided in paragraph (2) of this subsection if liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(5) The Secretary shall waive any portion of an assessment attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that:

(A) such person had written authorization from the Secretary to report royalty on the value of the production on basis on which it was reported;

(B) such person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported;

(C) such person previously had notified the Secretary, in such manner as the Secretary may by rule or regulations prescribe, of relevant information or facts affecting the royalty treatment of specific production which led to the underreporting; or

(D) such person meets any other exception which the Secretary may, by rule, establish.

(6) All penalties collected under this subsection shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(g) DELEGATION.—For the purposes of this section, the term “Secretary” means the Secretary of the Treasury or acting through the Director of the Minerals Management Service.

(h) EXPANDED ROYALTY OBLIGATIONS.—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all locatable minerals, concentrates, or products derived therefrom lost or wasted from a mining claim located under the general mining laws and maintained in compliance with this Act when the loss or waste is due to the fault or order issued under this section.

(i) MINE TUNNELS.—

(1) FROM MINE TUNNELS DEFINED.—For the purposes of this section, for any locatable mineral, the term “mine income from mining” has the same meaning as the term “gross income” in section 612 of the Internal Revenue Code of 1986.

(2) EFFECTIVE DATE.—The royalty under this section shall take effect with respect to the production of locatable minerals after the enactment of this Act, but any royalty payments attributable to production during the first 12-month calendar period after the enactment of this Act shall be paid at the expiration of such 12-month period.

(3) KILLING TO COMPLY WITH ROYALTY REQUIREMENTS.—Any person who fails to comply with the requirements of this section or any regulation or order issued to implement this section shall be liable for a civil penalty under section 106 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719) to the same extent as if the claim located under the general mining laws and maintained in compliance with this Act were a lease under that Act.

SEC. 102. HARDROCK MINING CLAIM MAINTENANCE FEE.

(a) Fee.—

(i) Except as provided in section 251(c)(2) of the Energy Policy Act of 1992 (relating to oil shale claims), for each unpatented mining claim, mill or tunnel site on federally owned lands, whether located before, on, or after enactment of this Act, each claimant shall pay to the Secretary of the Interior a claim maintenance fee of $300 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning October 1, 2009, and ending September 30, 2010. Each claimant may extend the assessment year for an additional year by paying a claim maintenance fee of $300 per claim paid to the Secretary of the Interior to maintain the mining claim, mill or tunnel site for the assessment year beginning October 1, 2010, and ending September 30, 2011.

(ii) The Secretary shall provide claimants with a written notice of the applicable claim maintenance fee in the implement ing regulations.

(iii) The Secretary shall not require a claimant to submit a claim maintenance fee under this subsection if—

(A) the claimant satisfies subparagraph (B) of the Secretary’s claim maintenance fee requirements;

(B) the Secretary determines that no underreporting occurred; or

(C) the Secretary has received a written report of underreporting of claims from the claimant.

(b) Payment Deadline.—The reclamation fee shall be paid not later than 60 days after the end of each calendar year beginning with the first calendar year occurring after the date of enactment of this Act.

(c) Deposit of revenues.—Amounts received under subsection (b) shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(d) Effect.—Nothing in this section shall modify the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b) of that Act, which remain in effect.

SEC. 103. RECLAMATION FEE.

(a) Imposition of Fee.—In general.—Except as provided in paragraph (2), each operator of a hardrock minerals mining operation shall pay to the Secretary, for deposit in the Abandoned Mine Cleanup Fund established by section 201(a), a reclamation fee of 0.3 percent of the gross income of the hardrock minerals mining operation for each calendar year.

(b) Payable To.—(i) the Secretary; or

(ii) any other person liable for royalty payments under this Act.

(c) Amounts付 amounts received under subsection (b) shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(d) Effect.—Nothing in this section shall modify the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b) of that Act, which remain in effect.

SEC. 104. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY OF CLAIMS.

(b) Payment Deadline.—The reclamation fee shall be paid not later than 60 days after the end of each calendar year beginning with the first calendar year occurring after the date of enactment of this Act.
TITLE II—ABANDONED MINE CLEANUP FUND

SEC. 201. ESTABLISHMENT OF FUND.
(a) ESTABLISHMENT.—There is established on the Treasury of the United States a separate account to be known as the Abandoned Mine Cleanup Fund (hereinafter in this title referred to as the “Fund”).

(b) INVESTMENT.—The Secretary shall invest the moneys credited to the Fund in such manner as to produce a real and reasonable return on such moneys based upon current market yields on outstanding marketplace obligations of the United States of comparable maturities.

SEC. 202. CONTENTS OF FUND.
The following amounts shall be credited to the Fund:
(1) All donations by persons, corporations, associations, and foundations for the purposes of this title.
(2) All amounts deposited in the Fund under section 101 (relating to royalties and penalties for underreporting).
(3) All amounts received by the United States pursuant to section 102 as claim maintenance, location, and transfer fees minus the moneys allocated for administration of the mining laws by the Department of the Interior.
(4) All amounts received by the Secretary in accordance with section 103(a).
(5) All income on investments under section 201(b).

SEC. 203. USE AND OBJECTIVES OF THE FUND.
(a) IN GENERAL.—The Secretary is authorized, without further appropriation, to use moneys in the Fund for the reclamations and restoration of land and water resources adversely affected by past mineral activities on lands the legal and beneficial title to which resides in the United States, land within the exterior boundary of any national forest system unit, or other lands described in subsection (d), including any of the following:
(1) Protecting public health and safety.
(2) Preventing, abating, treating, and controlling water pollution created by abandoned locatable minerals mines in accordance with section 203 directly by the Director of the Office of Surface Mining Reclamation and Enforcement.
(3) Reclaiming and restoring abandoned mines on public lands and any abandoned or left in an inadequate reclamation status before the effective date of this Act.
(4) Reclaiming and restoring abandoned surface and underground mined areas.
(5) Reclaiming and restoring abandoned milling and processing areas.
(6) Revegetating land adversely affected by past mineral activities in river watershed areas.
(7) Controlling surface subsidence due to abandoned underground mines.
(b) FORMULA.—Not less than 50 percent of the funds credited to the Fund shall be used to carry out joint activities under the appropriate circumstances, that provide assurances that common environmental concerns will be addressed, including exchange of technical expertise and joint activities under the appropriate circumstances, that provide assurances that reclamation or restoration activities under this title shall not be conducted in a manner that increases the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and that avoid oversight by multiple agencies to the maximum extent practicable.

SEC. 204. ELIGIBLE LANDS AND WATERS.
(a) ELIGIBILITY.—Reclamation expenditures under this title may be made with respect to Federal, State, local, tribal, and private land or water resources that traverse or are contiguous to Federal, State, local, tribal, or private land where such lands or water resources have been adversely affected by past mineral activities, including any of the following:
(1) Lands and water resources which were used for, or affected by, mineral activities and abandoned in an inadequate reclamation status before the effective date of this Act.
(2) Lands for which the Secretary makes a determination that continuing reclamation responsibility of a claim holder, operator, or other person who abandoned the site prior to completion of required reclamation under Federal or other Federal laws.
(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The provisions of section 411(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 et seq.), and that avoid oversight by multiple agencies to the maximum extent practicable.

SEC. 205. EXPENDITURES.
Moneys available from the Fund may be expended for the purposes specified in section 203 directly by the Director of the Office of Surface Mining Reclamation and Enforcement. The Director may also make such expenditures for other purposes approved by the Director of the Bureau of Land Management, the Chief of the United States Forest Service, the Director of the National Park Service, the Director of the United States Fish and Wildlife Service, to any other agency of the United States, to an Indian tribe, or to any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program under this title.

SEC. 206. AVAILABILITY OF AMOUNTS.
Amounts credited to the Fund shall—
(1) be available, without further appropriation, for obligation and expenditure; and
(2) remain available until expended.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.
This Act shall take effect on the date of enactment of this Act, except as otherwise provided in this Act.

By Mrs. FEINSTEIN (for herself, Mr. GREGG, and Ms. SNOWE):
S. 141. A bill to amend title 18, United States Code, to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

I have been working since the 106th Congress to safeguard Social Security numbers. I believe that the widespread display and use of these numbers poses a significant, and entirely preventable threat to personal privacy.

In 1935, Congress authorized the Social Security Administration to issue Social Security numbers as part of the Social Security program. Since that time, Social Security numbers have become the best-known and easiest way to identify individuals in the United States.

Use of these numbers has expanded well beyond their original purpose. Social Security numbers are now used for everything from credit checks to rental agreements to employment verifications, among other purposes. They can be found in privately held databases and on public records—including marriage licenses, professional certifications, and countless other public documents—of which many are available on the Internet.

Once accessed, the numbers act like keys—allowing thieves to open credit card and bank accounts and even begin applications for government benefits.

According to the Federal Trade Commission, as many as 10 million Americans have their identities stolen by...
such thieves each year—at a combined cost of billions of dollars.

What's worse, victims often do not realize that a theft has occurred until much later, when they learn that their credit has been destroyed by unpaid debt or fraudulently opened accounts.

One retired Army captain’s military identification card and used his Social Security number, listed on the card, to go on a 6-month, $260,000 shopping spree. By the time the Army cap-tain had realized what had happened, the thief had opened more than 60 fraudulent accounts.

A single mother of two went to file her taxes and learned that a fraudulent return had already been filed in her name by someone else—a thief who wanted her refund check.

A former pro-football player received a phone call notifying him that a $1 million home mortgage loan had been approved in his name even though he had never applied for such a loan.

Identity theft is serious. Once an individual’s identity is stolen, people are often subjected to countless hours and costs attempting to regain their good name and credit. In 2004, victims spent an average of 390 hours recovering from the crime. The crime disrupts lives and can destroy finances.

It also hurts business. A 2006 online survey by the Business Software Alliance and Harris Interactive found that nearly 30 percent of adult consumers shop online less or not at all during the holiday season because of fears about identity theft.

When people’s identities are stolen, they often do not know how the thieves obtained their personal information. Social security numbers and other key identifying data are displayed and used in such a widespread manner that individuals could not successfully restrict access themselves.

Comprehensive limitations on the display, sale, and purchase of Social Security numbers are critically needed.

The U.S. Government Accountability Office conducted studies of this problem in 2002 and 2007. Both times—in studies entitled “Social Security numbers: Use is Widespread and Could Be Improved” and “Social Security numbers: Use Is Widespread and Could Be Better Protected”—the GAO concluded that current protections are insufficient and that serious vulnerabilities remain.

The Protecting the Privacy of Social Security Numbers Act would require government agencies and businesses to do more to protect Americans’ Social Security numbers. The bill would stop the sale or display of a person’s Social Security number without his or her express consent; prevent Federal, State and local governments from displaying Social Security numbers on public records posted on the Internet; prohibit the printing of Social Security numbers on checks, credit cards, and the employing of inmates for tasks that give them access to the Social Security numbers of other individuals; limit the circumstances in which businesses could ask a customer for his or her Social Security number; commission a study by the Attorney General regarding the current uses of Social Security numbers and the impact on privacy and data security; and institute criminal and civil penalties for misuse of Social Security numbers.

This legislation is simple. It is also critical to stopping the growing epidemic of identity theft that has been plaguing America and its citizens.

As the Identity Theft Task Force reported last year, “[i]dentity theft depends on access to data. Reducing the opportunities for thieves to get the data is critical to fighting the crime.”

Every agency must study this problem has agreed that the problem will continue to grow over time and that action is needed.

I urge my colleagues to support the Protecting the Privacy of Social Security Numbers Act. Mr. President, I ask that the Senate pass this bill.

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

Be it enacted by the Senate and House of Representa-tives 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 “Protecting the Privacy of Social Security Numbers Act”.

(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. Prohibition of the display, sale, or purchase of Social Security numbers.
Sec. 4. Application of prohibition of the display, sale, or purchase of Social Security numbers to public records.
Sec. 5. Rulemaking authority of the Attorney General.
Sec. 6. Treatment of Social Security numbers on government documents.
Sec. 7. Limits on personal disclosure of a Social Security number for consumer transactions.
Sec. 8. Extension of civil monetary penalties for misuse of a Social Security number.
Sec. 9. Criminal penalties for the misuse of a Social Security number.
Sec. 10. Civil actions and civil penalties.
Sec. 11. Federal injunctive authority.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of Social Security numbers has contributed to the use of a wide range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used Social Security numbers to confirm the identity of an individual, the general display and purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a Social Security number in order to pay taxes, to qualify for Social Security benefits, or to seek employment.

An unintended consequence of these requirements is that Social Security numbers have become one of the tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Congress to take steps to stem the abuse of Social Security numbers.

(4) The display, sale, or purchase of Social Security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(5) No one should seek to profit from the display, sale, or purchase of Social Security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act provides each individual that has been assigned a Social Security number, some protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) Prohibition.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028A the following:

“s 1028B. Prohibition of the display, sale, or purchase of Social Security numbers

“(a) DEFINITIONS.—In this section:

“(1) DISPLAY.—The term ‘display’ means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual’s Social Security number.

“(2) PERSON.—The term ‘person’ means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

“(3) PURCHASE.—The term ‘purchase’ means providing directly or indirectly, anything of value in exchange for a Social Security number.

“(4) SALE.—The term ‘sale’ means obtaining, directly or indirectly, anything of value in exchange for a Social Security number.

“(5) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

“(b) LIMITATION ON DISPLAY.—Except as provided in section 1028C, no person may display any individual’s Social Security number to the general public without the affirmatively expressed consent of the individual.

“(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual’s Social Security number without the affirmatively expressed consent of the individual.

“(d) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, sell, or purchase any individual’s Social Security number shall—

“(1) inform the individual of the general purpose for which the number will be used, the types of personal information that may be available, and the scope of transactions permitted by the consent; and
To obtain the affirmatively expressed consent (electronically or in writing) of the individual.

The report shall conduct a study and prepare a report on Social Security numbers.

