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Senate

(Legislative day of Wednesday, September 17, 2008)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, the giver of every good and perfect gift, provide our Senators with strength and wisdom for today's journey. Give them faith that Your sovereign providence will lead them and that they can accomplish all things through Your strength. Remind them that You are still in charge of our world and that no weapon formed against Your faithful servants will prosper. Give them patience and humility. Help them to be quick to hear, slow to speak, and slow to anger. May they utter the right words at the right time. Lord, empower them to make decisions that will bring honor to Your Name and will permit truth and justice to prevail.

Keep the United States in Your holy protection, as its citizens cultivate a spirit of subordination and obedience to Your will.

You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 26, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BROWN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SENATOR DICK DURBIN

Mr. REID. Mr. President, I came to the floor and waiting was my friend, Senator DURBIN of Illinois, the assistant Democratic leader. He is always available. Whenever the Senate needs him or I have a problem, he is the first person I call. He gets little notoriety or credit for all the work he does.

We came to Washington together in 1982 as freshmen Members of the House of Representatives. I have had the good fortune of being able to serve with him for some 26 years. He is such a good friend, such a great orator, has such a great mind. He is such a great asset to the Senate, to me, and, of course, to the State of Illinois.

I appreciate calling him, as I do many mornings, and he is there very quickly. He helps me work through the day's issues. I publicly acknowledge what a good Senator he is and what a good friend he is.

SCHEDULE

Mr. REID. Mr. President, following the remarks of the leaders, if there are any, we will be in a period of morning business, with Senators allowed to speak for up to 10 minutes each.

I ask that on the Democratic side—we are going to try to do this on a rotating basis—on the Democratic side Senator HARKIN and Senator SCHUMER be the first speakers.

Negotiations on the agreement to vote in relation to the stimulus legislation is ongoing. If we have a vote on that legislation, it will be at 11 or 11:30 a.m. today. That will be the only vote today. We hope to reach agreement so we can have that vote, as I indicated.

We also should tell everyone we are working very hard to do something on the bailout of our financial institutions. We know we have an obligation to do that. A lot of Senators have a lot of questions about where we are in this situation.

We were at the White House last night. Our meeting was reconvened on the second floor of the Capitol last night, and Secretary Paulson was here, Senator DODD, Senator GREGG, Chairman FRANK, and Chairman BAUCUS. They worked into the nighttime and finished at 10:30, 11 o'clock last night. They are going to reconvene this morning.

Right now, out of 100 percent of the Congress—we have the Democrats in the Senate, Republicans in the Senate, Democrats in the House, Republicans in the House—we only have three of those Members trying to work something out. The House has basically walked away from everything. We were doing pretty well until the meeting at the White House yesterday.

We are going to continue to work hard. We understand the urgency of addressing this situation. We will have more to say about this issue later. We are doing our very best.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I hope the two Presidential candidates will go to the debate tonight and leave us alone to get our work done here. It would be a great aid to what we are trying to do.

We are going to come in about 9:30 Saturday morning. We are going to vote an hour after that time on the CR. There is other business we can do tomorrow. We will try.

It is quite evident we will be in session next week. We have a lot of business to do that has not been done. I will mention a couple. We have the DOD authorization, which is very important, rail safety, Amtrak. Of course, I have already talked about the financial crisis legislation. We have the Indian nuclear agreement. I have had a number of conversations with Secretary Rice and President Bush on this issue. We have another bunch of bills a Republican Senator has held up, and we probably will have to file cloture on those before we leave.

There are a number of moving parts. We are going to try to put them together. We are going to do our very best to keep Senators advised as to what is going to happen chronologically. As everyone who serves in the Senate knows, we cannot be specific at any given time. We will do our best so people have an idea of what the weekend holds and what next week holds.

Next week, as I indicated before, is a little bit more complicated because we have a Jewish holiday starting at sundown on Monday, ending sundown on Tuesday. So we will not be working that period of time, that is for sure.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The senior Senator from New York is recognized.

FINANCIAL CRISIS

Mr. SCHUMER. Mr. President, of course, we live in very perilous times. Our economy, particularly our debt markets and our credit markets, is in very serious shape. To paraphrase Chairman Bernanke, the arteries of the patient—our financial system—are clogged and the patient will have a heart attack. We don't know if it will be tomorrow or 6 months from now or a year from now but, unfortunately, if we don't unclog those arteries, a heart attack will occur. So we must act.

I know there are some—particularly some very ideological people on the hard right—who say do nothing and let everyone learn their lesson; there are a lot of people, particularly at the high end of the economic spectrum, who should learn their lesson. But there are millions of innocent people who will be hurt if we do nothing: the auto worker who will be laid off because we sell fewer cars; the small businesswoman who has struggled to build her business over 15 or 20 years and can't get a loan; the waitress at a restaurant of a chain that has to shut down because it can't get credit. Average people get hurt when our financial arteries are clogged, even though they are blameless. That is the difficulty of our world. It is not fair, it is not right, but it is how it is.

We must come together and work in a bipartisan way to unclog those arteries, and we must do it soon. We should not leave here until we have a plan, whether it takes a day, several days, 1 week, or even more. We cannot abandon our responsibilities, and we should work. I believe we will stay here and work until a plan is agreed upon and we see some light at the end of this rapidly darkening tunnel. That is the first point I wanted to make.

Second, we need to pass a good plan. The President's initial offering was received with, let's say, lack of popularity, to put it kindly, by both Democrats and Republicans in this Chamber and people out in America. It is because it was a $700 billion blank check. There was no help for taxpayers' protection so they got paid back first. There was no help for homeowners.

Chairman Bernanke tells us that housing is the root cause of the problem and if we don't find a floor to the housing markets, we may need bailout after bailout, unfortunately. This bill had no protection for homeowners.

I know Secretary Paulson said the Government owns a large share of the bonds, that they will have more ability to renegotiate mortgages and avoid foreclosures but, frankly, that is hope over reality because the bonds are now broken up in 40 tranches. If the Government owns 10, 15, 20, 25, or even 30 of them, if 1 tranche holder objects to refinancing, it won't happen.

We need help for homeowners beyond what is in the legislation. We need oversight, tough oversight. This is a democracy. We are known for our checks and balances. It has served America well for over 200 years. And all of a sudden, in an unprecedented taking of power, to give so much power to the Treasury Secretary with no one looking over his shoulder would be, frankly, not the American way. So we need tough and strong oversight.

Point 1, we will work until we get this done, even if it means staying past recess. We must. We have an obligation.

Point 2, we will pass a better plan than the President's plan. We will work with the President, but we need protection for homeowners, taxpayers, and oversight.

The third point I wish to make is this: This cannot pass without strong bipartisan support. There will be some in both parties who will not vote for any plan. So neither party has a majority, neither the Democrats—we are a majority by a small margin—nor the Republicans, who are close to a majority. But we will need strong bipartisan support as many on each side of the aisle will not vote for a plan, and that is their prerogative.

We need the President to get the Republican house in order. Even if we were to want to pass a bill with just Democratic votes, we could not. It is obvious. Look at the math. We need to have this bipartisan support.

We began it yesterday under Chairman DODD and Chairman FRANK's leadership when we met in this building and crafted a very good compromise that was a basis to take to Secretary Paulson. It did far more for taxpayers, for homeowners, for oversight than the existing bill.

Unfortunately, however, we needed a four-legged stool, and one leg just vanished—the House Republicans—in a way that none of us still understand. In addition, Senator MCCAIN's desire, even though he had not been involved in this legislation at all, to fly in put another fly in the ointment and created more trouble. I have not heard Senator MCCAIN offer one constructive remark. We don't know what he supports. Does he support the House plan? Does he support the President's plan? Does he have his own plan? By all reports, he hardly spoke at the meeting, which was his opportunity to try and do something. He spoke at the end and didn't say what his views were as to whether he supported each plan.

So we need two things on the Republican side: We need President Bush to take leadership. We need President Bush, first and foremost, to get the Republican House Members to support his plan or modify it in some way to bring them on board yet keep the Democratic House Members, the Republican Members of the Senate, and the Democratic Members of the Senate on board. Second, we need the President to respectfully tell Senator MCCAIN to get out of town. He is not helping. He is harming.

When you inject Presidential politics into some of the most difficult negotiations, under normal circumstances, it is fraught with difficulty. Before McCain made his announcement, we were making great progress. Now, after his announcement, we are behind the eight ball and we have to put things back together again.

So this is a plea to President Bush, for the sake of America: Please get your party in line. Get the House Republicans to be more constructive. Get Senator MCCAIN to leave town and not feed the flames and maybe we can get something done. In fact, not maybe, we have no choice but to get something done.

So, again, to reiterate my three points: No. 1, we will work until we have a product. The perilous state of

our financial markets and our national economy, the danger to average Americans, now unforeseen but real and lurking behind the shadows, says we can do nothing else. No. 2, we will continue to work for a better plan than the one the President proposed, with protection for taxpayers, homeowners, and real oversight. No. 3, the President must get his Republican House in order by getting the House Republicans in line and asking Senator MCCAIN, respectfully, to leave town. Because without Republican cooperation, we cannot pass this bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, I know there is an order for Senator HARKIN to speak next and I saw him in the cloakroom and told him I would speak for a moment until he is prepared to come to the floor. So I ask unanimous consent to speak next in order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I thank the Senator from New York for his comments. Of course, being from the State of New York, he feels intensely and personally what is happening with many of these economic decisions on Wall Street. This involves not only the savings of millions of Americans but the jobs and careers of many people who are working hard in the financial sector.