The report shall include a detailed description of the uses already placed public records on the Internet or in electronic form after the effective date of this section. The report shall include a detailed description of the acts and results of the study and recommendations for such legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include:

A review of the uses of Social Security numbers in non-federal public records;

A review of the manner in which public records are stored, with separate reviews for both paper records and electronic records;

A review of the advantages or utility of public records that contain Social Security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

A review of the advantages and disadvantages of federal and state governments removing Social Security numbers from public records.
SEC 5. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.
(a) In General.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028B(e)(5) of title 18, United States Code (as added by section 3(a)(1)).
(b) Display, Sale, or Purchase Rulemaking With Respect to Interactions Between Businesses, Governments, or Business and Government.—
(1) In General.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Chairman of the Federal Trade Commission, and such other agencies and individuals as the Attorney General determines appropriate, shall conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and enforce the regulations required under paragraph (a). The Attorney General may consider appropriate—
(i) for any purpose relating to—
(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act; or
(B) a background check of the individual conducted by a landlord, lessor, employer, or other public or private entity as determined by the Attorney General;
(C) law enforcement; or
(D) a Federal, State, or local law requirement; and
(ii) whether the Social Security number is necessary to verify the identity of the consumer to effect, administer, or enforce the specific transaction requested or authorized by the consumer, or to prevent fraud.
(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following:
(A) The benefit to a particular business, to customers of the business, and to the general public of the display, sale, or purchase of an individual's Social Security number by the business; and
(B) The costs that businesses, customers of businesses, and the general public may incur as a result of prohibitions on the display, sale, or purchase of Social Security numbers.
(3) The risk that a particular business practice will promote the use of a Social Security number to commit fraud, deception, or crime.
(4) The presence of adequate safeguards, procedures, and technologies to prevent—
(i) misuse of Social Security numbers by employing them within a business; and
(ii) misappropriation of Social Security numbers by the general public, while permitting internal business uses of such numbers.
(5) Procedures to prevent identity thefts, stalkers, and other individuals with ill intent from posing as legitimate businesses to obtain Social Security numbers.
(6) The impact of such uses on privacy.
SEC 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS
(a) Prohibition of Use of Social Security Account Numbers on Checks Issued for Payment by Governmental Agencies.—
(1) In General.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:
"(x) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity to access the Social Security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual’s conviction of a criminal offense.
"(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.
SEC 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS
(a) In General.—Part A of title XI of the Social Security Act (42 U.S.C. 1311 et seq.) is amended by adding at the end the following:
"SEC. 1150A. LIMITATION ON DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.
"(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:
"(x) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity to access the Social Security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual’s conviction of a criminal offense.
"(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.
"(b) APPLICATION OF CRIMINAL PENALTIES.—A violation of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) shall be deemed to be a violation of section 1341 of title 18, United States Code, as added by subsection (a)(1).
"(c) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) shall be deemed to be a violation of section 503 of the Federal Trade Commission Act (15 U.S.C. 45). Special provisions relating to the limitation of civil penalties under section 503 of the Federal Trade Commission Act (15 U.S.C. 45) shall apply to any order, judgment, or decree entered with respect to violations of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)).
"(d) APPLICATION OF CIVIL PENALTIES.—A violation of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) shall be deemed to be a violation of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)).
"(e) LIMITATION ON CLASS ACTIONS.—No class action alleging a violation of this section shall be maintained under this section by an individual or any private party in Federal or State court.
"(f) HEARING.—A violation of this section shall be deemed to be a violation of section 1391 of title 28, United States Code.
"(g)Venue.—An action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.
"(h) SERVICE OF PROCESS.—In an action brought under paragraph (1), service may be served on or after the date that is 6 years after the effective date of this section.
"(i) JUDICIAL AUTHORITY.—The court may enjoin any practice that—
(A) violates this section; or
(B) is contrary to any practice that is—
"(1) enjoins that practice;
"(2) enforces compliance with such section; or
"(3) imposes a fine, prison term, or other fine, imprisonment, or other compensation on behalf of residents of the State; or
"(4) obtain such other relief as the court may deem to be appropriate.
"(B) NOTICE.—
"(i) In General.—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General—
"(I) written notice of the action; and
"(II) a copy of the complaint for the action.
"(i) EXEMPTION.—
"(I) In General.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection if, after the date of enactment of this Act, the Attorney General determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.
"(II) NOTIFICATION.—With respect to an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.
"(2) INTERVENTION.—
"(A) In General.—On receiving notice under paragraph (1)(B), the Attorney General shall have the right to intervene in the action that is the subject of the notice.
"(B) Effect of Intervention.—If the Attorney General intervenes in the action under paragraph (1), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.
"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent any attorney general from exercising the powers conferred on such attorney general by the laws of that State to—
"(A) conduct investigations;
"(B) administer oaths or affirmations; or
"(C) compel the attendance of witnesses or the production of documentary and other evidence.
"(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute an action under paragraph (1) against any defendant named in the complaint that is in that action for violation of that practice.
"(5) VENUE, SERVICE OF PROCESS.—
"(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.
"(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), personal service may be served on or after the date that is 6 years after the effective date of this section.
"(i) is an inhabitant; or
(ii) may be found.
"(6) SUNSET.—This section shall not apply on or after the date that is 6 years after the effective date of this section.
"(B) EVALUATION AND REPORT.—After the date that is 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness of the provisions of this section and the portions of the Social Security Act (as added by subsection (a)) and shall make recommendations to
Congress as to any legislative action determined to be necessary or advisable with respect to such section, including a recommendation regarding whether to reauthorize such section for a period of 1 year after the date of enactment of this Act.

(c) Effective Date.—The amendment made by subsection (a) shall apply to requests to provide a Social Security number occurring after the date that is 1 year after the date of enactment of this Act.


(a) Treatment of Withholding of Material Facts.—

(1) CIVIL PENALTIES.—The first sentence of section 1229a(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)) is amended—

(A) by striking ‘‘who’’ and inserting ‘‘who—’’;

(B) by striking ‘‘makes’’ and all that follows through ‘‘subject to’’ and inserting the following:

‘‘(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

‘‘(B) makes such a statement or representation knowing that such statement or representation with knowledge disregarding the truth for the purpose of fraudulently obtaining an item of value; or

‘‘(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading, or that the withholding of such disclosure is misleading, shall be subject to’’;

and

(C) by inserting ‘‘or such a withholding of disclosure of such fact’’ after ‘‘each such statement or representation’’.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1229a(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)) is amended—

(A) by striking ‘‘who—’’; and

(B) by striking ‘‘makes’’ and all that follows through ‘‘subject to’’ and inserting the following:

‘‘(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

‘‘(B) makes such a statement or representation knowing that such statement or representation with knowledge disregarding the truth for the purpose of fraudulently obtaining an item of value; or

‘‘(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to’’.

(b) Assignment of Social Security account number—

(1) CIVIL PENALTIES.—Section 1229a(a)(2) of the Social Security Act (42 U.S.C. 1320a–8(a)) is amended by striking ‘‘or the withholding or the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to’’.

(b) Application of Civil Money Penalties to Elements of Criminal Violations.—Section 1129(e)(1) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesigning the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

‘‘(3) Any person (including an organization, agency, or other person) who—’’;

and

(c) Clarification of Treatment of Recovered Amounts.—Section 1129(a)(2) of the Social Security Act (42 U.S.C. 1320a–8(a)) is amended—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ‘‘charging fraud or false statements’’.

(c) Effective Date.—The amendment made by subsection (a) shall apply to violations of sections 1129 and 1129a of the Social Security Act (42 U.S.C. 1320a–8 and 1320a–8a), as amended by this section, committed after the effective date described in section 10(e).

(d) Violations by Government Agents in Possession of Social Security Numbers.—Section 1129(a)(3)(B) of the Social Security Act (42 U.S.C. 1320a–8a(3)(B)), as added by subsection (b), shall apply with respect to violations of such section occurring on or after the effective date described in section 1(c).

(b) Clarification of Treatment of Recovered Amounts.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended—

(1) in paragraph (8), by inserting ‘‘or’’ after the semicolon; and

(2) by inserting after paragraph (8) the following:

‘‘(9) except as provided in subsections (e) and (f) of section 1023B of title 18, United States Code, knowingly and willfully displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

‘‘(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

‘‘(E) counterfeits a Social Security card, or possesses a counterfeit Social Security card with intent to display, sell, or purchase it;

‘‘(F) discloses the disclosure of, or knowingly displays, sells, or purchases the Social Security account number of any person in violation of the laws of the United States;

‘‘(G) with intent to deceive the Commissioner of Social Security as to such person’s true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required to be furnished by the establishment and maintenance of the records provided for in section 205(c)(2);’’;

and

(c) Repeal.—Section 201 of the Social Security Protection Act of 2004 is repealed.


(a) Prohibition of Wrongful Use as Personal Identification Number.—A person may not obtain any individual’s Social Security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) Criminal Sanctions.—Section 1028(a) of the Social Security Act (42 U.S.C. 1320a–2(a)) is amended—

(1) in paragraph (8), by inserting ‘‘or’’ after the semicolon; and

(2) by inserting after paragraph (8) the following:

‘‘(9) except as provided in subsections (e) and (f) of section 1023B of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028B(a) of title 18, United States Code) any individual’s Social Security account number without having met the procedures for such a violation set forth in section 1023B(d) of title 18, United States Code; or

‘‘(10) obtains any individual’s Social Security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose.”’

SEC. 10. Civil Actions and Civil Penalties.

(a) Civil Action in State Courts.—

(1) In General.—Any individual aggrieved by an act of any person in violation of this Act or any amendments made by this Act may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of the regulations prescribed under this Act. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).
Mr. KERRY. Mr. President, today I am introducing the Kids Come First Act. Legislation by this Act, the Federal Government shall have injunctive authority with respect to any violation by a public entity of any provision of this Act or of any amendments made by this Act.

By Mr. KERRY:

S. 142. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Kids Come First Act, legislation by this Act, the Federal Government will have injunctive authority with respect to any violation by a public entity of any provision of this Act or of any amendments made by this Act.

The Kids Come First Act calls for a Federal-State partnership to mandate health coverage to every child in America. The proposal makes states an offer they can't refuse. The Federal Government will pay for the most expensive part, enrolling all low-income children unilaterally. In return, the States will pay to expand coverage to higher income children.

The Kids Come First Act expands health care coverage for children up to the age of 21. Through expanding the programs that work, such as Medicaid and SCHIP, we can cover every uninsured child.

Insuring children improves their health and helps families cover the spiraling costs of medical care. Covering all kids will provide health care to more than 11 million uninsured children at a cost less than 2 percent of our gross domestic product. Covering uninsured children and reducing their medical expenditures will save the health care industry $5 billion a year.

Health care for our children is a top priority that we must address. I believe it can be done in a fiscally responsible manner. We must invest our resources for children.

Since I first introduced the Kids Come First Act in the 108th Congress, more than 500,000 people have shown their support for the bill by becoming Citizen Cosponsors and another 20,000 Americans called into our “Give Voices to Our Values” hotline to share their personal stories.

It is clear that providing health care coverage for our uninsured children is a priority for our nation's workers, businesses, and health care community. They know, as I do, that further delays only results in greater health care problems for America's children. Their future, and ours, depends on us doing better. I urge my colleagues to support and help enact the Kids Come First Act during this Congress.

By Mr. KERRY:

S. 143. A bill to amend the Internal Revenue Code of 1986 to provide for a college opportunity tax credit; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the College Opportunity Tax Credit Act of 2009. This legislation creates a new tax credit that...
will put the cost of higher education in reach for American families.

According to a recent College Board report tuition is rising at both public and private institutions. On average, the tuition at a private college this year is $25,143, up 3.8 percent from last year, and the tuition at a public college $6,585, up 6.4 percent from last year.

Unfortunately, neither student aid funds nor family incomes are keeping pace with increasing tuition and fees. In my travels around Massachusetts, I frequently hear from parents concerned they will not be able to pay for their children’s college. These parents know that earning a college education will result in greater earnings for their children and they desperately want to ensure their kids have the greatest opportunities possible.

In 1997, the Congress implemented two new tax credits to make college affordable—the HOPE and the Lifetime Learning credits. These tax credits have put college in reach for families, but I believe we can do more.

The HOPE and Lifetime Learning credits are not refundable, and therefore a family must have an income over $30,000 in order to receive the maximum credit. Almost half of families with college students fail to receive the full credit because their income is too low. In order to receive the full HOPE Learning credit, a student has to spend $10,000 a year on tuition and fees. This is more than $3,000 the average annual public 4-year college tuition more than three times the average annual tuition of a 2-year community college. About 56 percent of college students attend schools with tuition and fees under $9,000.

In 2004, I proposed a refundable tax credit to help pay for the cost of 4 years of college. Currently the HOPE credit applies only to the first 2 years of college. The College Opportunity and Lifetime Learning Tax Credit Act of 2009 helps students and parents afford all four years of college. It also builds on the proposal I made in 2004 by incorporating some of the suggestions made by experts at a Finance Committee hearing held during the 109th Congress. My legislation creates a new credit, the College Opportunity Tax Credit, or COTC, that replaces the existing HOPE credit and Lifetime Learning credit and ultimately makes these benefits more generous.

The COTC has two components. The first provides a refundable tax credit for a student enrolled in a degree program at least on a half-time basis. It would provide a 100 percent tax credit for the first $2,000 of eligible expenses and a 50 percent tax credit for the next $4,000 of expenses. The maximum credit would be $4,000 each year per student. The second provides a nonrefundable tax credit for part-time students, graduate students, and other students that do not qualify for the refundable tax credit. It provides a 40 percent credit for the first $1,000 of eligible expenses and a 20 percent credit for the next $3,000 of expenses.

Both of these credits can be used for expenses associated with tuition and fees. The same income limits that apply to the HOPE credit and the Lifetime Learning credit also apply to the COTC. Thus, students who do not qualify for the COTC can still benefit from the HOPE and the Lifetime Learning credits.

The second provides a nonrefundable tax credit for the next $3,000 of expenses. This legislation is only for taxable years beginning in 2009 and 2010 in order to make colleges affordable during these difficult financial times. It will provide the Congress additional time to work on a permanent solution to help with the rising cost of a college education.

The College Opportunity Tax Credit Act of 2009 simplifies the existing credits that make higher education more affordable and will enable more students to be eligible for tax relief. I understand that many of my colleagues are interested in making college more affordable. I look forward to working with my colleagues to make a refundable tax credit for college education a reality this Congress.

By Mr. KERRY (for himself and Mr. ENSIGN):
H. R. 144. A bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F; to the Committee on Finance.

Mr. KERRY. Mr. President, today Senator ENSENCE and I are reintroducing theHOPE Cell Phone Act of 2009, Modernize Our Bookkeeping in the Law for Employee’s Cell Phone Act of 2009. Last Congress, 60 Senators cosponsored this legislation, which would update the tax treatment of cell phones and mobile communication devices by repealing the requirement that employers maintain detailed logs. The tax code should keep pace with technological advances. There is no longer a reason that cell phones and mobile communication devices be treated differently than office phones or computers. Last, Congress 60 Senators cosponsored this legislation. I urge my colleagues to support this commonsense change.

By Mr. KOHL (for himself, Mr. VITTER, Mr. LEAHY, Mr. FEINGOLD, Mr. SCHUMER, Ms. KLOBUCHAR, Mr. DORGAN, and Mr. ROCKEFELLER):
S. 146. A bill to amend the Federal antitrust laws to provide expanded coverage and to eliminate exemptions from such laws that are contrary to the public interest with respect to railroads; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce legislation essential to restoring competition to the nation’s crucial freight railroad sector. Freight railroads are essential to shipping a myriad of vital goods, everything from coal used to generate electricity to grain used for basic foodstuffs. But for decades the freight railroads have been insulated from the normal rules of competition followed by almost all other parts of our economy by an outdated and unwarranted antitrust exemption. So today I am introducing along with my colleagues, Senators VITTER, LEAHY, FEINGOLD, SCHUMER, ROCKEFELLER, DORGAN and KLOBUCHAR, the Railroad Antitrust Enforcement Act of 2009. This legislation will eliminate the obsolete antitrust exemptions that protect freight railroads from competition. This legislation is identical to the legislation that was reported out of the Judiciary Committee in the last Congress without dissent. Our legislation will eliminate obsolete antitrust exemptions that protect
freight railroads from competition and result in higher prices to millions of consumers every day. Consolidation in the railroad industry in recent years has resulted in only four Class I railroads providing over 90 percent of the nation’s freight rail transportation. The lack of competition was documented in an October 2006 Government Accountability Office report. That report found that shippers in many geographic areas “may be paying excessive rates due to a lack of competition in these markets.” These unjustified cost increases cause consumers to suffer higher electricity bills because a utility must pay for the high cost of transporting coal, result in higher prices for goods produced by manufacturers who rely on railroads to transport raw materials, and reduce earnings for American farmers who ship their products by rail and raise food prices by consumers.

The ill-effects of this consolidation are exemplified in the case of “captive shippers”—industries served by only one railroad. Over the past several years, these captive shippers have faced spiking rail rates. They are the victims of the monopolistic practices and price gouging by the single railroads that serve them, price increases which they are forced to pass along into the price of their products, and ultimately, to consumers. And in many cases, the ordinary protections of antitrust law are unavailable to these captive shippers—instead, the railroads are protected by a series of outmoded exemptions from the normal rules of antitrust law to which all other industries must abide. In August 2006, the Attorneys General of 17 states and the District of Columbia sent a letter to Congress citing problems due to a lack of competition and asked that the antitrust exemptions be removed.

These unwarranted antitrust exemptions act as a thorn in America’s side, threatening growth at risk, and in Wisconsin, victims of a lack of railroad competition abound. A coalition has formed, consisting of about 40 affected organizations—Badger CURE. From Dairyland Power Cooperative in La Crosse to Wolf River Lumber in New London, companies in Wisconsin and the United States are affected. The Surface Transportation Board found that shippers in many geographic areas “may be paying excessive rates due to a lack of competition in these markets.” These unjustified cost increases cause consumers to suffer higher electricity bills because a utility must pay for the high cost of transporting coal, result in higher prices for goods produced by manufacturers who rely on railroads to transport raw materials, and reduce earnings for American farmers who ship their products by rail and raise food prices by consumers.

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(b) PTC Act.—Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by striking “common carriers subject” and inserting “common carriers subject to railroads subject to, subsections (b) and (c).”

SEC. 6. EXPANSION OF TREBLE DAMAGES TO RAIL COMMON CARRIERS.

Section 4 of the Clayton Act (15 U.S.C. 15) is amended by—

(1) redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) inserting after subsection (a) the following:

“(b) Subsection (a) shall apply to a common carrier by railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code, without regard to whether such railroads have filed rates or whether a complaint alleging rate has been filed.”

SEC. 7. TERMINATION OF EXEMPTIONS IN TITLE 49.

(a) In General.—Section 10706 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking “, and the Sherman Act (15 U.S.C. 1 et seq.),” and all that follows “carrying out the agreement” in the third sentence;

(B) in paragraph (4)—

(i) by striking the second sentence; and

(ii) by striking “However, the” in the third sentence and inserting “The”; and

(C) in paragraph (5)(A), by striking “, and the antitrust laws set forth in paragraph (2) of this section apply to parties and other persons with respect to making or carrying out the agreement”; and

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

“(e) APPLICATION OF ANTI-TRUST LAWS.—


(2) ANTI-TRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such proposed agreement for the purpose of any provision of law described in paragraph (1), the Board shall take into account, among any other considerations, the impact of the proposed agreement on shippers, consumers, and affected communities.

(b) Consequence.—Section 11322 of title 49, United States Code, is amended—

(1) in subsection (a)—


(B) by striking “is exempt from the antitrust laws and from all other law,” in the third sentence “is exempt from all other law (except the antitrust laws referred to in subsection (c)),”; and

(2) by adding at the end the following:

“(c) APPLICATION OF ANTI-TRUST LAWS.—


“(2) ANTI-TRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such transaction for the purpose of any provision of law described in paragraph (1), the Board shall take into account, among any other considerations, the impact of the transaction on shippers and on affected communities.”

(2) CONFORMING AMENDMENTS.—

(1) The heading of section 10706 of title 49, United States Code, is amended to read as follows: “Rate agreements”.

(2) The item relating to such section in the chapter analysis at the beginning of chapter 107 of such title is amended to read as follows: “10706. Rate agreements.”

SEC. 8. EFFECTIVE DATES.

(a) In General.—Subject to the provisions of subsection (b), this Act shall take effect on the date of enactment of this Act.

(b) Conditions.—

(1) PREVIOUS CONDUCT.—A civil action under section 4, 15, or 16 of the Clayton Act (15 U.S.C. 15, 25, 26) or complaint under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) may not be filed with respect to any conduct or activity that occurred prior to the date of enactment of this Act that was previously exempted from the antitrust laws as defined in section 1 of the Clayton Act (15 U.S.C. 12) by orders of the Interstate Commerce Commission or the Surface Transportation Board in law.

(2) GRACE PERIOD.—A civil action or complaint described in paragraph (1) may not be filed earlier than 180 days after the date of enactment of this Act with respect to any previously exempted conduct or activity or previously exempted agreement that is continued subsequent to the date of enactment of this Act.

Mr. FEINGOLD. Mr. President, I would like to thank the senior Senator from Wisconsin for his hard work to address antitrust issues in the rail industry along with other industries as Chairman of the Antitrust, Competition Policy and Consumer Rights Subcommittee of the Judiciary Committee. I have been pleased to support his efforts to bring antitrust scrutiny to the large freight railroads since he introduced a version of this legislation in 2006. As Senator KOHL well knows, this is a vitally important issue for rail customers and ultimately consumers both in Wisconsin and across the country.

Over the past several years, I have heard more and more comments and concerns from freight rail customers at my town hall meetings in Wisconsin and my meetings in Washington. The concerns have come from constituents who rely on freight railroads to transport their products and materials. The comments I have heard have been diverse by industry, ranging from forestry, energy, farming, and petrochemical companies to various manufacturers, and by size, from family owned enterprises to large corporations. The problems they have described do not seem to be isolated incidents, but instead suggest a systematic pattern of costs of carriage for their cargo. This seems to especially be a problem for short distances or small loads, or if the cargo is only on the originating railroads’ tracks for a short distance. Many have said that they feel like second-class citizens, deny the better service and dedicated trains that the long-haul receive.

I have also heard about problems with changes to transportation schedules, and problems with rail car delivery and ancillary services such as sales. Many rail customers have felt that as railroads continued to merge over the past two decades, service, especially for small customers, has declined dramatically. Again, this seems to especially affect small railroad customers who are dependent on rail transport, but face difficulty in receiving cars to fill, moving filled cars in a timely manner or weighing their loads.

Of course cost is also an issue, but it is just the cost of transportation. Some rail customers feel that the Surface Transportation Board, STB, complaint process is too costly, and stifled in favor of the railroads over the customers. They contend that these hurdles to exposing anticompetitive behavior and seek up to treble damages for any such violations.

I believe this is a very reasonable and measured proposal as evidenced by the broad support passed by the Judiciary Committee in the previous Congress by voice vote. I look forward to supporting Senator KOHL’s efforts to move the legislation through committee again and push for its passage into law during the current Congress.

While I hope that providing the Department of Justice the authority to review possible antitrust violations as proposed in the current bill will improve the situation for many shippers, it may have to go hand-in-hand with reforms at the STB as were contemplated in the previous Congress by Senator ROCKEFELLER’s Railroad Competition and Service Improvement Act of 2007.

By Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. WYDEN, and Mr. WHITEHOUSE):

S. 147. A bill to require the closure of the detention facility at Guantanamo Bay, Cuba, to limit certain interrogation techniques, to prohibit interrogation by contractors, to require notification of the International
Mrs. FEINSTEIN. Today, I am introducing the Lawful Interrogation and Detention Act of 2009—legislation intended to revive the harmful, dangerous, un-American, and illegal interrogation and detention practices of the past seven years.

As I will describe in detail below, the four provisions in this bill would: Close the way detention centers, outlaw CIA’s coercive interrogation program, prevent the use of contractor interrogations, and end secret detention at CIA black sites.

These provisions have brought shame to our nation, have harmed our ability to fight the war on terror, and, I believe, violate U.S. law and international treaty obligations.

As was made crystal clear on last November 4, we need change and we need a new direction. When it comes to the war on terror, we need to draw a line on the ground that says “the Dark Side” so embraced by the Bush administration. Instead, we need to follow our approach honed through the Cold War: standing by the strength of our values and ideals, building strong partnerships with allies, and mixing soft power with the force of our military might.

This legislation would put us back on the right track and I believe it to be fully consistent with the policies and intentions of President-elect Obama.

It is time to end the failed experiment at Guantanamo Bay. It is time to repudiate torture and secret disappearances. It is time to end the outsourcing of coercive interrogations to outside mercenaries. It is time to return to the norms and values that have driven the United States to greatness since the days of George Washington, but have been tarnished in the past 7 years.

First, this legislation requires the President to close the detention facilities at Guantanamo Bay within 12 months.

The need to close Guantanamo is clear. Along with the abuses at Abu Ghraib, Guantanamo has been decrying as American hypocrisy and cruelty throughout the world. They have given aid in recruiting to our enemies, and have been named by Navy General Counsel Alberto Mora as the leading mercenaries. It is time to return to the norms and values that have driven the United States to greatness since the days of George Washington, but have been tarnished in the past 7 years.

Beyond the physical, psychological, and emotional abuse witnessed at Guantanamo, it has been the source of great legal embarrassment. The Supreme Court has struck down the Bush administration’s legal reasoning four separate times: in the Raoul, Hamdi, Hamdan, and Boumediene decisions.

It was explicitly created to be a separate and lesser system of justice, to hold people captured on or near the battlefield in Afghanistan indefinitely.

It has produced exactly three convictions, including Australian David Hicks who agreed to a plea bargain to get off the island, and Osama bin Ladin’s driver, Salim Hamdan, who has already served almost all of his sentence through time already spent at Guantanamo.

The hard part about closing Guantanamo is not deciding to do it—it is figuring out what to do with the remaining detainees.

Under the lawful interrogation and detention act, the approximately 250 individuals now being held there would be handled in one of five ways:

- They could be charged with a crime and tried in the United States in the Federal civilian or military justice systems. These systems have handled terrorists and other dangerous individuals before, and are capable of dealing with classified evidence and other unusual factors.

- Individuals could be transferred to an international tribunal to hold hearings, if such a tribunal is created; detainees could be returned to their native countries, or if that is not possible, they could be transferred to a third country.

- Or, if more than 500 men have been sent from Guantanamo to the custody other countries. Recently, Portugal and other nations have suggested they would be open to taking some of the remaining detainees as a way to help close Guantanamo.

If there are detainees who can’t be charged with crimes or transferred to the custody of another country, there is a fourth option. If the Secretary of Defense and the Director of National Intelligence agree that an individual poses no security threat to the United States, the U.S. Government may release him.

This may work, for example, for the Chinese Uighurs remaining at Guantanamo, who have already been ordered that this group be released into the country, though that ruling has been stayed upon appeal.

Finally, for detainees who cannot be addressed in any of the first four options, the Executive Branch could hold them under the existing authorities provided by the law of armed conflict.

I believe that these options provide sufficient flexibility to handle the 250 or so people now being held at Guantanamo, and for the Administration to decide that other alternatives are needed, it should come to Congress to explain the specifics of the problem, and we will work toward a joint legislative solution.

The other three provisions in this legislation end parts of the CIA’s secret detention and interrogation program.

Some of the details of the program are already publicly known, like the use of waterboarding on three individuals, other aspects remain secret, such as the other authorized interrogation techniques and how they were used.

There have been public allegations of multiple deaths of detainees in CIA custody. There was one conviction of a CIA contractor in the death of a detainee in Afghanistan, but other details remain classified.

But it is well known that on August 1, 2002, the Justice Department approved coercive interrogation techniques, including waterboarding, for the CIA’s use. This despite the fact that the Justice Department has prosecuted the use of waterboarding and the State Department has decried it overseas.

This legislation would end parts of the CIA’s secret detention and interrogation program. The Administration used warped logic and faulty reasoning to say waterboarding technique was not torture. It is.

Other interrogation techniques used by the CIA have not been acknowledged but are still authorized for use. This has to end.

But we will never turn this sad page in our nation’s history until all coercive techniques are banned, and are replaced with a single, clear, uniform standard across the United States Government.

That standard established by this legislation is the interrogation protocols set out in the Army Field Manual. The 19 specified techniques work for the military and operate under the same framework as the time-honored approach of the Federal Bureau of Investigation. If the CIA would abide by its terms, it would work for the CIA as well.

These techniques were at the heart of former FBI Special Agent Jack Cloonan’s successful interrogation of those responsible for the 1993 World Trade Center bombing. They were also the tools used by Special Agent George Piro to get Saddam Hussein to provide the evidence that resulted in his death sentence.

We have powerful expert testimony that the Army Field Manual techniques work against terrorist suspects. This legislation is supported by scores of retired generals and admirals, by General David Petraeus, and by former secretaries of state and national security advisors in both parties.

Majorities in both houses of Congress passed this provision last year as part of the Fiscal Year 2008 Intelligence Authorization bill, sending a clear message that we do not support coercive interrogations.

Unfortunately, the President’s veto stopped it from becoming law.

The new President agrees that we need to end coercive interrogations and to comply strictly to the terms of the Convention Against Torture and the Geneva Conventions. I look forward to working with him to end this sad story in the Nation’s history.

The third part of this legislation is a ban on contractor interrogators at the CIA. As General Hayden has testified, the CIA hires and keeps on contract people who are not intelligence professionals and whose sole job is to “break” detainees and get them to talk.
I firmly believe that outsourcing interrogations, whether coercive or more appropriate to the needs of the agencies, is a way to diminish accountability and to avoid getting the Agency’s hands dirty. I also believe that the use of contractors leads to more brutal interrogations than if the questions were done by government employees.

There are surely areas where paying contractors makes practical and financial sense. Interrogations—a form of collecting intelligence—is not one of them. It is now a straining diplomatic issue, a key obstacle in prosecuting people like Abu Zubaydah and Khalid Shaykh Mohammed, and a national black eye. It is not the sort of thing to be done at arm’s length.

The fourth and final provision in this legislation requires that the CIA and other intelligence agencies provide notification to the International Committee of the Red Cross—the ICRC—of their detainees. Following notification, the CIA will be required to provide ICRC officials with access to their detainees in the same way that the military does.