I am sorry we have reached this point, and I am also sorry that of all the things being proposed so far there are two glaring omissions. I understand time is a constraint on our activities, but we have to come to grips with the fundamental issue that is at stake. What we have done on Wall Street over the years is create a shadow credit industry with no oversight and little regulation. As a result, this has been an anything-goes-capitalism on Wall Street, which, sadly, has led to the demise of major investment banks and brokerage houses. It isn't just their misfortune, it is the misfortune of their employees and investors, savers and retirees who counted on them for their future.

Well, the idea that we would step aside and let the magic of capitalism work its will has shown us we should have thought more about this. It wasn't that many years ago on the Senate Floor that I was debating Senator Phil Gramm of Texas. He was high priest of this theory of fundamentalism—free-market fundamentalism. He would argue we needed to get Government out of the way; that all Government can do is get in the way by creating red tape and slowing things down and diminish profit taking and wealth creation. Well, he carried the day for a long period of time. He had this Svengali influence on many Senators, including the Republican nominee for President, JOHN MCCAIN.

Look what we have reaped from this. We have now an economic crisis—to quote the Secretary of the Treasury and the Chairman of the Federal Reserve—that has been generated by this market philosophy. So at the end of the day, we need to put in place sensible regulation so the taxpayers are protected and the people who count on these investment houses can have some assurance their money will be returned. That is the bottom line, and we will not have time to do that before the end of this year. It will take time to do it carefully. It must be part of it.

The second point I will make is this—and I see Senator HARKIN has come to the floor: There is a great deal of empathy and concern for those on Wall Street whose businesses are facing failure. I have some concern too. But I have more concern for the homeowners across America who are losing literally thousands of homes to foreclosure because of the tricks and traps which these same entities put in their mortgage instruments.

I think of people I have met in Chicago—retirees living on Social Security lured into these rotten mortgage arrangements, about to lose their homes because of someone who brought them into a room and had them sign a stack of papers with a reset that took the home away when the monthly costs went beyond their Social Security check. That is an outrage. How many tears have been shed on the floor of the Senate or in Washington for these people? None.

What we hear from this administration is it is their misfortune; they made bad decisions. We have to honor the sanctity of the contract. Sanctity is a word that, in my religion, connotes holiness—a sacred quality. What in the world is holy or sacred about these subprime mortgages, which were brokered for the purpose of making a fast buck and getting out of town, leaving victims behind who are about to see their homes foreclosed. I would like to see at least a modicum of sympathy for some of the people facing foreclosure. But when we bring this up in the negotiations over this bailout plan, we are told absolutely, no. We can do nothing for the homeowners at the end of the day.

Well, I will tell you, it isn't just a matter of sympathy or a matter of taking a moral position, it is good economics. If we don't stem the tide of foreclosures among homeowners at the base of our economy, then these mortgage instruments will continue to decline in value and there will be further instability in the credit markets. It is not just a matter of doing the right thing, it is the proper thing economically to get us back on track. But I can't sell that. You know why. Because the banks and the mortgage lenders, the same people who authored this mess, oppose it.

The sanctity of the contract. Well, I wish to tell you something: If we were dealing with the sanctity of the contract, we wouldn't be talking about bailout, we wouldn't be talking about $700 billion from hard-working taxpayers in Iowa or Illinois coming to the rescue of a lot of people who have been reaping multimillion dollar annual bonuses from the mess they have created on Wall Street. The sanctity of a contract. Give me a break.

Let's have some respect for the people across America—the families who are the strength of this Nation; those middle-income and hard-working Americans who get up and go to work every day and struggle with this economy and who may have been lured into a bad mortgage and now face the greatest economic catastrophe of their lives. How much help will they get from this bailout? Exactly nothing. Nothing. There is nothing on the table to help them. That, to me, is unconscionable and unacceptable.

I think we should have a balanced approach. Yes, take this economic crisis seriously at the top, but don't forget that at the bottom of the pyramid are the hard-working families of America that have been exploited by these people on Wall Street and deserve a break as part of our conversation.

The final point I will make is I am glad JOHN MCCAIN is back on the Presidential trail. His visit to Washington didn't help a bit. It hurt. It riled up and roiled up all the political forces in this town because he summoned the Presidential campaign to Capitol Hill. That didn't help one bit. He needs to get back running for President. He needs to show up in Mississippi tonight for this critical Presidential debate. We need to roll up our sleeves, on a bipartisan basis, and find a good solution to this crisis we face.

I yield the floor

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, first, I wish to thank Senator DURBIN for what he said because I have come to the floor to talk about that bottom of the pyramid; to talk about a vote we will be having in another hour and a half or so on a stimulus package that goes directly to the kind of people Senator DURBIN is talking about, the people at the bottom. They are unemployed. They need help—they need food stamps, they need unemployment benefits extended, and they need infrastructure jobs to rebuild our economy. Yet we are not talking about that.

So I wish to thank Senator DURBIN so much for pointing that out because I wish to talk about that for awhile.

Before I do that, I ask unanimous consent that following my remarks Senator GRASSLEY be recognized to speak for up to 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ECONOMIC RECOVERY PACKAGE

Mr. HARKIN. Mr. President, following on what Senator DURBIN was

talking about, all the news, of course, all the time, is about this bailout for the financial institutions. They are talking about $700 billion, but actually it is about $1 trillion. When you take in AIG and you take in Freddie Mac and Fannie Mae, you are into a trillion dollars. But what about the honest, hard-working, play-by-the-rules citizens at the bottom of this pyramid who are left in the ruins? They are left in the ruins after years of mismanagement and outright malpractice by the titans of the financial industry.

So I wish to talk about the economic recovery package, the Reid-Byrd economic recovery package that I think we will be voting on very shortly—otherwise called the stimulus package. It meets the urgent needs of working families all across America, with a special emphasis on those hardest hit by the economic downturn. There is no question that we need this stimulus package.

The first stimulus package we had, that was White House driven, and it was to send checks out to almost everybody. So we sent the checks out. Well, I have to admit I voted for it, but I kind of wish now I hadn't. But I voted for it, and a lot of those checks went out, and who knows what happened to that money. Some of it may have been saved; OK. Some of it may have been spent to reduce credit card debt; OK. Some of it may have been used to buy a new flat-screen TV made in China, or other kinds of things. So you don't know if it was a stimulus or not. What we need now is to do a real stimulus—something that actually will effectively stimulate the economy and which has been proven economically that, for every dollar you put in, you will get more than a dollar back in economic activity.

The unemployment rate has been rising for 8 straight months. Home prices, as we know, continue to plummet. Millions of Americans face the prospect of foreclosure and losing their homes. Prices have risen sharply for staples such as food, gasoline, electricity, and home heating oil. So we urgently need this second stimulus measure. Winter is coming on, and people are hurting. Instead of just sending out checks, this bill targets it to those who have been suffered the most. It injects money into infrastructure projects to create jobs directly and to generate new economic activities.

The bottom line is we need a package that actually provides the maximum stimulus for each dollar spent. We know what works. We have the data. We have history.

We get the biggest bang for the buck, stimulus-wise, No. 1, by expanding food stamp benefits. That is the best. The second best way is by extending unemployment benefits. Third, immediately pumping money into infrastructure projects will employ people and create jobs.

Let me discuss a few of the things that come under the jurisdiction of my Subcommittee on Labor, Health and Human Services, Education and Related Agencies. The package extends unemployment insurance for 7 weeks in all and 13 weeks in high unemployment areas. It temporarily increases food stamp benefits by 10 percent and includes an additional $450 million for the Women, Infants and Children's Program that goes to the lowest income people in America to get our kids started right in life. It provides $60 million for senior meals programs. It also provides $500 million for the weatherization program.

Now, this is in addition to some of the money we have in the continuing resolution for the Low-Income Home Energy Assistance Program. Now, get this, in the continuing resolution we have $5.1 billion for the Low-Income Home Energy Assistance Program to low income and elderly, and $250 million for weatherization. Well, when you give $5.1 billion to low-income elderly for energy assistance, guess where that money goes. It goes up the chimney. Of course, people do need it. But we should be putting more emphasis on weatherization so they do not have to spend so much money on heating their homes year after year. We know that works, too. It provides jobs and it will help our seniors and our low-income folks cut down on their energy bills this winter and next year. That is why in stimulus we put in $500 million for weatherization programs.

For every dollar spent on food stamps, according to Moody's Economy.com, we create $1.73 in new economic activity. That is the most of any of these.

When food stamp recipients spend every penny of benefits they receive—they spend every penny on food which is produced, packaged, transported, and sold here in America, so that money has a multiplier effect here in our own economy and it also frees up more money for them to spend on housing, transportation, daycare—other things that stimulate the broader economy. That is why food stamps have such a great multiplier effect.

The second, as I said, comes from extending unemployment benefits. At one level this is about fairness and compassion. Unemployed individuals desperately need the additional income. But on a second level, it also has a tremendous multiplier effect for the economy. Again, according to Moody's, for every dollar we spend on increasing unemployment benefits, we add $1.64 in new economic activity.