Access by the ICRC is a hallmark of international law and is required by the Geneva Conventions. Access to a third party, and the ICRC in particular, was seen by the U.S. in 1947 as a guarantee that American men and women would be protected if they were ever captured overseas.

But ICRC access has been denied at CIA black sites, just like it had been in some military-run facilities in the war on terror. This has, in part, opened the door to the abuses in detainee treatment. Independent access prevents abuses like we witnessed at Abu Ghraib and Guantanamo Bay. It is time that the same protection is in place for the CIA as has been demanded of the Department of Defense.

We remain a nation at war, and credible, actionable intelligence remains a cornerstone of our war effort. But this is a war that will be won by fighting smarter, not by sinking to the depths of our enemies.

Our Nation has paid an enormous price because of these interrogations. They cast shadow and doubt over our ideals and our system of justice.

Our enemies have used our practices to recruit more extremists.

Our key global partnerships, crucial to winning the war on terror, have been strained.

It will take time to resume our place as the world’s beacon of liberty and justice. This bill will put us on that path and start the process. I urge its passage.

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

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

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 “Lawful Interrogation and Detention Act”.

SEC. 2. INTELLIGENCE COMMUNITY DEFINED. In this Act, the term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 3. CLOSURE OF DETENTION FACILITY AT GUANTANAMO BAY.

(a) REQUIREMENT TO CLOSE.—Not later than 1 year after the date of the enactment of this Act, the President shall close the detention facility at Guantanamo Bay, Cuba, operated by the Secretary of Defense and remove all detainees from such facility.

(b) DETAINEES.—Prior to the date that the President closes the detention facility at Guantanamo Bay, Cuba, as required by subsection (a), each individual detained at such facility shall be treated exclusively through one of the following:

(1) The individual shall be charged with a violation of United States or international law and transferred to a military or Federal civilian detention facility in the United States for further legal proceedings, provided that such a civilian federal facility or military facility has received the highest security rating available for such a facility.

(2) The individual shall be transferred to an international tribunal operating under the authority of the United Nations that has jurisdiction to hold a trial of such individual.

(3) The individual shall be transferred to the custody of the government of the individual’s country of citizenship or a different country, provided that such transfer is consistent with—

(A) the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984;

(B) all relevant United States law; and

(C) any other international obligation of the United States.

(4) If the Secretary of Defense and Director of National Intelligence determine, jointly, that the individual poses no security threat to the United States and actions cannot be taken under paragraph (1) or (3), the individual shall be released from further detention.

(5) The individual shall be held in accordance with the law of armed conflict.

(c) REPORTING REQUIREMENTS.—

(1) REQUIREMENT FOR REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the President’s plan to implement this section.

(2) REQUIREMENT TO UPDATE.—The President shall keep Congress fully and currently informed of the steps taken to implement this section.

(d) CONSTRUCTION.—

(1) IMMIGRATION STATUS.—The transfer of an individual mentioned in section (b) shall not be considered an entry into the United States for purposes of immigration status.

(2) ADDITIONAL DETENTION AUTHORITY.—Nothing in this section may be construed as altering or adding to existing authorities for, or restrictions on, the detention, treatment, or transfer of individuals in United States custody.

SEC. 4. LIMITATION ON INTERROGATION TECHNIQUES.

No individual in the custody or under the effective control of an element of the intelligence community or a contractor or subcontractor of an element of the intelligence community, regardless of nationality or status of such individual or personnel, shall be subject to any treatment or technique of interrogation not authorized by the United States Army Field Manual on Human Intelligence Collector Operations.

SEC. 5. PROHIBITION ON INTERROGATIONS BY CONTRACTORS.

The Director of the Central Intelligence Agency shall not allow a contractor or subcontractor to the Central Intelligence Agency to conduct or facilitate an interrogation of any individual. Any interrogation carried out on behalf of the Central Intelligence Agency shall be conducted by an employee of such Agency.

SEC. 6. NOTIFICATION OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

(a) REQUIREMENT.—The head of an element of the intelligence community or a contractor or subcontractor of such element who detains or has custody or effective control of an individual shall notify the International Committee of the Red Cross of the detention of the individual and provide access to such individual in a manner consistent with the practices of the Armed Forces.

(b) CONSTRUCTION.—Nothing in this section shall be construed to—

(1) create or otherwise imply the authority to detain; or

(2) to limit or otherwise affect any other rights or obligations of the United States under the Geneva Conventions, other international agreements, or other laws, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

By Mr. KOHL.

S. 148. A bill to restore the rule that agreements between manufacturers and retailers, distributors, or wholesalers to set the minimum price below which the manufacturer’s product or service cannot be sold violates the Sherman Act; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce legislation essential to consumers receiving the best prices on every product from electronics to clothing to groceries. My bill, the Discount Pricing Consumer Protection Act, will restore the nearly century old rule that it is illegal under antitrust law for a manufacturer to set a minimum price below which an retailer cannot sell the manufacturer’s product, a practice known as “resale price maintenance” or “vertical price fixing”. In June 2007, overturning a 96-year-old precedent, a narrow 5-4 Supreme Court majority in the Leegin case incorrectly interpreted the Sherman Act to overturn this basic rule of the marketplace which has served consumers well for nearly a century. My bill—identical to legislation I introduced in 2007 (S. 2261 in the 110th Congress)—will correct this misinterpretation of antitrust law and restore the per se ban on vertical price fixing. Our bill has been endorsed by 34 state attorneys general as well as numerous antitrust experts, including former FTC Chairman Pitofsky and current FTC Commissioner Harbour.

The reasons for this legislation are compelling. Allowing manufacturers to set minimum retail prices will threaten the very existence of discount and discount stores, and lead to higher prices for consumers. For nearly a century the rule against vertical price fixing permitted discounters to sell goods at prices that were lower than the prices retailers were allowed to charge under the Leegin decision. This, in turn, led manufacturers to take advantage of discounters and reach agreements with them to sell at their lowest price. Many retailers would have been unable to remain in business without these agreements with discounters to sell at their lowest price. Many retailers would have been unable to remain in business without these agreements to sell at their lowest price. Many retailers wouldhave been unable to remain in business without these agreements to sell at their lowest price. Many retailers would have been unable to remain in business without these agreements to sell at their lowest price. Many retailers would have been unable to remain in business without these agreements to sell at their lowest price.
at the most competitive price. Many credit this rule with the rise of today's low price, discount retail giants—stores like Target, Best Buy, Walmart, and the Internet sites Amazon and eBay, which offer consumers a wide array of highly desired products at discount prices.

From my own personal experience in business I know of the dangers of permitting vertical price fixing. My family started the Kohl's department store in 1962. I worked there for many years before we sold the stores in the 1980s. On several occasions, we lost lines of merchandise because we tried to sell at prices lower than what the manufacturer and our rival retailers wanted. For example, when we started Kohl's and were just a small competitor to the established retail giants, we had serious difficulties obtaining the leading brand name jeans. The traditional department stores demanded that the manufacturer not sell to us unless we agreed to maintain a certain minimum price. Because they didn't want to lose the business of their biggest customers, that jeans manufacturer acquiesced in the demands of the department stores—at least until our lawyers told them that they were violating the rule against vertical price fixing.

So I know firsthand the dangers to competition and discounting of permitting the practice of vertical price fixing. But we don't need to rely on my own experience. For nearly 40 years until 1975 when Congress passed the Consumer Goods Pricing Act, Federal law permitted States to enact so-called “fair trade” laws legalizing vertical price fixing. Studies Department of Justice conducted in the late 1960s indicated that prices were between 18–27 percent higher in the States that allowed vertical price fixing than the States that had not passed such “fair trade” laws. By the late 1970s, consumers had saved at least $ 2.1 billion per year at that time.

Given the tremendous economic growth in the intervening decades, the likely harm to consumers if vertical price fixing were permitted is even greater today. In his dissenting opinion in the Leegin case, Justice Breyer estimated that if only 10 percent of manufacturers engaged in vertical price fixing, the volume of commerce affected today would be $ 300 billion, translating into savings that would average $ 750 to $ 1,000 higher for the average family of four every year.

And the experience of the last year and a half since the Leegin decision is beginning to confirm our fears regarding the dangers from permitting vertical price fixing. In December 2008, for example, Sony announced that it would implement a no-discount rule to retailer's selling some of its most in-demand products, including some models of high-end flat screen TVs and digital cameras. The Wall Street Journal reported that a new business has materialized for companies that scour the Internet in search of retailers selling products at a bargain. When such bargain sellers are detected, the manufacturer is alerted so that they can demand the seller end the discounting of its product. The chilling effect on discounting of such tactics is obvious. The Wall Street Journal reported that Circuit City was forced to raise its retail price for an LG flat screen TV by $ 170 to nearly $ 1,600 after its discount price was discovered on the Internet.

Defenders of the Leegin decision argue that today’s giant retailers such as Walmart, Best Buy or Target can “take care of themselves” and have sufficient market power to fight manufacturer efforts to impose retail prices. Whatever the merits of that argument, I am particularly worried about the effect of this new rule permitting minimum vertical price fixing on the next generation of discount retailers. If new discount retailers can be prevented from selling products at a discount at the expense of the manufacturer worried about the competition, we will imperil an essential element of retail competition so beneficial to consumers.

In overturning the per se ban on vertical price fixing, the Supreme Court in Leegin announced this practice should instead be evaluated under what is known as the “rule of reason.” Under the rule of reason, a business practice is illegal only if it imposes an “unreasonable” restraint on competition. The burden is on the party challenging the practice to prove in court that the anti-competitive effects of the practice outweigh its justifications. In the words of the Supreme Court, the party challenging the practice must establish the restraint’s “history, nature and effect.” Whether the businesses involved possess market power “is a further, significant consideration” under the rule of reason.

In short, establishing that any specific example of vertical price fixing violates the rule of reason is an enormous and difficult burden for a plaintiff in an antitrust case. Parties complaining about vertical price fixing are likely to be small discount stores with limited resources to engage in lengthy and complicated antitrust litigation. These plaintiffs are unlikely to possess the facts necessary to make the extensive showing necessary to prove a case under the rule of reason. In the words of FTC Commissioner Pamela Jones Harbour, applying the rule of reason to vertical price fixing “is a virtual euphemism for per se legality.”

In July 2007, our Antitrust Subcommittee conducted an extensive hearing into the Leegin decision and the likely effects of abolishing the ban on vertical price fixing. Both former FTC Chairman Robert Pitofsky and current FTC Commissioner Harbour strongly endorsed restoring the ban on vertical price fixing for discounters. CEO of the Syms discount clothing stores, did so as well, citing the likely dangers to the ability of discounters such as Syms to survive after abolition of the rule against vertical price fixing. Ms. Syms also stated that “it would be very unlikely for her to bring an antitrust suit” challenging vertical price fixing under the rule of reason because her company “would not have the resources to establish enough position in the marketplace to make such action prudent.” Our examination of this issue has produced compelling evidence for the continued necessity of a ban on vertical price fixing to protect discounting and low prices for consumers.

The Discount Pricing Consumer Protection Act will accomplish this goal. My legislation is quite simple and direct. It would simply add one sentence to Section 1 of the Sherman Act—the basic provision addressing combinations in restraint of trade—a statement that any agreement with a retailer, wholesaler or distributor setting a price below which a product or service cannot be sold violates the law. No balancing test would be required to establish that any such agreement would imperil an essential element of retail competition. Should a manufacturer enter into such an agreement it will unquestionably violate antitrust law. The uncertainty and legal impediments to antitrust enforcement of vertical price fixing will be replaced by simple and clear legal rule—a legal rule that will promote low prices and discount competition to the benefit of consumers every day.

In the last few decades, millions of consumers have benefitted from an explosion of retail competition from new large discounters in virtually every product, from clothing to electronics to groceries, in both “big box” stores and on the Internet. Our legislation will correct the Supreme Court’s abrupt change to antitrust law, and will ensure that today’s vibrant competitive retail marketplace and the savings gained by American consumers from discounting will not be jeopardized by the abolition of the ban on vertical price fixing. I urge my colleagues to support this bill.

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

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

S. 148

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Discount Pricing Consumer Protection Act".

SEC. 2. STATEMENT OF FINDINGS AND DECLARA-
TION OF PURPOSES.

(a) FINDINGS.—Congress finds the fol-
lowing:

(1) From 1911 in the Dr. Miles decision until
June 2007 in the Leegin decision, the Supreme
Court had ruled that the Sherman Act forbid
in all circumstances the practice of a manu-
facturer setting a minimum price below which
any retailer, wholesaler or distributor could not
sell the manufacturer's product (the practice of "resale price maintenance"
or "vertical price fixing").
January 6, 2009

CONGRESSIONAL RECORD — SENATE

S. 149

Mr. KOHL. Mr. President, today I rise to introduce the Weekend Voting Act. This legislation will change the day for Congressional and Presidential elections from the first Tuesday in November to the first weekend in November. The legislation is nearly identical to legislation that I first proposed in 1997.

We have recently completed the most serious business of our democracy—a Presidential election in which millions and millions of citizens demonstrated an enormous amount of enthusiasm. We all want every eligible voter to participate and cast a vote. But recent experience has shown us that unneeded obstacles are placed preventing citizens from exercising their franchise. The help that I offer will significantly improve voting methods in Florida in the 2000 election galvanized Congress into passing major election reform legislation.

The Help America Vote Act, which was enacted into law in 2002, was an important step forward in establishing minimum standards for States in the administration of Federal elections and in providing funds to replace outdated voting systems and improve election administration. There is much that still needs to be done.

With more and more voters seeking to cast their ballots on Election Day, we need to build on the movement which makes it easier for Americans to cast their ballots by providing alternatives to voting on just one election day. Twenty-eight States, including my own State of Wisconsin, now permit any registered voter to vote by absentee ballot. These states constitute nearly half of the voting age citizens of the United States. Thirty-one States permit in-person early voting at election offices or at other satellite locations. The State of Oregon now conducts statewide elections completely by mail. These innovations are critical if we are to conduct fair elections for it has become unreasonable to expect that a Nation of 300 million people can line up at the same time and cast their ballots at the same time. If we can do it, we will encounter even more reports of broken machines and long lines in the rain and registration errors that create barriers to voting.

That is why I have been a long-time advocate of moving our Federal election day from the first Tuesday after the first Monday in November to the first weekend in November. Holding our Federal elections on a weekend will create more opportunities for voters to cast their ballots and will help end the gridlock at the polling places which threaten to undermine our elections.

Under this bill, polls would be open nationwide for a uniform period of time from 10 a.m. to 6 p.m. Sunday eastern time. Polls in all time zones would be open and close at this time. Election officials would be permitted to close polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls would be open on both Saturday and Sunday, they also would not interfere with religious observances.

Keeping polls open the same hours across the country is critical. In 2001, the National Commission on Federal Election Reform recommended that we move our Federal election day to a national holiday, in particular Veterans Day. As expected, the proposal was not well received among veterans and I do not endorse such a move. I do share the Commission’s goal of moving election day to a non-working day.

Since the mid 19th century, election day has been on the first Tuesday of November. Ironically, this date was selected because it was convenient for voters. Tuesdays were traditionally court day, and land owning voters were often coming to town anyway.

Just as the original selection of our national voting day was done for voter convenience, we now address the changes in our society to make voting easier for the regular family. We have outgrown our Tuesday voting day tradition, a tradition better left behind to a bygone horse and buggy era. In today’s America, 60 percent of all households have two working parents. Since most polls in the United States are open only 12 hours on a Tuesday, generally from 7 a.m. to 7 or 8 p.m., voters often have only one or two hours to vote. As we’ve seen in recent elections, long hours have kept some voters waiting much longer than one or two hours. If voters have children, and are dropping them off at day care, or if they have a long work commute, there is just not enough time in a workday to vote.

With long lines and chaotic polling places becoming the unacceptable norm in many communities, we have an obligation to reform how our Nation votes. If we are to grant all Americans an equal opportunity to participate in the electoral process, and to elect our representatives in this great democracy, then we must be willing to reexamine all aspects of voting in America. Changing our election day to a weekend may seem like a chance of great magnitude. Given the stakes—the integrity of future elections and full participation by as many Americans as possible—I hope my colleagues will recognize it as a commonsense proposal with which everyone can agree.

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

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

S. 149

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Weekend Voting Act”.

SEC. 2. CHANGE IN CONGRESSIONAL ELECTION DAY TO SATURDAY.

Section 25 of the Revised Statutes (2 U.S.C. 7) is amended to read as follows:
"Sect. 25. The first Saturday and Sunday after the first Friday in November, in every even numbered year, are established as the days for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress, commencing on the 3rd day of January thereafter.

SEC. 3. CHANGE IN PRESIDENTIAL ELECTION DAY TO SATURDAY AND SUNDAY.

Section 1 of title 3, United States Code, is amended—

(a) in redesignating section 1 as section 1A; and
(b) by inserting after section 1A the following:

"SEC. 25. POLLING PLACE HOURS.

(1) POLLING PLACES INSIDE THE CONTINENTAL UNITED STATES.—Each polling place in thecontinental United States shall be open, with respect to a Presidential general election, beginning on Saturday at 10:00 a.m. eastern standard time and ending on Sunday at 6:00 p.m. eastern standard time.

(2) POLLING PLACES OUTSIDE THE CONTINENTAL UNITED STATES.—Each polling place not located in the Continental United States shall be open, with respect to a Presidential general election, beginning on Saturday at 10:00 a.m. local time and ending on Sunday at 6:00 p.m. local time.

(3) EARLY CLOSING.—A polling place may close between the hours of 10:00 p.m. local time and 6:00 a.m. local time on Sunday as provided by the law of the State in which the polling place is located."

SEC. 25. The first Saturday and Sunday after the first Friday in November, in every even numbered year, are established as the days for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress, commencing on the 3rd day of January thereafter.

"Sect. 25. The first Saturday and Sunday after the first Friday in November, in every even numbered year, are established as the days for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress, commencing on the 3rd day of January thereafter.

SEC. 3. CHANGE IN PRESIDENTIAL ELECTION DAY TO SATURDAY AND SUNDAY.

Section 1 of title 3, United States Code, is amended—

(a) in redesignating section 1 as section 1A; and
(b) by inserting after section 1A the following:

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"Sect. 25. The first Saturday and Sunday after the first Friday in November, in every even numbered year, are established as the days for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress, commencing on the 3rd day of January thereafter.

SEC. 3. CHANGE IN PRESIDENTIAL ELECTION DAY TO SATURDAY AND SUNDAY.

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SEC. 3. CHANGE IN PRESIDENTIAL ELECTION DAY TO SATURDAY AND SUNDAY.

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(3) EARLY CLOSING.—A polling place may close between the hours of 10:00 p.m. local time and 6:00 a.m. local time on Sunday as provided by the law of the State in which the polling place is located."
Combating drug use and crime requires all the tools at our disposal, including enforcement, prevention, and treatment. The best way to prevent crime is often to provide young people with opportunities and constructive things to do, so they stay away from drugs and crime altogether. If young people do get involved with drugs, treatment in many cases can work to help them to turn their lives around. Good prevention and treatment programs have been shown again and again to work, but regretfully, the Bush administration has consistently sought to reduce funding for these important programs. It is time to move in a new direction.

I will work with the new administration to advance legislation that will give State and local law enforcement the support it needs, that will help our cities and towns to implement the kinds of innovative and proven community-based solutions needed to reduce crime. The legislation I introduce today, addressing the urgent and unmet need to support our rural law enforcement as they struggle to combat drugs and crime.

It is a first step for us to help our small cities and towns weather the worsening conditions of these difficult times and begin to move in a better direction. I hope Senators on both sides of the aisle will join me in supporting this important legislation.

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

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

S. 150

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rural Law Enforcement Assistance Act of 2009”.

SEC. 2. AUTHORIZATION FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) Authorization of Appropriations for Rural Law Enforcement.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb et seq.) is amended to read as follows:

“(1) $2,000,000 for fiscal year 2009;
“(2) $2,000,000 for fiscal year 2010;
“(3) $2,000,000 for fiscal year 2011;
“(4) $2,000,000 for fiscal year 2012; and
“(5) $2,000,000 for fiscal year 2013.”.

(b) Violent Crime Control Act.—Section 1803(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14002(b)) is amended by striking the heading for the section and inserting “RURAL LAW ENFORCEMENT TRAINING”.

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

S. 151. A bill to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes; to the Committee on Indian Affairs.

Mr. McCaIN. Mr. President, I am pleased to be joined by my colleagues Senator THOMAS, Senator KYL, and Senator McCaIN. I am pleased to introduce a bill to amend the Indian Arts and Crafts Act. This legislation would improve Federal laws that protect the integrity and originality of Native American arts and crafts.

The Indian Arts and Crafts Act prohibits the misrepresentation in marketing of Indian arts and crafts products, and makes it illegal to display or sell works in a manner that falsely suggests it’s the product of an individual Indian or Indian Tribe. Unfortunately, the law is written so that only the Federal Bureau of Investigation, FBI, acting on behalf of the Attorney General, can investigate and make arrests in cases of suspected Indian art counterfeiting. If the bill we are introducing would amend the law to expand existing Federal investigative authority by authorizing other Federal investigative bodies, such as the BIA Office of Law Enforcement, in addition to the FBI, to investigate cases of misrepresentation of Indian arts and crafts. This bill is similar to provisions included in S. 1255, which passed the Senate last Congress but wasn’t acted on by the House, and the Native American Omnibus Technical Corrections Act of 2007, S. 2005.

A major source of tribal and individual Indian income is derived from the sale of handmade Indian arts and crafts. Yet, millions of dollars are diverted each year from these original artists and Indian tribes by those who reproduce and sell counterfeit Indian goods. Few, if any, criminal prosecutions have been brought in Federal court for such violations. It is understandable that enforcing the criminal law under the Indian Arts and Crafts Act is complicated by the other responsibilities of the FBI including investigating terrorism activity and violent crimes in Indian country. Therefore, expanding the investigative authority to include other Federal agencies is intended to promote the active investigation of alleged misconduct. It is my hope that this much needed change will deter those who choose to violate the law.

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

S. 152. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

Mr. McCaIN. Mr. President, I am pleased to be joined by Senator KYL in reintroducing legislation to authorize a special resources and land management study for lands adjacent to the Walnut Canyon National Monument in Arizona. The study is intended to evaluate the need for management options for public lands adjacent to the monument to ensure adequate protection of the canyon’s cultural and natural resources. A similar bill was introduced last Congress and received a hearing in the Senate Energy and Natural Resources Committee’s Subcommittee on National Parks. The bill being introduced today reflects suggested changes of that Subcommittee and includes language that met their approval. I am grateful for the input of the members of the Subcommittee on Natural Resources.

For several years, local communities adjacent to the Walnut Canyon National Monument have debated whether the land surrounding the monument would be best protected from future development under management of the U.S. Forest Service or the National Park Service. The Coconino County Board and the Flagstaff City Council have passed resolutions concluding that the preferred method to determine what is best for the land surrounding the Walnut Canyon National Monument is by having a Federal study conducted. The recommendations from such a study would help to resolve the question of future management and whether expanding the monument’s boundaries could compliment current public and multiple-use needs.

The legislation also would direct the Secretary of the Interior and the Secretary of Agriculture to provide recommendations for management options for maintenance of the public uses and protection of resources of the study area. I fully expect that as this measure continues through the legislative process, Congress will ensure that funding offsets are provided to it and every other spending measure as we work to restore fiscal discipline to Washington in a bi-partisan manner.

This legislation would provide a mechanism for determining the management options for one of Arizona’s high uses scenic areas and protects the natural and cultural resources of this incredibly beautiful monument. I urge my colleagues to support its passage.
By Mr. McCAIN (for himself and Mr. KYL):

S. 153. A bill to amend the National Trails System Act to designate the Arizona National Scenic Trail; to the Committee on Energy and Natural Resources.

Mr. McCAIN. Mr. President, I am pleased to be joined today by Senator KYL in introducing the Arizona Trail Feasibility National Scenic Trail Act. This bill would designate the Arizona Trail as a National Scenic Trail.

The Arizona Trail is a beautifully diverse stretch of public lands, mountains, canyons, deserts, historic sites, and communities. The Trail is approximately 807 miles long and begins at the Coronado National Memorial on the U.S.-Mexico border and ends in the Bureau of Land Management’s Arizona Strip District on the Utah border near the Grand Canyon. In between these two points, the Trail winds through most rugged and picturesque scenery in the Western United States. The corridor for the Arizona Trail encompasses the wide range of ecological diversity in the state, and incorporates a host of existing trails into one continuous trail. In fact, the Trail is topographically diverse that a person can hike from the Sonoran Desert to Alpine forests in one day.

For over a decade, more than 16 Federal, State, and local agencies, as well as community and business organizations, have partnered to create, develop, and manage the Arizona Trail. Through their combined efforts, these agencies and the members of the Arizona Trail Association have completed over 90 percent of the longest contiguous land-based trail in the State of Arizona. Designating the Arizona Trail as a National Scenic Trail would help streamline the management of the high-use trail to ensure that this pristine corridor is preserved for future generations to enjoy.

Since 1968, when the National Trails System Act was established, Congress has designated over 20 national trails. Before a trail receives a national designation, a federal study is typically required to assess the feasibility of establishing a trail route. The Arizona Trail doesn’t require a feasibility study because it’s virtually complete with less than 60 miles left to build and sign. All but three of the trail routes are on public land, and the unfinished segments don’t involve private property. The trail meets the criteria to be labeled a National Scenic Trail and already appears on all Arizona state maps. Therefore, the Congress has reason to ignore an unnecessary and costly feasibility study and proceed straight to National Scenic Trail designation.

The Arizona Trail is known throughout the community and business enthusiast. The Arizona State Parks recently released data showing that two-thirds of Arizonans consider themselves trail users. Millions of visitors also use Arizona’s trails each year. In one of the fastest-growing states in the United States, the designation of the Arizona Trail as a National Scenic Trail would protect the conservation of a corridor of open space for hikers, mountain bicyclists, cross country skiers, snowshoers, eco-tourists, equestrians, and joggers.

I urge my colleagues to support the passage of this legislation.

By Ms. SNOWE (for herself, Mrs. LINCOLN, and Mr. BUNNING):

S. 155. A bill to amend the Internal Revenue Code of 1986 to suspend the taxation of unemployment compensation for 2 years; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to reintroduce a bill I offered last December that will provide much-needed relief to struggling families across America. The Unemployment Benefit Tax Suspension Act of 2009 is a critical piece of legislation, which should be considered as part of any stimulus package, that would suspend the collection of Federal income tax on unemployment benefits for 2008 and 2009. The bill is based on the premise that individuals sit down in the next couple months to complete their 2008 tax bills, they will not have to worry about paying taxes on the unemployment benefits they received last year or can get refunds of taxes withheld. It also means that the unemployed would not be concerned with taxes on benefits paid this year. I thank Senators LINCOLN and BUNNING for joining me to introduce this legislation.

In light of the calamitous labor market, Congress must act to ensure that workers who lose their jobs do not also lose their livelihoods. In December, the Labor Department released sobering statistics that demonstrated the gravity of the situation we face. In November, the economy shed 533,000 jobs, the largest monthly job loss since December 1974. Our unemployment rate now stands at a perilous 6.7 percent, a 15-year high. We have lost 1.9 million jobs since the beginning of our present recession in December 2007—including two-thirds of those jobs in the last 3 months alone—and the number of unemployed stands at a whopping 10.3 million.

Suspending the Federal income tax on unemployment benefits is a simple way to ensure our Nation’s unemployed workers and families. In fact, the CBO has estimated that in 2005, of the 8.1 million recipients of unemployment compensation benefits, 7.5 million had incomes of under $15,000. As such, most of the benefits of suspending this tax are likely to go to lower- and middle-income families, those struggling harder than ever just to make ends meet.

During these challenging times, taxes on unemployment compensation represents a burden that unemployed members of our society simply cannot afford. Working families are already suffering, with the high cost of groceries, an unstable energy market, and the outrageous parget for health care. My bill offers a means to help stimulate the economy by making unemployed workers’ benefits stretch further. While it is certainly not a solution to the problem, it is a step in the right direction.

President-elect Obama has voiced his support for this general idea, calling it “a way of giving more relief to families,” and I believe that is the ultimate goal that must primarily be. I look forward to seeing this bill is passed in a timely manner, so that the impact can be immediate.

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

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

S. 155

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Unemployment Benefit Tax Suspension Act of 2009”.

SEC. 2. SUSPENSION OF TAX ON UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 85 of the Internal Revenue Code of 1986 (relating to unemployment compensation) is amended by adding at the end the following new subsection:

“(c) TEMPORARY SUSPENSION.—Subsection (a) shall not apply to taxable years beginning after December 31, 2007, and before January 1, 2010.”

By Ms. SNOWE (for herself, Mr. KERRY, and Mr. LANDRIEU):

S. 156. A bill to amend the Internal Revenue Code of 1986 to extend enhanced small business expensing and to provide for a 5-year net operating loss carryback for losses incurred in 2008 or 2009; to the Committee on Finance.

SNOWE. Mr. President, I rise today to introduce legislation to provide critical tax incentives to our Nation’s small businesses, which will help them to make vital investments in new plant and equipment and weather the recession that is crippling our Nation’s economy. The Small Business Stimulus Act of 2009 is just three pages, but by extending enhanced small business expensing and extending a 5-year carryback for net operating losses, it would pack a powerful punch and assist America’s 26 million small firms that represent over 99.7 of all employers. I am pleased that press reports indicate that President-elect Obama will include these proposals in his stimulus initiative, and I hope that Congress will feature them in any legislation we pass in the coming weeks. I thank Senator KERRY for joining me to introduce this legislation.