Talking about the increase in energy prices for those with a low income, energy prices have increased by more than 22 percent this year, coming on the heels of a 17-percent increase in 2007. There is no question that Americans, especially those of modest incomes, low incomes, and the elderly, need assistance in paying their energy bills. They also need assistance in weatherizing their homes. A lot of low-income people live in housing that is poorly insulated and that needs to be weatherized. It will save them money. It will increase the value of their home, if they own it. This stimulus will provide that assistance. But it helps the whole economy and the environment as well.

We also create hundreds of thousands of new jobs by investing in infrastructure projects, including $10.8 billion for building and repairing highways, bridges, mass transport, airports, Amtrak, schools. It includes $2 billion for school renovation and repairs, $500 million for Corps of Engineer projects such as flood control and environmental restoration.

Let me tell you about the experience we have had in Iowa. In the last 10 years, we have been able to get about $127 million into Iowa for rebuilding and modernizing our schools—about $127 million. This has provided jobs, it has provided for new schools, schools that are better equipped for our students, but the figures come back and show us that $127 million has translated into over $1 billion of construction. What a great multiplier effect that has. We know schools need to be renovated all over America. That is in this stimulus package we are going to vote on here very shortly; money to rebuild and modernize our schools all over this country.

We have $2 billion for that. Think about the multiplier effect. If that is about the same, that $2 billion could translate to somewhere, I would say, conservatively speaking, between $10 billion and $20 billion in construction in this country to rebuild and modernize our schools.

Next, the package looks out for rural America, where I happen to live. It includes $792 million in grants and loans for the construction of community facilities, everything from hospitals to city buildings in small towns of less than 20,000. It will provide over $500 million in loans and grants for rural water and wastewater improvements. We have a huge backlog of needed projects that are ready to go, but no money to pay for it. It is critical to the health and well-being of people who live in rural America.

This bill also provides up to $3.4 billion in loans and loan guarantees for single-family homes in rural areas.

There is a huge backlog of infrastructure projects. Many of them are already on the books ready to go. Again, a lot of what I am talking about will probably be funded and built sometime in the future. We are not going to continue to let our schools deteriorate into nothing. So why not do it now, when unemployment is going up; when people on the bottom are hurting because of increased energy prices, fuel prices, food prices; when a lot of their housing values are going down? Isn't this the time to get the jobs that are needed in America?

There is another item in this bill and that goes to the safety and security of Americans. This stimulus also provides

$490 million for the Byrne Justice Assistance Grants to make up for the devastating cuts that were made last year as a result of President Bush's vetoes and veto threats. I have been leading the effort to restore this funding. It is absolutely critical for law enforcement, and especially for Iowa law enforcement. In 2007, in Iowa alone, the Byrne Grant-supported task forces seized illegal drugs valued at more than $31 million and netted more than 2,000 criminal convictions. They responded to over 260 clandestine labs. Mr. President, 85 percent of Iowa's drug cases originated from these task forces.

It is not only on the enforcement side but it is on the rehabilitation side that these grants were used. Over 560 drug offenders received treatment in Iowa to get them off it and get them started back on the right path again. Again, Iowa law enforcement agencies are struggling to maintain crucial law programs in the wake of last year's cuts. This funding in the stimulus would allow them to pick up and redouble their efforts against crime and drugs.

The two last things I want to mention are the area of biomedical research, public health, and job training. In the stimulus package, funding for the National Institutes of Health is included—$1.2 billion. Why did we put that in there? Because the funding for the National Institutes of Health has declined in real terms by over 10 percent in the last 5 years. What has happened is we are losing cutting-edge biomedical research, we are losing a generation of talented scientists who can pursue treatments and cures. This $1.2 billion in the stimulus for NIH will be sufficient to fund approximately 3,300 new research grants in the areas such as cancer, diabetes, Alzheimer's, and heart disease.

Senator Arlen Specter and I worked very hard, along with others here, to double the funding of NIH between 1998 and 2003. We did it. We got it up and we got it up so it would be on the level where it was 20 years ago. Since 2001, as I have said, we have fallen down 10 percent in real terms. It is shameful what we are doing to the National Institutes of Health.

This package also provides $905 million for public health to enhance our Nation's preparedness against bioterrorism and to improve our preparedness in the event of an influenza pandemic. This package includes $300 million for employment and training activities for dislocated workers. It will help more than 79,000 people receive services including job search, career counseling, and training. As Senator DURBIN said, these are people on the bottom of the pyramid. You can give all that money you want to Wall Street, it isn't going to help these people. What helps these people is job search, career counseling, and job retraining to give them the skills they need to work.

The bill includes $300 million for youth employment and training programs. Right now the unemployment rate for teenagers has reached historic highs this year—historic, the jobless rate. It is now one of the worst employment environments for teenagers since World War II. More than 80,000 teenagers would receive services under the stimulus package.

We have all been reading about how the economy is at a dangerous inflection point. The financial and credit crisis, falling house prices, foreclosures, rising unemployment, rising prices for food and energy—all of these things kind of hitting at the same time, threatening to plunge our economy into a deep recession. Certainly we do have to act to shore up our financial system. But we have to do some other things in the broader economy.

We need to extend a helping hand to those Americans hardest hit by this broken economy, a generous helping hand. Boy, are we going to extend a generous helping hand to Wall Street. From everything I am reading, it looks as though the Congress is about to do that. But the purpose of the Reid-Byrd economic recovery package is to also extend a helping hand to those at the bottom. It addresses the urgent needs of working Americans. It is well crafted to deliver maximum economic stimulus to the economy.

We are going to be voting on this, I guess. By an agreement, it takes 60 votes. It will probably get over 50 votes, but I am told, because of the opposition of the Republican side, we will not get 60 votes. What a shame. I hope I am wrong. I hope what I have heard and what I have read is wrong. I hope, when we have this vote on the stimulus, Senators will come here and say: Look, if we are going to be called on to bail out Wall Street and the financial services and we are not even going to put a limit on how much income they can make, we can't help these people who are at the bottom of that pyramid?

If that happens, that we do bail out Wall Street and the financial services industry and we don't take care of people at the bottom, the gap between the rich and the poor will get wider and wider in our country, the cynicism of people toward their Government will grow, and it will be well-founded cynicism—that somehow we are here only to help those at the top, that only if we put more into the top it will trickle down—the same old trickledown economics I have been fighting against all my public life. It is the same theory, that you give it at the top and it trickles down.

Later on we are going to be discussing more about the bailout. But I couldn't help but read the paper this morning about the so-called bailout. I thought this was interesting. It said the critics of this so-called bailout package can be roughly divided into two camps. One group thinks money should go directly infused to banks, which would then allow it to trickle down to borrowers. A second group thinks the Government should buy individual mortgages, help ordinary Americans more directly, and let the benefits trickle up to the banks.

I favor methods that directly help average Americans. We know from past experience going clear back to the New Deal that when you put money in at the bottom, you get the biggest bang for the buck and it does trickle up, it helps our own economy. That is why food stamps have the biggest multiplier effect, because you are getting the people at the bottom. But you put in things up at the top and it trickles down, by the time everybody takes their cut, it never quite gets down to help people at the bottom.

The plan that is out floating around—

> ''The plan is a trickle-down approach from banks to Main Street,'' said Alan S. Blinder, a professor at Princeton University. ''But if you reduce the flood of foreclosures and defaults''—which he would have the government do by buying loans directly, then renegotiating the terms—''it will make mortgage-backed securities worth more.''
>
> That might help ordinary Americans, but it would be difficult to administrate.

Difficult to administer? I don't think so. It might be a little more difficult than giving a bushel basket of money to Wall Street—yes, that is easy. But because something is a little more difficult, should that be an argument why we should not do it?

The article goes on:

> ''There is a kind of suggestion in the Paulson proposal that if only we provide enough money to financial markets, this problem will disappear,'' said Joseph Stiglitz, a Nobel prize winning economist.
>
> But that does nothing to address the fundamental problem of bleeding foreclosures and the holes in the balance sheets of banks.

Now, again, everything is being rushed here. Everything is being rushed on the bailout. ''We have got to do it now. Now. Now. We have got to do it yesterday.''

Ten days ago this was not as big a problem. Quite frankly, Mr. Paulson—with Mr. Bernanke, but Mr. Paulson came out and said the sky is falling, thus sort of putting out there a self-fulfilling prophecy. In fact, I would go so far as to say the credit crunch we see happening in America today, the drying up of credit, is happening in part because of Mr. Paulson's statements, scaring everybody that the sky is falling. Yet it was Mr. Paulson who has been there for 2 years and 3 months and has been saying that ''things are fine.''

As late as May of this year, Secretary Paulson said—I do not have the exact quote in front of me, but basically: The credit crunch, the worst is behind us. Well, I have to ask, was he wrong for 2 years and right now or right for 2 years and wrong now? Nevertheless, his posture of last week of raising the stakes, scaring everyone, has put everyone in a kind of panic mode. As I said, 10 days ago, 2 weeks ago, no one was in a panic mode; credit was flowing. Things were a little tight,

but it was flowing. But once he pushed the stakes out, all of those poker chips out there, and said the Government has to come in right now, put in $700 billion with no strings attached, all of a sudden people said: Well, I am going to slow down. I am going to kind of hold my money back. I am not going to be buying some of that paper out there until I see what the Government is going to do.

Mr. Paulson, by using his position, has created kind of a panic situation in this country. Now, does that mean we have to respond to that by panicking? I don't think so. You know, when people such as Mr. Paulson and others—and I bear him no ill will at all, but when people like that say that things are fine and the worst is behind us, and then all of a sudden they tell us the sky is falling, doomsday, Armageddon is here, I think that is the time to sort of sit back, take a deep breath, and let us work this thing through. I would proffer that the most important thing we can do is not rush to judgment on this bailout but do it right, do it in a way that will provide for long-term economic benefits in this country, not just some short-term bailout.

Again, I would quote Alan Blinder, former member of the Federal Reserve, distinguished economist:

> I totally disagree that this needs to be done this week. It's more important to get it right.

I agree with Professor Blinder; it is more important to get it right.

Now I see the plan they are talking about—I was told yesterday the plan was going to be that they were going to put out like $250 billion right away, with another $100 billion he could access if he wanted to; and then before he could get the other $300 or $350 billion, they would come to Congress and we would have to then authorize and appropriate it.

Oh, no. Now what I read is much different from that. We are going to give him $250 billion, another $100 billion they can access without any questions, and then the other $300 or $350 billion they can use without ever coming to Congress to ask for it, but we get 30 days to say they cannot use it.

Well, you know what that is like. That is never going to happen. That is never going to happen. And if Mr. Paulson says they are not going to spend the $700 billion right away, they might use $50 billion next month and then $50 billion the next month—it seems to me what we need to do is to let the American people know that the Congress, is not going to let the economic system go under. So what we do is we might put out $200 billion, $250 billion, make sure.

We should definitely cap executive pay. If the Congress is going to kind of leave it up to the Secretary and leave it up to some board to decide what is fair compensation. And who is going to be on the board? Why, people from the industry. What a sweetheart deal that is going to be.

I have to say that if people are coming to the Government and asking the taxpayers of this country to bail them out, that is like being on the Government payroll. And if they are going to be on the Government payroll, they ought not be paid any more than what Government employees are paid. I would even go as far as to say that they can get paid as much as the President, but they should not get paid any more than the President of the United States, period. But that is not what we are facing.

Now, if they want to have a package that says: Okay, here is $250 billion, and they maybe can get another $100 billion, it ought to sunset in January or February, and the Congress ought to come back and see where we are, see how much more money we need, see if the compensation things have been working right, see if we are getting equity in these companies, and then let's have a more deliberate debate and consideration of what we might want to do in January or February when we come back. Well, we raised this with Mr. Paulson the other evening, and he was adamant: No, we have to have the $700 billion. We have to have it all now because that will give the confidence to the market that we have enough money to buy all of this worthless paper. Well, what about the Congress giving some assurances to the American people that we are going to be here, we are going to give them some money, but we want to make sure they do it right, folks. We are going to guard the taxpayers' dollars. And yes, we will be back in January; yes, we will be back here in February; if we need to do more, we can do more then but in a more deliberative manner than what we are being rushed to do now before an election.

Lastly, there are a couple of other things I must say about this bailout. You know, if a company comes in—let's say they are facing bankruptcy and they come into an investment bank to get help. Do you think the bank will just give them money? Oh, you need money? What it is you want? We will give it to you. The bank is going to want to see their books, not just their balance sheet, they want to know how they got in that situation, what kinds of models they used to buy their securities to get to that point where they are right now, and what their valuation may be.

Well, I suggested to Mr. Paulson that we should do that to every one of those investments firms that comes in. If they come in and they are putting their bids in to sell their securities, if I understand, in a reverse-auction kind of a system, and they want the taxpayers to buy this questionable security or whatever it might be, well, it would seem to me that one of the conditions ought to be that they open their books, that we get to see exactly what it was they used in deciding how they decided how much to pay for that investment. What got them to this point?

I have a sneaking suspicion that a lot of them do not want us to know that because, quite frankly—and I will say this very frankly and forthrightly—I think there was a lot of accounting fraud going on. I am selling to you, you sell to me, I sell to you, and every time, we can make a profit on it. Well, that doesn't really work, folks. But it seems to me that a lot of that was going on. But we need to know. Yet I see nothing in this bailout plan that will mandate that we have independent auditors go in and really understand what the government will be getting for its money. What were their internal models, their proprietary models that they used in conducting their business? We need to know that. Quite frankly, I do not see that in this bailout.

Lastly, we have to make sure there is no arbitrage going on where you have people from foreign countries or hedge funds dumping near worthless papers into banks later on—later on, in January and February and March—and we keep filling the swamp buying near worthless paper. I do not see anything in this bailout plan that will stop that either.

So, again, I did not mean to get off too much on the bailout plan. I will have more to say about that later. I wanted to make my point that we are going to be voting on a stimulus package that will go out to help people on the bottom of the economic pyramid, to help them get through the winter, to give them jobs, to build schools, to get infrastructure projects going. This is $56 billion. That is compared to a $1 trillion we are going to be asked to spend on the bailout if you include what we have already done. About 5 percent of what they are asking us to do for Wall Street, we are saying let's do for Main Street America. That is the least we can do.

There is one thing I also wanted to add. I have heard rumors that they might want to put the bailout plan on the continuing resolution. I can tell you nothing would be worse, nothing could be worse than to try to put the bailout on the continuing resolution to keep our Government going. The continuing resolution provides money that is needed for disaster assistance, for the military, for our veterans. I hope that is just a rumor. I hope that does not happen, as an appropriator and as a senior member of the Appropriations Committee. As I said, I still have not made up my mind on the bailout. We will see how it develops. But the one thing is, if there are efforts to put it on the CR, it will cause great problems.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

TAX POLICY

Mr. GRASSLEY. I thank my friend from Iowa. On that last point, my colleague from Iowa speaks of something that I would like to emphasize. And I presume one of the reasons he would

not like to see it on the continuing resolution is that it would jeopardize all of the relief in there for the flood victims we have in Iowa?

Mr. HARKIN. Exactly.

Mr. GRASSLEY. I would supplement also—I did not come here to speak on the same thing Senator HARKIN did, but let me supplement something Senator HARKIN said about suspicions that something could be wrong here and we need some sort of investigation.

Maybe my colleague from Iowa heard that about 2 or 3 days ago, there was an announcement by the FBI that they were investigating four of these institutions. If the FBI thinks something is wrong, you might not be far off that something is bad and needs to be investigated.

I wish to put my remarks this morning in the perspective of what I have been saying since June and July, and then we had the August summer break, and now in September on two previous occasions. So on maybe four or five previous occasions throughout the summer, I have come to the floor to speak about the differences of the tax policies of the two candidates for President. I come for that same purpose today.

But I wish to also say that my purpose in coming is twofold—one, so that people will pay more attention to the tax policies of the two Presidential candidates and consider those tax policies in light of some of the history I have brought to their attention, the history from a couple of standpoints: what had been said in previous elections and then what actually happened after those Presidents were sworn in, and maybe it was not exactly as they said it was in the Presidential election. So take that into consideration during this election.

The other one is to point out the history of different tax policy, when we have a President of one party, a Congress of another or when we have a Congress and a President of the same political party. So we take that into consideration when we want to analyze the checks and balances of Government working well for good tax policy. Why concentrate on tax policy? Because tax policy is a very important part of overall economic policy. Will we have a tax policy—hence, an economic policy—that grows the economy and creates jobs?

What this generation of policymakers ought to be all about is having an economic policy—and tax policy being part of it—that will advance opportunities for the next generation so we continue down the American trend of each generation succeeding, living better than the generation of mom and dad.

Starting in the third week of July, I have come to the floor to compare the tax plans of Senator MCCAIN and Senator OBAMA. They are the two Presidential candidates. During this series of visits with my colleagues, I have talked about the relationship between party control and the likelihood of tax hikes or tax cuts. I use this famous thermometer chart. Well, I don't know whether it is famous, but I think it is a pretty good indicator of some things I have stated. There is a big difference between tax policy that comes out of a Congress, where the Congress and the President are of the same political party. A different tax policy emerges when the House and Senate may be of one party and the President of another. But we can see up there that when we have a Democratic President and a Democratic Congress at the top, we have less tax cuts and, in some instances, tax increases. When we have a Republican President and a Democratic Congress, we still have tax increases but somewhat less than when there is a Democratic President and Democratic Congress. Then, going down to the third from the top, we see a Democratic President, a Republican Congress. There we have tax decreases but not as much as if we go down to the next line, where we have a Republican President, a Republican Senate, and a Democratic Congress—more tax decreases but not as much as the next line. There is a Republican President, a Democratic Senate and a Republican Congress, where we get more tax cuts.

But we really get job-creating tax cuts and economy growth tax cuts when we have a Republican President and Congress.

I would like Members to think in terms of the thermometer, as we look at the debate going on in the campaign for the Presidency.