I have long championed so-called enhanced Section 179 expensing, and I was pleased that the Congress passed part of the Economic Stimulus Act of 2008, allowed small businesses in Maine and across the nation to expense up to $250,000 of their investments, including
the purchase of essential new equipment. Unfortunately, the incentive in that bill was written to last just one year, and so, in 2009, absent additional action, small firms will be able to expense just $250,000 of new investment. Instead of being able to write off large portions of their equipment purchases immediately, firms will have to recover their costs over 5, 7, or more years.

At a time in which we find ourselves in a recession and our nation’s small businesses are having trouble finding capital to create new employment and invest, we simply cannot allow that to occur. Accordingly, my bill would allow small businesses to continue expensing up to $250,000 of new investment in both 2009 and 2010. The purchase of new equipment will undoubtedly contribute to continued productivity growth in the business community, which economic experts have repeatedly stressed is essential to the long-term vitality of our economy.

Second, my bill recognizes that many businesses that were once profitable are experiencing significant losses as a result of current economic conditions. As a result, many are curtailing operations, and over 2 million Americans lost their jobs in 2008. It is for this reason that I am introducing a proposal to extend the net operating loss carryback period from 2 to 5 years. In this way, businesses reporting losses in 2008 and 2009 may offset those losses against profits from as many as 5 years in the past and claim an immediate tax refund. They can use that money to help sustain operations and retain employees while the economy recovers. This proposal should be particularly beneficial to small businesses, which are responsible for creating 75 percent of net new jobs. Finally, I would note that although I proposed this very change in January 2008 and it cleared the Finance Committee as part of last year’s stimulus legislation, it was subsequently dropped in negotiations with the House. I hope that this worthy proposal does not suffer the same fate this year.

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

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

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Small Business Stimulus Act of 2009”.

SEC. 2. EXTENSION OF INCREASED EXPENDING FOR SMALL BUSINESSES.
(a) In General.—Paragraph (7) of section 179(b) of the Internal Revenue Code of 1986 is amended—
(1) by striking “2008” and inserting “2009, 2008, or 2010”, and
(2) by striking “2009” and inserting “2008, 2009, or 2010”.
(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SECTION 3. 3-YEAR CARRYBACK OF NET OPERATING LOSSES.
(a) In General.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:
“(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—In the case of a net operating loss for any taxable year ending during 2008 or 2009—
(i) subparagraph (A)(i) shall be applied by substituting ‘5’ for ‘2’,
(ii) subparagraph (C)(ii) shall be applied by substituting ‘4’ for ‘2’, and
(iii) subparagraph (F) shall not apply.”.
(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subparagraph (I) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:
“(i) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to taxable years ending during such calendar years, or”.

(c) Effective Date.—
(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.
(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendments made by subsection (b) shall apply to taxable years ending after 1997.

By Ms. SNOWE (for herself and Mrs. LINCOLN):

S. 157. A bill to amend the Internal Revenue Code of 1986 to expand the temporary minimum distribution rules for certain retirement plans and accounts; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation to offer expanded relief to retirees who are forced to take so-called required minimum distributions from their retirement accounts. After a year in which the Dow Jones Industrial Average fell a staggering 23 percent, Congress rightly suspended required minimum distribution rules for 2009 as part of the Worker, Retiree, and Employer Recovery Act of 2008. Unfortunately, Congress did not act to suspend the rules for 2008 or 2010 as it previously proposed. Consequently, we now find ourselves in a situation in which 1 year of relief is insufficient to enable retirees to recoup their losses. I urge all Senators to consider the benefits this legislation will provide to millions of retirees all across the United States, and I look forward to working with my colleagues to enact it in a timely manner.

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

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

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 “Retirement Account Distribution Improvement Act of 2009”.

SEC. 2. EXPANSION OF WAIVER OF REQUIRED MINIMUM DISTRIBUTION RULES FROM CERTAIN RETIREMENT PLANS AND ACCOUNTS.
(a) In General.—Subparagraph (H) of section 401(a)(9) of the Internal Revenue Code of 1986, as added by the Worker, Retiree, and Employer Recovery Act of 2008, is amended—
(1) by striking “calendar year” in clause (i) and inserting “calendar year”, and
(2) by striking “for calendar years 2008, 2009 or 2010”. are growing, required minimum distribution rules are sensible. Indeed, they ensure the Government gains revenue after years of tax-deferred growth. Unfortunately, we are now witnessing unprecedented losses in equities markets caused by the many individuals to suffer steep losses in their retirement account balances. Notably, the American Association of Retired Persons has said that retirement accounts have lost as much as $2.3 trillion between September 30, 2007 and October 16, 2008. Forcing individuals to prematurely liquidate accounts and pay income taxes on the proceeds, as is required under current law, instead of allowing them to wait until the market recovers and opportunities to defer tax, simply adds insult to injury. Moreover, mandating withdrawals may cause stock prices to fall, hurting other investors.

It is for these reasons that I am today introducing legislation to allow individuals who were forced to withdraw funds in 2008 to re-contribute that money into their accounts by July 1, 2009. Any amounts erroneously distributed in early 2008 could also be re-contributed. Finally, my bill would also waive minimum required distributions for 2010. Although Congress took a solid first step by suspending minimum required distributions for 2009, we must do more. With many predicting a multi-year recession, Congress must adopt a longer-term approach to helping individuals protect their retirement assets and weather the current economic storm. Individuals may require several years to recoup losses they have sustained, and by enabling them to keep assets in their retirement accounts until 2011, this bill offers them that opportunity. At that point, Congress can reevaluate whether the waiver of current-law rules should be further extended.

I urge all Senators to consider the benefits this legislation will provide to millions of retirees across the United States, and I look forward to working with my colleagues to enact it in a timely manner.

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

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

S. 157. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.
(2) by striking “2009” in clause (ii)(I) and inserting “2010”, and

(3) by striking “to calendar year 2009” in clause (ii)(II) and inserting “to calendar years beginning beginning after December 31, 2007.

(2) DISTRIBUTIONS MADE IN 2008 OR EARLY 2009.—

(A) IN GENERAL.—If a person receives 1 or more eligible distributions, the person may, on or before July 1, 2009, make one or more contributions (in an aggregate amount not exceeding all eligible distributions) to an eligible retirement plan and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of the Internal Revenue Code of 1986, as the case may be. For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of section 402(c)(3)(B) shall apply in the case of a beneficiary who is not the surviving spouse of the employee or of the owner of the individual retirement plan.

(B) ELIGIBLE DISTRIBUTION.—For purposes of this paragraph—

(i) IN GENERAL.—Except as provided in clause (ii), the term “eligible distribution” means an applicable distribution to a person from an individual account or annuity—

(1) under a plan which is described in clauses (v), and

(2) from which a distribution would, but for the application of section 401(a)(9)(H) of such Code, have been required to have been made to the individual for 2008 or 2009, whichever is applicable, in order to satisfy the requirements of sections 401(a)(9), 401(a)(9)(H), 408(d)(3), and 457(d)(2) of such Code, or

(ii) ELIGIBLE DISTRIBUTIONS LIMITED TO REQUIRED DISTRIBUTIONS.—The aggregate amount of applicable distributions which may be used as eligible distributions for purposes of this paragraph shall not exceed—

(1) for purposes of applying subparagraph (A) to distributions made in 2008, the amount which for the application of section 401(a)(9)(H) of such Code, have been required to have been made to the individual in order to satisfy the requirements of sections 401(a)(9), 401(a)(9)(H), 408(d)(3), and 457(d)(2) of such Code for 2008, and

(2) for purposes of applying subparagraph (A) to distributions made in 2009, the sum of the amount which would, but for the application of such section 401(a)(9)(H), have been required to have been made to the individual in order to satisfy such requirements for 2009, plus the excess (if any) of the amount described in subparagraph (i) which may be distributed in 2009 to meet such requirements for 2009.

(iii) APPLICABLE DISTRIBUTION.—(I) The term “applicable distribution” means a payment or distribution which is made during the period beginning on January 1, 2008, and ending on June 30, 2009.

(ii) EXCEPTION FOR MINIMUM REQUIRED DISTRIBUTIONS FOR OTHER YEARS.—Such term shall not include a payment or distribution which shall not include a payment or distribution which was made in order to satisfy the requirements of section 401(a)(9), 404(a)(2), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2) of such Code for a calendar year other than 2008 or 2009.

(iii) EXCEPTION FOR PAYMENTS IN A SERIES.—In the case of any plan described in clause (v) and which is required to have been made to the individual by this section, and

(iv) PLANS DESCRIBED.—A plan is described in this clause if the plan is—

(I) a defined contribution plan (within the meaning of section 414(h) of such Code) which is described in section 401(a)(9), 403(b)(8), or 457(d)(2) of such Code or which is an eligible deferred compensation plan described in section 457(b) of such Code maintained by an eligible employer described in section 457(b)(1)(A) of such Code, or

(II) an individual retirement plan (as defined in section 7701(a)(37) of such Code).

(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a payment or distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then to the extent of the amount of the contribution, such payment or distribution shall be treated as a distribution that satisfies subparagraphs (A) and (B) of section 408(d)(3) of such Code and as having been transferred to the individual retirement plan in a direct trustee to trustee transfer.

(D) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a payment or distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then to the extent of the amount of the contribution, if a contribution is made by this section, and

(E) PLANS DESCRIBED.—A plan is described in this clause if the plan is—

(i) a defined contribution plan (within the meaning of section 414(h) of such Code) which is described in section 401(a)(9), 403(b)(8), or 457(d)(2) of such Code or which is an eligible deferred compensation plan described in section 457(b) of such Code maintained by an eligible employer described in section 457(b)(1)(A) of such Code, or

(ii) an individual retirement plan (as defined in section 7701(a)(37) of such Code).

Ms. SOWNE, for herself, Mr. KERRY, Mr. BROWN, and Mrs. LINCOLN: S. 158. A bill to amend the Internal Revenue Code of 1986 to expand the availability of small-issue Development Bond, IDB, program to include the creation of “intangible” property. I am pleased to introduce legislation by Senators KERRY, BROWN, and LINCOLN in reintroducing this critical legislation to promote economic development, and I strongly believe it would be a critical additional to any stimulus legislation.

Our Nation’s capacity to innovate is a key reason why our economy remains the envy of the world, even during these difficult economic times. Known as the engine of the global economy, America is on the forefront of this innovation that has bolstered the economy over the longterm. For example, science parks have helped lead the technological revolution of the past two decades and have created more than 300,000,000 jobs, primarily in high-paying science and technology jobs, along with another 450,000 indirect jobs for a total of 750,000 jobs in North America.

It is clear that the promotion of knowledge-based industries can be a key economic tool for States and localities. This is especially true for States that have seen a loss in traditional manufacturing. In my home State of Maine, we lost 28 percent of our manufacturing employment over the last decade. I believe that it is critical that we provide States and localities with a wider range of options in promoting economic development, particularly as our economy lost over 2 million jobs in 2008. My legislation will do just that by expanding the availability of small-issue IDBs to new economy industries, such as software and biotechnology, that have proven their ability to provide high-paying jobs.

These IDBs allow State and local development finance authorities, like the Finance Authority of Maine, to issue tax-exempt bonds for the purpose of raising capital to provide low-cost financing of manufacturing facilities. These bonds, therefore, provide local authorities with an invaluable tool to attract new employers and assist existing ones to grow. The result is a win-win situation for communities providing them with much needed jobs. Consequently, it only makes sense to ensure that these finance authorities have maximum flexibility in options to grow jobs.

In addition, my bill provides some technical clarity to distinguish between the phrases “functionally related and subordinate facilities” and “directly related and ancillary facilities.” Until 1968, there was little confusion on Treasury regulations going back to 1972 that made it clear that “functionally related and subordinate facilities” were clearly eligible for
financing through private activity tax-exempt bonds. But, Congress enacted the Technical and Miscellaneous Revenue Act of 1988 that imposed a limitation that not more than 25 percent of tax-exempt bond financing could be used on facilities and ancillary facilities. While these two phrases appear to be very similar, they are indeed distinguishable from each other. Unfortunately, the Internal Revenue Service has blurred this distinction between phrases which has had an adverse impact on the way facilities are able to utilize tax-exempt bond financing. My legislation would make it clear that “functionally related and subordinate facilities” are not susceptible to the 25 percent limitation.

We must continue to encourage all avenues of economic development if America is to compete in a changing and increasingly global economy, and my legislation is one small step in furtherance of that goal. I urge my colleagues to join me in supporting this bill and to include it in stimulus legislation we will be considering in the coming weeks.

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

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

S. 158

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

SECTION 1. EXPANSION OF AVAILABILITY OF IN-DEMAND DEVELOPMENT BONDS TO FACILITIES MANUFACTURING IN-TANGIBLE PROPERTY.

(a) EXPANSION TO INTANGIBLE PROPERTY.—

(1) IN GENERAL.—The first sentence of section 144(a)(12)(C) of the Internal Revenue Code of 1986 defining manufacturing facility is amended—

(A) by inserting “, creation,” after “used in the manufacturing”; and

(B) by inserting “or intangible property which determines section 197(d)(1)(C)(iii) before the period at the end.

(2) CLARIFICATION.—The last sentence of section 144(a)(12)(C) of such Code is amended to read “any intangible property which determines section 197(d)(1)(C)(iii) before the period at the end.

(i) facilities which are functionally related and ancillary to a manufacturing facility (determined without regard to this clause), and

(ii) facilities which are directly located on the same site as a manufacturing facility, and

(II) more than 25 percent of the net proceeds of the issue are used to provide such facilities.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. LIEBERMAN (for himself, Mr. HATCH, Mr. LEAHY, Mr. KENNEDY, Mrs. CLINTON, Mr. DODD, Mr. SANDERS, Mr. KERRY, Mr. DURBIN, and Mr. FEINGOLD):

S. 160. A bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I am honored to have the opportunity to introduce a straightforward, bipartisan legislation which will finally grant citizens of our Nation’s Capital, the District of Columbia, voting representation in Congress. We have before us the first day of this new session of Congress, together with my colleague from Utah, Senator HATCH, to introduce bipartisan legislation which will finally grant citizens of our Nation’s Capital, the District of Columbia, voting representation in Congress. This legislation to which they are entitled as citizens.

That representative voting would be in the House of Representatives. This bill is entitled “The District of Columbia House Voting Rights Act of 2009.” It is identical to a bill which Senator HATCH and I introduced in the 110th Congress.

It would, for the first time, give citizens of the District of Columbia full voting representation in the House. I have introduced for congressional seats for the State of Utah based on population statistics from the 2000 census in which they came very close. I think the people of Utah would in fact say they deserve an additional seat.