Later on in July, I talked about the 1992 campaign promise of a middle-class tax cut, then the 1993 tax legislation that instead of having middle-class tax cuts, we had, in the words of Senator Moynihan, then chairman of the Finance Committee, a ''world record'' tax increase. I use this chart, which depicts 16 years of Rip van Winkle, to remind people of Rip van Winkle waking up between the 1992 campaign for a middle-class tax cut that was promised before the November 3, 1993, election and then the tax legislation of 1993, which, in the words of Senator Moynihan, chairman of the committee at that time, ended up going from a middle-class tax cut promise of the 1992 campaign to the largest tax increase in the history of the country. Here we have the history of rhetoric in campaigns and how they might turn out after a President is sworn in.

In our first week back after the summer break, I discussed the effects of the proposed 17 percent to 33 percent increases in the top two tax rates. That is not my policy. That is not my making something up. That is basically what one of the candidates, Senator OBAMA, had said he is going to do if elected President. Then I also spoke during that speech of those 17-percent to 33-percent increases in the top two rates being very negative to the growth of small business activity and then, in the end, the detriment that does to job creation because small business creates most new jobs.

Then last week I discussed the impact of Senator MCCAIN's and Senator OBAMA's tax plans on our senior citizens.

Today I would like to focus on the fiscal impact of both tax plans. It is particularly timely, considering the Treasury's recent activity and proposal to resolve the problems in our Nation's financial sector. Needless to say, from a fiscal policy standpoint, we are sailing into uncharted waters. I am sure everyone realizes there is always a large gap between what a Presidential candidate promises and what that candidate is able to deliver, if elected. We still need to carefully examine the plan that both my colleagues are putting forth during this election season. While neither plan is likely to be enacted exactly as laid out in the campaign, we can evaluate how realistic those plans are and also gain some insight into the candidate's vision of the Tax Code.

For a long time now, I have been saying we should stop calling the tax relief enacted in the 2001 and 2003 bills the Bush tax cuts and call it the bipartisan tax relief that it has been. Both bills, especially the 2001 bill, were passed with Democratic support in Congress where the Republican majority was narrow. My colleagues of the other party enjoy referring to it as the ''Bush'' tax cuts because they would like to put all blame on the President. That is quite easy to do when a President's popularity isn't so great. But, in fact, that is intellectually dishonest because the Bush tax cuts, if they had been enacted the way he campaigned and proposed them, would have been another $350 to $400 billion more than what Senator BAUCUS and I, in a bipartisan way, worked out because we thought it was more responsible and we could still do the economic good at a lower level of tax breaks. It should be called the bipartisan tax bill that it is and not denigrated with the Bush name on it because it was a lot different than what President Bush proposed to Congress.

In the case of the 2003 tax relief bill, Republicans passed it due to Vice President CHENEY's tie-breaking vote. Maybe we don't want to speak to that so much as a bipartisan bill. But the first version of it going through the Senate, as I recall, was bipartisan. The implication that President Bush or Republicans were able to impose this legislation by themselves is ridiculous.

The 2001 and 2003 bipartisan tax relief bills became law only with the support of Members of both political parties. In confirmation of what I have been saying, that both bills were bipartisan, in those 2001 and 2003 tax relief bills we find that both major campaigns have adopted what is essentially the meat and potatoes of both bills.

To illustrate how both campaigns have adopted significant parts of the 2001 and 2003 tax relief package, I

present this chart. It is taken not from a partisan group but by the Tax Policy Center. This chart shows, as we can see, the fiscal impact of how both plans would change current law. The Tax Policy Center shows that Senator MCCAIN's plan to prevent widespread tax increases would lose revenue of $4.2 trillion over 10 years. That is the red bottom line. Senator OBAMA's plan, which would include some widespread tax increases, would also contribute to the deficit. The Tax Policy Center says that number for the Obama plan would be $2.9 trillion. Remember, the Congressional Budget Office looks ahead 10 years, so I am talking about 10-year figures.

I have another chart. This chart assumes current law levels of tax relief in effect and then compares Senator MCCAIN's and Senator OBAMA's plans. The Tax Policy Center also produced the data I am using in this chart. This chart shows Senator MCCAIN's plan would raise $600 billion less than current tax policy. Senator OBAMA's tax plan would raise $600 billion more than current tax policy.

I respect the analysis done by veteran analysts at the Tax Policy Center. They have worked hard to develop a lot of data for policymakers, such as those of us in this Senate, for our use. If, however, we were processing legislation, it would have to be scored by the nonpartisan Joint Committee on Taxation, not by the Tax Policy Center. So the Tax Policy Center data is helpful, but we must note that the Joint Committee on Taxation will be the decisive scorekeeper of any legislation that either candidate would propose in their budgets after they are sworn in.

The Tax Policy Center has acknowledged that both candidates' plans lack detail. Necessarily then, the analyses and conclusions reached by the Tax Policy Center are qualified and need to be. There is a key caveat in these totals. Both plans assume revenue-raising offsets that lack specificity to be scored. Senator OBAMA has specified about $100 billion in defined revenue-raising proposals. That is close to the most aggressive accounting of revenue raisers in the congressional inventory. I am going to refer to a snapshot of the revenue raisers the House Ways and Means Committee has developed. It is in what I have referred to as the revenue-raising well chart. This is a chart that is modified from time to time, but I have been using it in the Senate for well over a year.

As this chart shows, roughly $90 billion in revenue-raising offsets have been defined, scored, and approved by the House Ways and Means Committee. That figure is considerably higher than revenue raisers approved by the Senate Finance Committee. Some of these offsets will be used in legislation we hope to pass shortly. This well chart gives us a rough snapshot of what is available. In other words, it is to bring some realism to what is politically accomplishable within the House and the Senate or between the two. This chart gives us that rough snapshot.

Let's then give the candidates the benefit of the doubt and round that $90 billion up to $100 billion.

Let's also look at the track record of tax-writing committees over the last few years. If you look at that history, you will find the committee generates about $1 billion per month. That is about—you can add it up—$12 billion per year. So let's gross-up the defined revenue raisers, then, to $220 billion.

Now, if you take that conservative number of $220 billion, how do the plans of the two candidates for President stack up? Senator OBAMA's tax plan contains $920 billion in unspecified, unverified tax increases. If we net that number against the $220 billion—that looks a little more realistic—we find that Senator OBAMA's plan is short on specified revenue raisers by $700 billion. To be evenhanded, Senator MCCAIN is carrying $365 billion in unspecified revenue raisers. If we net that number against the known revenue raiser number of $220 billion, we find that Senator MCCAIN's plan is short of revenue raisers by $145 billion. So let's take a step back just for a moment. It means the deficit impact of Senator MCCAIN's plan is understated by about $145 billion. It means the deficit impact of Senator OBAMA's plan is understated by $700 billion. As against the current tax policy baseline, it means the plans are not as far apart as they might appear.

So let's go back to the current policy baseline. This is the Tax Policy Center's chart I have referred to two times already. It means we need to raise Senator MCCAIN's deficit impact number from $5.3 trillion to $5.45 trillion. Likewise, we need to raise Senator OBAMA's deficit impact number from $3.9 trillion to $4.6 trillion. Keep in mind that the current policy baseline shows a revenue loss of $4.7 trillion. That is what the ranking Republican on the Ways and Means Committee, Mr. MCCRERY, calls the ''reality baseline.''

In recent weeks, Senator OBAMA has indicated he might revisit the marginal rate increases and increases in tax rates on dividends and capital gains after the election. I hope he will because his tax plan will stop growth in our economy. It is very bad when you have a recession. He said, if elected, he might reconsider them in light of an economy that might be in recession. So the deficit impact of Senator OBAMA's plan might be further understated.

If the candidates were just proposing tax changes, the deficit impact of their numbers would end with these figures I presented on these various charts. That would assume neither candidate would be doing anything on the spending side.

There is no Congressional Budget Office estimate of the two candidates' spending plans. A nonpartisan think tank, the National Taxpayers Union Foundation, has performed analyses and estimates of the two candidates' plans. I would use this chart that I do not think I have shown to Senators before. You can also find a comparative analysis at the National Taxpayers Union's Web site.

Let's take a look at Senator MCCAIN's plan first. The National Taxpayers Union, a nonpartisan public policy research organization, NTU, says that Senator MCCAIN's plan would include new spending of $68.5 billion per year. You can find the document, again, on the NTU's Web site.

Senator MCCAIN has made it clear he wants to cut spending. That is consistent with his career in the Senate. He has been a spending cutter. Sometimes he has found it to be a very lonely fight. Senator MCCAIN, despite fighting wasteful spending, has too often lost. Sometimes I have disagreed with his definition of wasteful spending, and, obviously, other times I have agreed with him. But one thing is clear: Senator MCCAIN pushes spending cuts, and any honest, nonpartisan observer could not quarrel with that point. Senator MCCAIN's overall economic plan continues his principle of cutting spending and keeping taxes low.

Senator OBAMA's plan on spending is completely different. The National Taxpayers Union counted up 158 new Federal spending programs. A conservative estimate of those programs came to $344.6 billion per year. We are talking, then, for emphasis, that OBAMA would spend $344.6 billion per year. You can look that up also on the NTU Web site.