This is the same legislation on which I have introduced legislation to try to correct what I believe is a fundamental wrongdoing—which is to deny the citizens of our Nation’s Capital voting representation in Congress. I hope and believe and pray that this session in which we are going to get this done.

Last year, this bill passed overwhelmingly in the House by a vote of 271 to 177, but it fell three votes short of gaining cloture in the Senate, though the vote in favor was 57 to 42. With a new Congress and a new President who was in fact a cosponsor of this bill himself in the last session of Congress, I am hopeful we can pass this legislation, vital to the rights of nearly 600,000 people who call the District of Columbia home. Keep in mind the population of the District, though small compared to many States, is roughly equal to the State populations of Alaska, North Dakota, Vermont, and Wyoming, all of which have, of course, not only representation—that is, voting in the House—but two Senators here. This deals only and exclusively with voting representation in the House.

I want to particularly thank my dear friend and colleague, Senator HATCH, for the principled, steadfast support of this bill. He set aside partisanship to join me and others in trying to right this historic wrong. I greatly admire his commitment to this cause.

I am also proud to say Senators LEAHY, KENNEDY, CLINTON, DODD, SANDERS, KERRY, DURBIN, and FEINGOLD are today joining as original co-sponsors of this legislation.

Of course, I pay special honor and thanks to the late Senator, ELEANOR HOLLIE NORTON, who has been a tireless champion for full representation for the citizens of the District; of course, a tireless champion for the citizens of the District generally. Delegate NORTON is introducing a similar bill in the House today.

I do this with a certain special personal pride because Delegate NORTON and I served on the House of Representatives at the same time just a few years ago. It probably would seem, to the casual observer, hard to believe that we deny the residents of our Nation’s Capital of the right to have a voting representation in the House of Representatives. In fact, public opinion polls have been taken over the years that ask people: Do you think the residents of the District of Columbia have voting representation in the House? Overwhelming, the American public says: Of course they do, because they cannot believe there would be a reason to deny them the representation.

In recent years, those who have opposed this legislation which would correct a historic injustice have argued that congressional representation is granted only to the States under the Constitution, and therefore our legislation is unconstitutional.

With all respect, I believe that simply is not true. The Constitution provides for two Congresses: one to bestow voting rights on the District. Multiple constitutional experts, spanning the full ideological spectrum of left to right, including Ken Starr, former judge on the U.S. Court of Appeals and former Solicitor General, and Viet Dinh, former Assistant Attorney General, and many others have told Congress and the public that this authority, which is, the authority to grant representation in Congress, lies within the District Clause of the Constitution, which is article I, section 8, where it states:

Congress has the power to exercise exclusive jurisdiction in all cases whatsoever over such District.

Congress has repeatedly used this authority to treat the District of Columbia as a State for various public purposes. For example, as long ago as 1940, the Judiciary Act of 1789 was revised to broaden diversity jurisdiction to include citizens of the District, even though the Constitution specifically provides that national courts may hear cases “between citizens of different States.”

In other words, in that act, Congress said for purposes of jurisdictional access to the courts, even though the Constitution says that courts may hear cases between citizens of different States. It would be incomprehensible that citizens of the District of Columbia, because they happen to live in Washington, D.C., and not gain access to the Federal courts.

When challenged, this revision to the Judiciary Act was upheld as constitutional by the Federal courts themselves. Furthermore, the courts have found that Congress has the authority to impose national taxes on the District, to provide a jury trial to residents of the District, and to include
the District in interstate commerce regulations.

These are rights and responsibilities that our Constitution grants to States. Yet the District Clause has allowed Congress to apply those rights and responsibilities to the District of Columbia because it is, so we would say, a municipality, as the residents of the District, or the District itself, second class in their citizenship.

Treating the District as a State for purposes of voting representation in Congress should be no different. The elections of 2008 saw a historic number of citizens carrying out their civic duty by voting for their representatives in Congress. Unfortunately, for over 200 years, DC residents have been denied that most basic right.

According to a 2005 KRC Research poll, 82 percent of Americans, when told that residents of the District do not have a voting representative in Congress, say it is time to give that voting representation to the citizens of our Nation’s Capital.

This has very practical and just consequences. People of the District have been the target directly of terrorist attacks but they have no vote on how the Federal Government provides for their homeland security. Men and women citizens of the District have fought bravely in our wars, in defense of our security and our freedom over the years, many giving their lives defending our country. Yet citizens of the District have no voting representation in Congress on the serious questions of war and peace, veterans’ benefits, and the like. Of course, the citizens of the District of Columbia, per capita, pay Federal income taxes at the second highest rate in the Nation. Yet they have absolutely no voice, no voting representation, in setting tax rates or in determining how the revenues raised by those taxes will be spent.

The Constitution of the United States provides, in the Fifth Amendment, that no right is more precious in a free country than that of having a vote in the election of those who make the laws, under which, as good citizens, we must live.

We can no longer deny our fellow American citizens who happen to live in the District of Columbia this precious right. With the United States engaged now in two wars, a global war also against terrorists who attacked us on 9/11, with our country facing the most significant economic crisis since the Great Depression, it is past time to grant the vote to those citizens living in our Nation’s Capital so their vote can be rightfully heard as we debate these great and complex issues of our time.

This matter has fallen, according to our rules, under the jurisdiction of the Senate Committee on Homeland Security and Governmental Affairs, which I am privileged to chair. I hope we will be able to take it up quickly. It is my intention to consider this legislation at the first markup of our committee in the session, and then to bring it to the floor as quickly as possible with a high sense of optimism that on this occasion, if there is another filibuster that we will have, with the help of the new Members of the Senate, more than 60 votes necessary to close it off, and at least have a vote on this question of fundamental rights for 600,000 of our fellow Americans.

I want to submit not only an original copy of the bill to the clerk, but also for the RECORD a statement from Senator HATCH, which I ask unanimous consent to attach as if part of the Record.

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

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

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

S. 160

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 “District of Columbia Voting Rights Act of 2009”.

SEC. 2. TREATMENT OF DISTRICT OF COLUMBIA AS CONGRESSIONAL DISTRICT.
(a) CONGRESSIONAL DISTRICT AND NO SENATE REPRESENTATION.—
(1) IN GENERAL.—Notwithstanding any other provision of law, the District of Columbia shall be considered a Congressional district for purposes of representation in the House of Representatives.
(2) NO REPRESENTATION PROVIDED IN SENATE.—The District of Columbia shall not be considered a State for purposes of representation in the Senate.
(b) CONFORMING AMENDMENTS RELATING TO APPOINTMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.—
(1) INCLUSION OF SINGLE DISTRICT OF COLUMBIA MEMBER IN REAPPORTIONMENT OF MEMBERS AMONG STATES.—Section 22 of the Act entitled “Federal District of Columbia Act of 1955 is amended as follows:

(c) T RANSMITTAL OF REVISED APPORTIONMENT.—Not later than 15 calendar days after receiving the revised version of the statement of apportionment under paragraph (1), the Clerk of the House of Representatives shall transmit a report to the Speaker of the House of Representatives identifying the State of Utah as the State entitled to one additional Representative pursuant to this section.

SEC. 3. EFFECTIVE DATE; TIMING OF ELECTIONS.
The general election for the additional Representative to which the State of Utah is entitled under section 3 of such Act for the 112th Congress shall be subject to the following requirements:
(1) The additional Representative from the State of Utah will be elected pursuant to a redistricting plan enacted by the State, such as the plan the State of Utah signed into law on December 5, 2006, which—
(A) revises the boundaries of Congressional districts in the State to take into account the additional Representative to which the State is entitled under section 3; and
(B) remains in effect until the taking effect of the first reapportionment occurring after the regular decennial census conducted for 2010.
(2) The additional Representative from the State of Utah and the Representative from the District of Columbia shall be sworn in and seated as Members of the House of Representatives on the same date as other Members of the 112th Congress.

SEC. 5. CONFORMING AMENDMENTS.
(a) REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.—
(1) REPEAL OF OFFICE.—
(A) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 94–415, §§ 201 and 201–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.
(B) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(b) CONFORMING AMENDMENTS TO DISTRICT OF COLUMBIA ELECTIONS CODE.—The District of Columbia Elections Code of 1955 is amended as follows:

(A) In section 1 (sec. 1–1001.01, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(B) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(C) TREATMENT OF REVISED APPOINTMENT INFORMATION BY PRESIDENT OF THE UNITED STATES.—
(1) STATEMENT OF APPOINTMENT BY PRESIDENT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress a statement of the most recent statement of apportionment submitted under section 22(a) of the Act entitled “An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress”, approved June 28, 1929 (2 U.S.C. 2a), to take into account this Act and the amendments made by this Act and identifying the State of Utah as the State entitled to one additional Representative pursuant to this section.

SEC. 6. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.—
(1) REPEAL OF OFFICE.—
(A) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 94–415, §§ 201 and 201–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.
(B) In section 2 (sec. 1–1001.02, D.C. Official Code)—
(i) by striking paragraph (6); and
(ii) in paragraph (13), by striking “the Delegate to Congress from the District of Columbia,” and inserting “Representative of Columbia,”.
(C) In section 8 (sec. 1–1001.08, D.C. Official Code)—
(i) in the heading, by striking “Delegate” and inserting “Representative;” and
(ii) by striking “Delegate,” each place it appears in subsections (a)(1), (j)(1), and (j)(1) and inserting “Representative in Congress,”.
(D) In section 10 (sec. 1–1001.10, D.C. Official Code)—
(i) in subsection (a)(3)(A)—
(A) by striking paragraph (5); and
(B) in subsection (b), by striking “the District of Columbia Delegate Act;” and
(ii) by striking “the office of Delegate to the House of Representatives” and inserting “the office of Representative in Congress;”
(ii) in subsection (a)(1), by striking “Delegate,” each place it appears; and
(iii) in subsection (d)(2)—
(A) by striking “(A) In the event” and all that follows through “term of office,” and inserting “In the event that a vacancy occurs in the office of Representative in Congress before May 1 of the last year of the Representative’s term of office,”; and
(B) by striking subparagraph (B).
(F) In section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking “Delegate,” and inserting “Representative in Congress,”.
(G) In section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking “the Delegate to Congress from the District of Columbia” and inserting “the Representative in Congress”,.
(H) REPEAL OF OFFICE OF STATEHOOD REPRESENTATIVE—
(1) IN GENERAL.—Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (sec. 1–123, D.C. Official Code) is amended by striking “office of Senator and Representative” each place it appears in subsection (d) and inserting “office of Senator”.
(2) NONAPPLICABILITY.—Nothing in the Act shall be taken to affect the existing offices of the Senate and House.
(I) In subsection (d)(3)(A), by striking “and”.
(J) In subsection (f)(1), by striking a “Representative or”;
and
(k) by striking “the Representative or”;
and
(l) by striking “Representative shall be elected for a 2-year term and each”.
(C) In subsection (d)(3)(A), by striking “and 1 United States Representative”.
(D) by striking “Representative or” each place it appears in subsections (e), (f), (g), and (h).
(E) By striking “Representative’s or” each place it appears in subsections (g) and (h).
(2) CONFORMING AMENDMENTS.—
(A) STATEHOOD COMMISSION.—Section 6 of such Initiative (sec. 1–125, D.C. Official Code) is amended by striking “shall be” and inserting “shall be”.
(B) by striking “27 voting members” and inserting “26 voting members;”
(C) by striking “and” at the end of paragraph (5); and
(D) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6); and
(i) in subsection (a)(1), by striking subpar.
Graph (H).
(2) AUTHORIZATION OF APPROPRIATIONS.—
Section 6 of such Initiative (sec. 1–127, D.C. Official Code) is amended by striking “and House”.
(2) APPLICATION OF HONORARIA LIMITATIONS.—Section 4 of D.C. Law 8–135 (sec. 1– 131, D.C. Official Code) is amended by striking “or Representative” each place it appears.
(D) APPLICATION OF CAMPAIGN FINANCE LAWS.—Section 3 of the Statehood Convention Procedural Amendments Act of 1982 (sec. 1–135, D.C. Official Code) is amended by striking “and United States Representative.”.
(i) in section 2(13) (sec. 1–1001.02(13), D.C. Official Code), by striking “United States Senator and Representative,” and inserting “United States Senator,”; and
(ii) in section 10(d) (sec. 1–1001.10(d)(3), D.C. Official Code), by striking “United States Representative.”.
(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.
(4) CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO SERVICE ACADEMIES.—
(1) UNITED STATES MILITARY ACADEMY.—Section 432 of title 10, United States Code, is amended—
(A) in subsection (a), by striking paragraph (5); and
(B) in subsection (f), by striking “the District of Columbia,”.
(2) UNITED STATES NAVAL ACADEMY.—Such title is amended—
(A) in section 8654a, by striking paragraph (5); and
(B) in section 6595(b), by striking “the District of Columbia.”.
(3) UNITED STATES AIR FORCE ACADEMY.—Section 932 of title 10, United States Code, is amended—
(A) in subsection (a), by striking paragraph (5); and
(B) in subsection (f), by striking “the District of Columbia.”.
(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.
SEC. 6. NONSEVERABILITY OF PROVISIONS AND NONAPPLICABILITY.
(a) NONSEVERABILITY.—If any provision of this Act or any amendment made by this Act is declared or held invalid or unenforceable, the remaining provisions of this Act or any amendment made by this Act shall be treated and deemed invalid and shall have no force or effect of law.
(b) NONAPPLICABILITY.—Nothing in the Act shall be construed to affect the first reapportionment occurring after the regular decennial census conducted for 2010 if this Act has not taken effect.
SEC. 7. JUDICIAL REVIEW.
If any action is brought to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:
(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.
(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.
(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by filing a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.
(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance the petition and to expedite to the greatest possible extent the disposition of the action and appeal.
founders wanted the capital to be free from State control and I support keep-
ing it that way. Giving the District a House seat changes neither that status nor Congress’ legislative authority over the District.

The District’s founders not only did not intend to disenfranchise District residents, they demonstrated the opposite intention by their own legisla-
tive actions. In 1790, Congress provided by legislation for Americans living in the land ceded for the District to vote in congressional elections. No one even suggested that this legislation was uncon-
stitutional because that land was not part of a State. If Congress could do it then, Congress can do it today.

Fourth, courts have held for more than two centuries that constitutional provisions framed in terms of States can be applied to the District or that Congress can legislatively accomplish for the District what the Constitution accomplishes for States. Congress, for example, has used its authority to commerce among the several States. The Supreme Court held in 1889 that this applies to the District. Do oppo-
nents of giving the District a House seat believe Congress cannot regulate commerce within the District?

The original Constitution provided that direct taxes shall be apportioned among the several States. The Supreme Court held in 1820 that Congress’ legislative authority over the District allows taxation of the District. Do op-
nonents of giving the District a House seat believe that the District is suit-
able for taxation but not for represent-
tation?