If my friends on the other side have what they feel is a better estimate of Senator MCCAIN's, on the one hand, and Senator OBAMA's, on the other hand, new spending plans, I would be glad to take a look at it. But when you look at the NTU analyses, you can see that Senator OBAMA's spending plans would amount to $276 billion more per year. Conservatively speaking, it means that, if elected, a President Obama's tax and spending plans, if enacted, would exceed a President McCain's plans, in deficit impact, before the end of the first term.

Something has to give. Senator MCCAIN has been willing to put spending cuts on the table. It has been a hallmark of his congressional career. He would have to find a way to get the Congress to follow because that is not Congress's inclination, to cut spending. It would probably be his greatest challenge, but we know he is in the fight to restrain spending.

As a country, we cannot endure a deficit impact as large as would be projected under Senator OBAMA's tax plan, on the one hand, and add to it his spending plan, on the other hand. Where will Senator OBAMA adjust his plan, if elected? Will he abandon the tax cuts he has promised? Will he enlarge the group of Americans he has targeted for tax increases? Will he abandon his ambitious spending plans? Will he cut spending?

I think you need to think of the history of past campaigns, of what can happen to spending or tax policy enunciated in a campaign but not carried out after that President is elected, as evidenced by President Clinton in 1993, passing the biggest tax increase in the history of the country—and those are Senator Moynihan's words—contrary to the middle-class tax cuts he promised during the campaign. I hope Senator OBAMA is not up to that same game. But voters ought to be alerted to it, ought to be alerted, too, to make sure, as to things Senator MCCAIN is saying, that if he is President, you have that to measure against. We need to keep candidates intellectually honest, not to promise too much on the campaign trail; when they get sworn in, they do not have so many promises to keep. But we should expect Presidents to keep promises.

More importantly, a President McCain or a President Obama is likely to be dealing with expanded Democratic majorities on Capitol Hill. That gets me back to my tax increase thermometer and what it has told us over the past 20 years: that with a unified Democratic Government, taxes are likely to go up, as evidenced by the top of the thermometer shown on this chart. At the highest level of tax increases, you get that when you have a Congress and a President that are both under Democratic control, as evidenced by the 20-year history. Spending is not likely to go down because whether Republicans are in control of Congress or the Democrats, the inclination of Congress is not to cut spending. That is not right, but that is a fact of life, and a President who wants to veto bills is a damper on that.

In closing, I would like to review the issues I have raised today very quickly. Many folks are asking about the fiscal impact of the tax plans proposed by Senator MCCAIN and Senator OBAMA. The Tax Policy Center has produced data looking at the proposals against current law. Both candidates implicitly acknowledge current law is not a realistic measure. With that noted, the Tax Policy Center has examined the proposals against the more realistic baseline—current tax policy. If unspecified revenue raisers are deducted from both plans, the deficit impact of both plans grows. Likewise, we find the gap in deficit impact between the two plans narrows.

We cannot ignore the deficit impact of the spending side of each candidate's plan. Senator OBAMA's plan outspends Senator MCCAIN's plan by over 500 percent. When Senators MCCAIN's and OBAMA's plans are combined, Senator OBAMA's plan adds more to the deficit. In this troubled time, the Federal Government has stepped into the breach of the financial sector meltdown—all the more reason we need to closely scrutinize the tax and spending policies of our colleagues, Senators MCCAIN and OBAMA.

Mr. President, out of respect for my colleagues—I had more to say, but it was in a little different version—I am going to give up the floor. But is anybody on the record to speak after the Senator from Michigan is done?

The ACTING PRESIDENT pro tempore. There is no unanimous consent request.

The Senator from Iowa has 1 minute remaining, also, I would notify him.

Mr. GRASSLEY. Senator HARKIN?

The ACTING PRESIDENT pro tempore. No. You have 1 minute remaining. There is no unanimous consent request after Senator STABENOW.

Mr. GRASSLEY. How much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have the floor for 5 minutes after the Senator from Michigan speaks.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Michigan is recognized.

THE ECONOMY

Ms. STABENOW. Thank you, Mr. President.

Mr. President, today I wish to speak in support of what I consider to be the people's benefit, the people's bailout we have in front of us—a jobs stimulus—that we are going to be voting on shortly to invest in jobs in Michigan and all across the country and why we need to be doing that, why we need the President to finally support us in doing that, and why we need to have bipartisan support to do that. But first I wish to share with you some of what the people in Michigan are feeling right now about what is going on.

We in Michigan have known for a long time that things were not going well, that the fundamentals of the economy were not strong. We have known for a long time. I have been sounding the bell. Other colleagues of mine here in the majority have been sounding the bell. We have been putting forward solutions in the last 18 months, holding investigative hearings, proposing strategies to address the housing market and what needs to be done for jobs in the future. All we have heard from the other side of the aisle, from this President, has been: The fundamentals of the economy are strong. And now, all of a sudden, they come to us and say we are at the edge of a cliff. Well, unfortunately, I believe we are.

Contrary to all of the information or misinformation that was given to us in leading up to the war in Iraq, where, after listening very carefully and intently, I did not believe what was being said about the crisis or sense of urgency and voted no, in this case, where we are hearing from people around the country and I am hearing from people around Michigan in terms of what is happening—the inability to get credit to be able to start a business, what is happening in terms of potentially more job loss—I think this is, in fact, a crisis.

But what is outrageous to me is that this is not an accident. This is a crisis that has been brought forward because of a failed philosophy and a failed set of policies that have got us to this point. People in Michigan are mad about it. And I am mad about it. I am mad about the position in which we now find ourselves because, in fact, if people cannot get a car loan, my auto dealers are not going to be able to stay in business, my auto workers are not going to be able to have the opportunity to build those great automobiles. So I know this is serious. If, in fact, folks cannot get a college loan, that impacts the families whom I represent. If they cannot get a line of credit, if somebody takes an early out at one of our auto companies and decides they are going to set up their own small business and they cannot get credit, they cannot get a line of credit to set up that business, they are in trouble. My communities are in trouble. But what is an outrage is what has gotten us to this point and the fact that when families in Michigan have been not only on the edge of the cliff but falling off the cliff—thousands of them a month, losing jobs, losing homes, can't get the health care they need for their family, squeezed on all sides—we haven't been able to get the support from this administration or the bipartisan support we have needed to be able to help the families who fall off a cliff every day. So the people in Michigan are mad, and I don't blame them, because I am mad too.

We have had a failed set of philosophies that has gotten us to this point. While we know now—or I believe that—unfortunately, we do have to do something because the people in my State are ultimately going to see their jobs gone if we don't. I also believe it is incredibly important that we investigate, and that we demonstrate that we know what happened, the policies that failed, and that we are not going to let it happen again. I believe, frankly, there is only one way to do that, and that is by changing the philosophy, changing the White House in this country.

But let's look at where we are: massive deregulation. I know from the great State of Ohio, the Presiding Officer faces the very same concerns I do. Massive deregulation: Let's not watch what is going on. No accountability. Tax breaks for the wealthiest Americans, while middle-class people lose their jobs, and then step back and let greed roll. Let greed reign, with no accountability.

Now, that is what has gotten us to this point. People can try to mask it over in a thousand different ways, but the facts are the facts. This philosophy—the Republican philosophy of deregulation, coupled with more concern about tax cuts for the wealthy than what is happening to our country in

terms of debt or investment, has gotten us where we are. The reality is that the American people one more time are in a situation where they are going to pay for it if we act and they are going to pay for it if we don't act. So we have to sort through what is the most responsible way to proceed when we know that American families are counting on us to get it right.

I received an e-mail from my brother last night—a small businessman in Michigan, working hard every day. He raised two great daughters; one is in college and one is out. He understands what it is like to try to pay the bills. He sent me an e-mail from a friend of his who has been going around—and this will give you an idea about what people in Michigan feel about all this. Just with AIG alone, what was done in terms of the bailout for AIG—$85 billion, my brother's friend sent an e-mail that said: You know, they figured out that if you looked at every American 18 years of age or older and you divided that money up, and then you took minus taxes, because everybody in America is playing by the rules and is stepping up and paying their taxes, and what you would end up with for every American 18 years of age or older, just from that one company: $297,500—Mr. President, $297,500, just from that one company, or a husband and wife: $595,000.

Now, what could a family do with $595,000? Could they buy a house? Could they start a business? Could they make sure their kids can go to school and come out without a bunch of debt? Maybe it is as simple as making sure you can pay the gas payment, the heating payment, and put food on the table and know you don't have to go to sleep at night and say: Please, God, don't let the kids get sick.

We know financial markets are complicated and it is not that easy. I wish it were that easy, because I would be happy to do that. I wish it were that easy, but we know it is not.

We know what has been built here, because of deregulation and lack of oversight and irresponsibility, has been a house of cards, and it is complicated. People don't even know who holds their mortgage now and, chances are, it is divided up and lots of different folks have it somewhere, and you can't even figure out how to negotiate to be able to keep your home. But we know it is complicated, and we also know the reality is in the American marketplace that if credit is not available, then businesses can't keep the payrolls going, which is where the rubber meets the road, and what I care about, and I know the Presiding Officer cares about.

So this is serious. This is serious. We do need to fix it in a responsible way. But you know what. We also need to express the outrage people feel about getting us to this point. We have seen 605,000 people and counting since January alone lose their jobs, a lot of them in my State of Michigan where we have 8.9 percent unemployment and counting; 605,000 people since January. I have been on the floor I can't even count how many times talking about the fact that we need to focus on good-paying jobs. For those who lost their jobs, we need to extend unemployment compensation so they can pay the mortgage and stay in their house while they are trying to find another job. Our economic stimulus plan that is before us now, put forward by our leader, Senator HARRY REID, and Senator BYRD and the Democrats, extends that unemployment compensation and is absolutely critical. But it is even worse than that, because we have had 8 years—8 years—of not paying attention to middle-class families. In manufacturing alone, in the great State of Michigan, in the great State of Ohio, people who not only make automobiles but appliances and furniture and all the things that keep the economy running, have been overlooked. We have lost 3.5 million jobs; in fact, that number is going up. Even as we have this chart, I think I saw a new number that said 3.8 million. This number keeps going up and up and up, of lost manufacturing jobs since this failed Republican strategy started in 2001.

So we all understand we are at the edge of a cliff, but we have a lot of people who have fallen off already and are saying: What about me? What about my family? What are you going to do about my family? Don't I count anymore? Is it only the wealthy people who count? Is it only the people on Wall Street who count? What about me, and what about my family?

That leads me to the economic stimulus plan that has been put before us, because this is our downpayment as the Democratic majority, and I am so hopeful it is going to be bipartisan. I am so hopeful. This is a downpayment on the fiscal relief for the help the American people need. Now, it is about 8 percent of the bailout of the fiscal crisis situation that we are being asked to deal with; about 8 percent of the $700 billion is what we are asking for with this amount.

Mr. President, if I might receive unanimous consent for an additional 2 minutes. I realize you have the gavel.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. STABENOW. Thank you very much.

What we have in front of us is the ability to come together and—I see people of goodwill. I see our leader on finance, our ranking member, and we work together all the time. I am hopeful we are going to come together on this one.

We have in front of us the ability to create jobs with this package. Overall, the cost of it is only 8 percent of what we are being asked to do to deal with the overall financial crisis. It is not clear whether it is going to work, what we are being asked to do in the broader sense, but I tell you what: This will work, because this will put people back to work. This will extend unemployment compensation. It will invest—and I wish to thank our leadership for taking my recommendation—in advanced battery technology research, which is part of how we get to the advanced vehicles, to invest $300 million so we can claim that technology, so it is not being made overseas. Jobs and rebuilding America are in this plan. It is only 8 percent of what we are being asked to do to be able to deal with the crisis in the financial markets. I know that is real. I know it is. I know we have to deal with a responsible plan. But, frankly, this is about making sure we deal with the crisis in the lives of families every day, and it is the least we can do.

We need a responsible plan for the broader crisis: No golden parachutes for CEOs; we need to help homeowners; We need to have accountability. Frankly, we need to investigate and find out exactly what happened and who is responsible and hold them accountable. Because the American people are watching to see if we are going to also pay attention to what is happening; the crisis in their lives. This stimulus package we have in front of us right now is a first step to doing that, to say: We hear you. We get it. It matters what happens in people's lives. I hope we are going to support it.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, it is my understanding that the Senator from Iowa deferred in order to finish his speech in a very short period of time. I ask unanimous consent that when he finishes, I then be recognized for not more than 10 minutes, and then the senior Senator from Washington be recognized after me.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

AMT

Mr. GRASSLEY. Mr. President, there is a provision in the bill we passed Tuesday on taxes with only two dissenting votes that hasn't been discussed much, and I wish to refer to that provision. It is a modification of the alternative minimum tax credit allowance against incentive stock options. So the important words there are ''incentive stock options.'' Because of how stock options are treated by the AMT, the economic downturn in 2000 created a situation where many individuals owed tax on income they never realized. This is because they owed tax on the value of their stock options when they were exercised and not on what the value of the stock actually was when the shares were sold. Many people owed tax that was several times their actual income. Congress acted to remedy this situation through past legislation, but that did not completely

solve the problem. Many families are still facing an IRS bent on collecting liabilities owed now, despite the fact that those liabilities would be offset by credits in the near future. This means that the IRS was—and could, in the future—be working to seize assets such as family homes to satisfy present tax liabilities that would be eliminated within the next few years under current law.

One Iowa family caught in this AMT trap is the Speltz family of Ely, IA, near Cedar Rapids. Ron and June Speltz found themselves in the crosshairs of the IRS after Ron used stock options to purchase several shares of stock of his employer. I ask unanimous consent that an editorial printed in the Des Moines Register on July 24, 2006, that describes the Speltz family ordeal be printed in the RECORD.

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

[From the DesMoinesRegister.com, July 24, 2006]

CONGRESS SHOULD FIX UNFAIR TAX QUIRK

(By the Register Editorial Board)

The U.S. government has ruined the financial lives of Ron and June Speltz of Ely.

Here's how it happened: In 1992, Ron took a job with McLeodUSA, then a small telecommunications start-up. Compensation included stock options, which he saved for a family nest egg. In 2000, he and June consulted a financial adviser on the best way to cash out the stock. The adviser told them to exercise the stock options and hold the stock for a year to take advantage of low tax rates on capital gains.

Then the stock price fell. What was once worth about $700,000 became worth about $2,000. Yet, they owed more than $250,000 in state and federal taxes due to a quirk in the Alternative Minimum Tax law that targets Incentive Stock Options (ISO-AMT).

When we wrote about the Speltzes and other Iowans in similar straits earlier this year, we received a few letters to the editor stating it was their greed and desire to avoid paying taxes that landed them in such a predicament.

Yes, they tried to take full advantage of tax law. Who doesn't? But at the end of the day, Americans should not have to pay taxes on money they never collected. It amounts to the U.S. government taking money from people it shouldn't be entitled to. It's hard to believe Congress intended such consequences for people whose employers, like McLeod, go bankrupt.

It's devastating families and driving them into bankruptcy, too. The Speltzes have had to borrow money from banks and family members to try to pay the tax. They have lost everything they had saved for retirement and their children.

But perhaps the greatest tragedy is that they have taken every possible step to get the government to respond to their case. And they're still waiting for help.

They've traveled to congressional hearings in Washington, repeatedly contacted members of the Iowa delegation, and gone round and round with the Internal Revenue Service. They even took their case to the 8th Circuit Court of Appeals, which on July 14 affirmed a judgment from the United States Tax Court that the Speltzes owe the tax.

''This is one more time that our court system has placed the issue in the hands of Congress,'' Ron wrote in an e-mail to the Register. ''We are in desperate need'' of Congress'' help.

Here's a glimmer of hope: When we checked with Sen. Charles Grassley's office last week, his aide, Jill Kozeny, said the senator was ''working to get included some ISO-AMT relief for middle-income taxpayers'' in what's called the ''extenders'' tax bill being negotiated in a conference committee.

''Obviously this is the biggest thing that's happened in five years,'' said the Speltzes' pro-bono attorney, Tim Carlson. He hopes it provides relief to the thousands of Americans, including scores of Iowans who worked for McLeod, who have been adversely affected by this quirk in tax law.

We hope so, too. The senator is the Speltzes' last hope.

Mr. GRASSLEY. Mr. President, despite the previous stock option alternative in minimum tax relief enacted earlier, the IRS is still after the Speltz family. In fact, this past June, Ron and June received a notice from the IRS announcing their intent to levy certain assets. After stating that the IRS intends to levy any State tax refunds, the notice continued: ''In addition, we will begin to search for other assets we may levy.''

I think anyone would be terrified to receive something such as this in the mail, especially when the outstanding liability derives from income never actually realized, and Congress has already decided that it shouldn't happen.

In July, I sent a letter with 26 of my colleagues in the Senate and the House to IRS Commissioner Shulman asking that he use the discretion provided to him by effective tax administration to suspend collection efforts to collect incentive stock option alternative minimum tax liabilities in order to give us a chance to fix this problem once and for all. Commissioner Shulman gave us that chance by agreeing that the IRS would not undertake any collection enforcement action through the end of the fiscal year. The end of the fiscal year is next Tuesday.

If the House does not stop playing politics with the taxpayers and instead pass the Senate extenders package that we passed with only two dissenting votes, Commissioner Shulman promises in his letter that ''the IRS will then continue to administer programs in accordance with current law.'' That means the Speltzes and probably a lot of other people spread around Iowa, California, and other places where high-tech was a big thing in the 1990s, their assets will be needlessly seized from them if we do not fix this problem.

This is not a political issue either. The original legislation to fix this problem was introduced in the Senate by Senator KERRY, and in the House by Congressman CHRIS VAN HOLLEN. Both bills were cosponsored by Members of both parties. Even the National Taxpayer Advocate, in her Fiscal Year 2009 Objectives Report, agreed that this problem demanded immediate action.

Commissioner Shulman has given us the window we need to prevent additional taxpayers from being crushed in the grip of incentive stock option AMT liability. Any delay in enacting the Senate-passed legislation is to aid and abet the seizure of the Speltz family's assets and those of many other families.

According to the latest Small Business Administration report, issued in December 2007, all net new private sector jobs in 2006 were created by small businesses. According to the National Federation of Independent Business, almost half of those job-creating businesses are owned by taxpayers who are targeted with a marginal rate increase of 17 percent to 33 percent. Since these small businesses are likely to create or retain new jobs, maybe we could get a bipartisan agreement not to raise their taxes on small business.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The senior Senator from Oklahoma is recognized for 10 minutes.