The Constitution provides that fed-
eral courts may review lawsuits be-
tween citizens of different States. The Supreme Court held in 1805 that Congress can legislatively extend this to the District even though the Constitu-
tion does not.

The list goes on involving provisions of the Constitution, statues, and even treaties. Over and over, courts have ruled either that provisions framed in terms of States can be directly applied to the District or that Congress can legis-
atively do so. Perhaps opponents of giving the District a House seat be-
lieve that all of these decisions over more than two centuries were wrong,
that the word States begins and ends the discussion in every case. They can-
not support their case without confronting those precedents.

These and other considerations which I discussed in the article I mentioned have led me to conclude that the Con-
stitution allows Congress legislatively to provide a House seat for the Dis-

trict. I do want to repeat my con-

tinuing opposition to District represen-
tation in the Senate. The District’s status as a non-State jurisdiction is not relevant to representation in the House, which was designed to represent the people. It is not part of our Constitution to represen-
tation in the Senate, which was designed to represent states. I would once again emphasize that the bill introduced today explicitly disclaims Senate rep-
}
representation for the District.

In December 2006, I signed a letter to the majority and minority leaders ex-
pressing the same position I had taken three decades earlier. It stated that: “While Congress makes differences be-
tween Utah and the District, to be

sure, they share the right to be rep-
resented in our country’s legislature. I take the same position today, believing that Congress may and should pass the bill in question in order to provide for that representation.”

Mr. LEAHY. Mr. President, I am proud to co-sponsor the District of Co-


lumbia House Voting Rights Act of 2009 to end the unfair treatment of District of Columbia residents and give them voting representation in the House of Repre-
sentatives. For over 200 hundred years, the residents of the District of Columbia have been denied a voting Member representing their views in the Congress. Today I hope the Senate will consider this important issue early this year to remedy the disenfranchisement that residents of our Nation’s capital have endured.

When the Senate considered this legis-

lative last Republican minority chose to filibuster the bill. While a majority favored it, we fell short of the 60 votes needed to end the filibuster and pass it. Earlier that year, however, the House of Representatives voted in a manner to pass a version of a voting rights bill for the District of Columbia led by Congress-

woman ELEANOR HOLMES NORTON. As a young lawyer, she worked for civil rights and voting rights around the country. It is a cruel irony that upon her return to the District of Columbia, and her election to the House of Repre-
sentatives, she does not yet have the right to vote on behalf of the people of the District of Columbia who elected her. She is a strong voice in Congress, but the citizens of the Nation’s capital deserve a vote, as well.

The bill introduced today would give the District of Columbia delegate a vote in the House. It would give Utah a fourth seat in the House as well. Last Congress, the Judiciary Committee held hearings on a similar measure and we heard compelling testimony from constitutional experts. They testified that this legislation is constitutional, and highlighted the fact that Congress, that is writing and I hope conferring statehood on the District certainly contains the lesser one, the power to grant District residents voting rights in the House of Representatives. Con-
grress has repeatedly treated the Dis-

trict of Columbia as a “State” for var-
ious purposes. Congresswoman ELEA-


NORTON testified that al-
though “the District is not a State,” the “Congress has not had the slightest difficulty in treating the District as a State, with its laws, its treaties, and for other purposes; to the Com-

mittee on Rules and Administration.

Mr. FEINGOLD. Mr. President, I am pleased to join with the senior Senator from Arizona, Mr. McCain, the junior Senator from Missouri, Mrs. McCaskill, the junior Senator from Oklahoma, Mr. Coburn, and the senior Senator from Virginia, Mr. Graham, in introducing the District of Co-
discipline, Earmark Reform, and Account-
ability Act of 2009. Senator McCain has been one of the preeminent champions
of earmark reform, and I have been pleased to work with him in fighting this abuse over the last two decades. Senators McCaskill and Coburn, though newer to the Senate, have been two of the most effective advocates of earmark reform since taking office. And Senator Graham has been a courageous champion of reform as well, and during consideration of the Lobbying and Ethics Reform measure in the 110th Congress was a critical vote in helping to strengthen the earmark provision in that legislation.

That measure was the most significant earmark reform Congress has ever enacted, and it reflected a growing recognition by Members that the business-as-usual days of using earmarks to avoid the scrutiny of the authorizing process or of competitive grants are coming to an end. It is no accident that the presidential nominees of the two major parties were major players on that reform package.

Mr. President, it would be a mistake not to acknowledge just how far we have come. The Lobbying and Ethics Reform bill was an enormous step forward, and I commend our Majority to enact them.

In the past, this urgent need for a new or general legislation that typically attracted unauthorized earmarks. We are much more likely to be successful in keeping that package and other appropriations bills free of earmarks if we are able to use the process allows this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 162

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 “Fiscal Discipline, Earmark Reform, and Accountability Act”.

SEC. 2. REFORM OF CONSIDERATION OF APPROPRIATIONS BILLS IN THE SENATE.

(a) IN GENERAL.—Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

9. (a) On a point of order made by any Senator:

(1) No new or general legislation nor any unauthorized appropriation may be included in any general legislation.

(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

(b)(1) If a point of order under subparagraph (a)(1) against a Senate bill or amendment is sustained—

(A) the new or general legislation or unauthorized appropriation shall be stricken from the bill or amendment; and

(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

(2) If a point of order under subparagraph (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, or otherwise strikethrough the House bill is deemed to have been adopted—

(A) strikes the new or general legislation or unauthorized appropriation from the bill; and

(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill;

(c)(1) If the point of order against an amendment under subparagraph (a)(2) is sustained, the amendment shall be out of order and may not be considered.

(2) If a point of order under subparagraph (a)(3) against a Senate amendment is sustained—

(A) the unauthorized appropriation shall be stricken from the amendment;

(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

(C) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the amendment as so modified.

(2) If a point of order under subparagraph (a)(3) against a House of Representatives amendment is sustained—

(A) an amendment to the House amendment is deemed to have been adopted that—

(i) strikes the new or general legislation or unauthorized appropriation from the House amendment; and

(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

(B) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

(3) The disposition of a point of order made under any other paragraph of this rule, or under any other Standing Rule of the Senate, that is not sustained, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

(4) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

Mr. President, it would be a mistake not to acknowledge just how far we have come. The Lobbying and Ethics Reform bill was an enormous step forward, and I commend our Majority to enact them.

Mr. President, it would be a mistake not to acknowledge just how far we have come. The Lobbying and Ethics Reform bill was an enormous step forward, and I commend our Majority to enact them.

Of course, the form of the 110th Congress by moving to strips through the dark-keeping earmarks. We are much more like-
name or description, in a manner that is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction, unless so specifically provided for the restriction, direction, or authorization applied, is described or otherwise clearly identified in the legislation, appropriation bill, conference report, or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

10. On a point of order made by any Senator, no new or general legislation, nor any unauthorized appropriation, new matter, or nongermane matter may be included in any conference report on a general appropriation bill.

(b) If the point of order against a conference report under subparagraph (a) is sustained—

(1) the new or general legislation, unauthorized appropriation, new matter, or nongermane matter may be included in any conference report on a general appropriation bill.

(2) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

(3) when all other points of order under this paragraph have been disposed of—

(A) all proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House of Representatives, or the further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

(B) the question shall be debatable; and

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

(d) the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. Notice of the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(1) For purposes of this paragraph:

(i) The term ‘new or general legislation’, ‘new matter’, and ‘unauthorized appropriation’ have the same meaning as in paragraph 9.

(ii) The term ‘nongermane matter’ has the same meaning as in subparagraph (c) and under the precedents attendant thereto, as of the beginning of the 110th Congress.”.

(b) REQUIRING CONFERENCE REPORTS TO BE SEARCHABLE ONLINE.—Paragraph 3(a)(2) of rule XLIV of the Standing Rules of the Senate is amended by inserting “in a searchable format after available”.

5. LOBBYING ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.

(a) In General.—A recipient of Federal funds shall file a report as required by section 6a containing—

(1) the name of any lobbyist registered under this Act to whom the recipient paid money to lobby the Federal funding received by the recipient; and

(2) the amount of money paid as described in paragraph (1).

(b) Deny.—In this section, the term ‘recipient of Federal funds’ means the recipient of Federal funds constituting an award, grant, or loan.”.

Mr. MCCAIN. Mr. President, I am proud to again be joining forces with my good friend and colleague from Wisconsin, Senator FEINGOLD, to introduce the Comprehensive earmark reform measure. We are also pleased to be joined by Senators MCCASKILL, GRAHAM, and COBHURN as cosponsors in this effort.

Today, the bill today is designed to eliminate unauthorized earmarks and wasteful spending in appropriations bills and conference reports and help restore fiscal discipline to Washington. Specifically, this bill would allow any member to raise a point of order in an effort to extract objectionable unauthorized provisions. Additionally, it contains a requirement that all appropriations and authorization conference reports be electronically searchable at least 48 hours before full Senate consideration, and a requirement that the recipients of Federal dollars disclose any amounts that they spend on registered lobbyists. These are reasonable, responsible reform measures that deserve consideration by the full Senate.

Our current economic situation and our vital national security concerns require that now, more than ever, we prioritize our Federal spending. But our appropriations bills do not always put our national priorities first. The process needs to be fixed. As we enter the second year of a recession, the economy is in shambles. Record numbers of homeowners face foreclosure, our financial markets have nearly collapsed, and the U.S. automobile manufacturers are near ruin.

The national unemployment rate stands at 6.7 percent—the highest in 15 years—with over 1.9 million people having lost their jobs since January.

In the last year alone, due to the mortgage crisis, the Government has seized control of Fannie Mae and Freddie Mac. Congress passed a massive $700 billion rescue of the financial markets, and we’ve debated giving the big-three auto manufacturers tens of billions in taxpayer dollars—just as a ‘short-term’ infusion of cash—knowing that they’d be back for more. Additionally, we’re getting ready to consider an economic stimulus package which is estimated to cost as much as $850 billion to a trillion dollars. With all of this spending, we can no longer afford to waste even a single dime of taxpayer money.

It is abundantly clear that the time has come for us to eliminate the corrupt, wasteful practice of earmarking. We have made some progress on the issue in the past couple of years, but we have not gone far enough. Last Congress we passed 2007 provided for greater disclosure of earmarks. While that was a good step forward, the bottom line is that we don’t simply need more disclosure of earmarks—we need to eliminate them.

As my colleagues are well aware, for years I have been coming to the Senate floor to read list after list of the ridiculous items we’ve spent money on—hoping enough embarrassment would spur some change. And year after year I would offer amendment after amendment to strip pork barrel projects from spending bills—usually only getting a handful of votes each time.

Finally, I was encouraged in January 2009 when this body passed, by a vote of 96-2, an ethics and lobbying reform package which contained real, meaningful earmark reform. I thought that, at last, we would finally enact some effective reforms. I thought that victory was short lived. In August 2007, we were presented with a bill containing very watered down earmark provisions. Not only did that bill, S. 1, do far too little to rein in wasteful spending—it completely gutted the earmark reform provisions we passed overwhelmingly the previous January.

Earmarks. Mr. President, are like a cancer. Left unchecked, they have grown out of control—costing by nearly 400 percent since 1994. And just as cancer destroys tissue and vital organs, the corruption associated with the process of earmarking is destroying what is vital to our strength as a nation: the trust of the American people in their elected representatives and in the institutions of their government.

Not long ago, in the House of Representatives, when another member questioned the necessity of one of his earmarked projects, a Congressman raged at the idea of someone challenging what he described as “my
money, my money.” Therein lies the problem. Mr. President. Too many Members of Congress view taxpayers, funds as their own. They feel free to spend it as they see fit, with no oversight and, often, no shame. Look at some of the things we’ve funded over the years. $225,000 for an Historic Wagon Museum in Utah, $1 million for a DNA study of bears in Montana, $200,000 for the Rock and Roll Hall of Fame in Ohio, $220,000 for blueberry research at the University of Maine, $3 million for an animal waste management research facility in Kentucky, $170,000 for a bird management endowment in Kansas, $196,000 for geese control in New York, $50,000 for feral hog control in Missouri, $90,000 for the National Cowgirl Museum and Hall of Fame in Fort Worth, Texas, $200,000 for an American White Pelican survey, $6 million for sugarcane growers in Hawaii, $13 million for a ewe lamb retention program, $500,000 to study flight attendant fatigue, $200,000 for a deer avoidance system in Pennsylvania and New York, $3 million for the production of a documentary about Alaska, $1 million for glassless urinal initiative, $500,000 for a Teapot museum in North Carolina, $1.1 million to research the use of Alaskan salmon in baby food, $25 million for a fish hatchery in Montana, $37 million over four years to the Alaska Fisheries Marketing Board to “‘develop fishery products and research pertaining to American fisheries.” So how exactly does this Board spend the money Congress so generously earmarks every year? Well, they spent $500,000 of it to paint a giant salmon on the side of an Alaska Airlines 747—and nicknamed it the “Salmon Forty Salmon.”

Unfortunately, I could go on and on with examples of wasteful earmarks that have been approved by Congress. And we wonder why our approval rating stands at 20 percent. The problem which stems from the practice of earmarking has resulted in current and former Members of both the House and Senate either under investigation, under indictment, or in prison. Let’s be clear—it wasn’t an inadequate lobbyist disclosure requirement. It was the Duke Cunningham jurisdictions where he would violate his oath of office and take $2.5 million in bribes in exchange for doling out $70-$80 million of the taxpayer’s funds to a defense contractor. It was his ability to freely earmark taxpayer funds without question. We cannot allow this to continue. Now is the time to put a stop to this corrupt practice. The bill we are introducing today seeks to reform the current system by empowering all Members with a tool to ril appropriations bills of unauthorized funds, pork barrel profligate legislative policy riders and to provide greater public disclosure of the legislative process. We, as Members, owe it to the American people to conduct ourselves in a way that reinforces, rather than diminishes, the public’s faith and confidence in Congress. An informed citizenry is essential to a thriving democracy. A democratic government operates best in the disinfesting light of the public eye. By seriously addressing the corrupting influence of earmarks, we will allow Members to legislate with the imperative that our Government must be free from corrupting influences, both real and perceived. We must act now to ensure that the erosion we see today in the public’s confidence in Congress does not become a collapse of confidence. Members of Congress must act now to end the practice of earmarking.

Again, I thank my friend and colleague from Wisconsin for his strong leadership on this issue, and I encourage the Senate act quickly to approve this measure.

By Mr. REID:

S.J. Res. 3. A joint resolution ensuring that the compensation and other emoluments attached to the office of Secretary of the Interior are those which were in effect on January 1, 2005; considering that the Secretary of the Interior under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by notice of appeal filed within 20 days after such judgment, decree, or order is entered.

(B) Jurisdiction.—The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken under subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

(c) Effective Date.—This joint resolution shall take effect at 12:00 p.m. on January 20, 2009.

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

Resolved, That the Senate act quickly to approve this measure.

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