OIL SHALES

Mr. INHOFE. Mr. President, the discussion is on the serious problem this country is facing. While I take a position against the administration's program, I know they are behind closed doors with the leadership on both sides, both Houses, trying to come up with something that is workable.

I suggest what we are going to vote on, scheduled for 11:30 a.m., which I think will be a little later than that, does not have a solution. One of the points I want to make sure everyone knows is that in this legislation is the extension of the moratorium on oil shale.

The Consolidated Appropriations Act of 2007 established a 1-year moratorium on the necessary funding to complete the final regulations for commercial leasing of oil shale on public lands. Without congressional action, the moratorium will expire. The stimulus bill that we will be voting on shortly after 11:30 will continue this moratorium for another year.

This is serious. The Senate has debated energy legislation for weeks, and the extension of this moratorium does nothing to address increasing domestic energy supply.

The potential energy development from the Rocky Mountain oil shale is truly massive. The Green River Formation located within Colorado, Wyoming, and Utah contains the equivalent of 6 trillion barrels of oil. Of this 6 trillion, the RAND Corporation estimates there are 1.1 trillion recoverable barrels. That equals more than 2,000 years' worth of imports from Saudi Arabia, or 145 years of domestic supply at current rates of oil consumption. These numbers would nearly double assuming the Department of Energy's estimate of nearly 2 trillion potentially recoverable barrels. What we are talking about is huge.

The RAND Corporation projects that within the first 12 years of commercial production, these barrels would be recoverable at prices as low as $35 to $48 per barrel.

There are problems out there. We have been arguing on the floor of the Senate, and the Democrats refuse to increase the supply or vote for any increase in oil or gas in America.

We have the Outer Continental Shelf discussion that is going on. This bill doesn't affect that. However, since 1982, Democrats and the environmental left have blocked access to 85 percent of America's Outer Continental Shelf resources. With this year's record-high gas prices, Americans have demanded that the Democrats in Congress allow us to produce from our own resources. With just 6 weeks until election day, Democrats have finally relented.

We held a news conference yesterday. We all celebrated the fact that we are going to allow these two moratoria to expire. This bill will stop the expiration of the moratorium on oil shale.

The Interior Department estimates that the Outer Continental Shelf contains 19 billion barrels of undiscovered recoverable oil. That equals 35 years of imports from Saudi Arabia.

We can see that while the Outer Continental Shelf is great, we want to remove that moratorium. It is even much more important we do it with oil shale because of the sheer size. As I say, the vote doesn't affect the Outer Continental Shelf, but it does affect oil shale.

Americans spent more than $327 billion to import oil in 2007. These oil imports accounted for 46 percent of the Nation's $711 billion trade deficit last year. By opening the Outer Continental Shelf and the oil shale, America can cut that trade deficit in half.

Assuming a $130 price per barrel of oil, America will trade more than $135 billion to Saudi Arabia and Venezuela for oil imports this year.

Outer Continental Shelf and oil shale production can stop this transfer of oil and keep hundreds of billions of dollars at home within our economy creating jobs at home, not overseas.

America is not running out of oil and gas or running out of places to look for oil and gas. America is running out of places where the Democrats in Congress are allowing us to look for oil and gas.

We had a great celebration on Wednesday that the moratoria would be lifted in both areas. This bill would extend the moratorium on shale, the largest opportunity we have and potential we have for reserves and for lowering the price of gas at the pump that we will be dealing with this year.

I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, before I speak, I ask unanimous consent that following my remarks on the Democratic side, Senator BAUCUS be allowed to speak, and following Senator BAUCUS, Senator BYRD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STIMULUS BILL

Mrs. MURRAY. Mr. President, as all of us are aware, J.P. Morgan has agreed to buy Washington Mutual, which is based in my home State of Washington. I have been in touch with J.P. Morgan and with WaMu about their plans, and I have been assured that the transition will go smoothly and that Washington Mutual's banking customers will not see any interruption in service. And that is good news.

It is, of course, still too early to know the impact of the failure of WaMu, the Nation's largest thrift, will have on local jobs, but it is further evidence to me that the economic crisis has spilled over into our communities.

I am very saddened that it is having an impact on families and our economy, and yet it is another sign that we must find a bipartisan solution now.

We are working together quickly to reach an agreement. We have rejected the President's $700 billion blank check because it did not ensure oversight or protection for our taxpayers. But Democrats and Republicans in the Senate are working with the House Democrats, the Treasury, and the Fed to come up with a solution that keeps this crisis from hitting more communities. We are hopeful that the House Republicans will come to the table and work with us on a solution that protects American taxpayers.

As we do this, I firmly believe we must also offer the American people a hand and help get our economy going in communities across this country.

We now have an opportunity today to help millions of struggling families who are grasping for a lifeline as this economy sustains blow after blow. Long before this economic crisis rippled across our financial system, middle-class families were already reeling under the impact of failed policies that were implemented by President Bush and backed by JOHN MCCAIN, and it is critical that we act now to help those families, those small businesses, State and local governments get back on their feet. The bill I am hoping we will vote on shortly will do just that.

This bill brings security to seniors who are facing a stack of medical bills they cannot afford to pay and offers help to families who have seen the value of their homes drop below the amount they owe. It ensures that the most vulnerable Americans can continue to put food on their table and keep a roof over their heads. It creates jobs at a time when billions of workers have been laid off and billions more are worried that their job is going to be next.

The Bush-McCain economic philosophy of ''hands off'' has done its damage. It is time that we now put the interests of the American people first again.

This bill I hope we will vote on shortly will do just that. I wish to take a few minutes this morning to underscore the importance of what that bill will do.

First of all, dropping home values and dwindling business revenues have put our State governments under extraordinary financial stress at a time when they can least afford it. As a result of the White House's failed policies, Republican and Democratic Governors across the country are now facing drastic cuts in services from health care to education to law enforcement, and they are looking and asking for relief from Washington.

Already, State-supported health clinics and hospitals are closing, schools are pushing more and more students on fewer teachers, and fully trained police officers are being asked to hand in their badges because their departments can no longer afford to keep them on the beat.

This bill will allocate about $20 billion to help our States continue to provide the services on which our citizens depend.

Next, this package puts workers on the job immediately by providing $8 billion for highway projects in every one of our States. As chairman of the Appropriations Subcommittee on Transportation, Housing and Urban Development, I have been watching with dismay as the construction sector of our economy has endured hundreds of thousands of layoffs over the last several months.

Construction jobs play a critical role in our economy. They provide a living wage that enables those families to keep food on their tables. But the construction industry is now facing its highest unemployment rate in 13 years.

A couple of months ago, an estimated 783,000 jobless laborers, carpenters, plumbers, pipefitters, and other tradesmen were looking for work wherever they could find it. With that in mind and watching that happen, I helped to work to craft a transportation and housing infrastructure package that is in this bill that addresses our most critical needs.

It requires that we spend the money fast so that we will see an immediate impact on our economy in every one of our communities. Every State across this Nation has a highway, transit, or airport maintenance project that is ready to go to construction, but they lack the money to buy the rebar or purchase the timber or order the concrete or even pay the workers.

This bill we will be considering will allow those projects to get up and running right now when we desperately need those jobs. This funding will create more than 278,000 family-wage jobs in a sector that has taken it on the chin over the last year, and it does it fairly and it does it responsibly.

This bill requires those highway dollars be spent according to the formula that was established in our SAFETEA-LU highway law. There are no earmarks, no special projects. States have to use these dollars within 90 days.

Now, all of us have heard about the increasing demand for public transportation as gas prices have gone through

the roof. For example, Amtrak, our Nation's railroad, continues to set records now for its ridership. Well, the bill we are considering makes urgently needed investments in Amtrak and mass transit. It provides $2.35 billion in funding to improve and expand our bus and rail systems, including $350 million to repair railcars and make other necessary improvements to the Amtrak network. Most importantly, that will put another 70,000 Americans back to work.

The bill also includes $400 million for capital projects at our Nation's airports and $44 million to modernize our Nation's shipyards to make them competitive and efficient. It provides money to ensure that Americans who rely on public housing will continue to have a roof over their heads. It will help address a growing problem in our communities—renters who have lost their homes because their landlords were foreclosed on. This bill includes $200 million to help those tenants find immediate shelter and long-term housing. It includes $250 million so our public housing authorities can rebuild those vacant units and fill those units with needy tenants.

Finally, this bill will increase benefits for those jobless Americans who, at a time when unemployment is at the highest since 2003, need to know they can keep food on their tables. Our economy has bled jobs every single month this year. Hundreds of thousands of workers are wondering how they are going to pay their mortgages or pay for their food or their heat.

The jobless rate now stands at 6.1 percent across the country, and it is worse in those States where manufacturing and auto industries have been faltering for years. This bill reaches out to those families by extending unemployment benefits by just 7 weeks across the country and 13 weeks in States where the jobless rate is the highest. And it invests in our workforce by helping those laid-off workers search for a new job or earn skills so they can go back into the job market and be competitive.

It also helps our teenagers get job experience and helps them find long-term employment. I want our colleagues to know teenagers are among the hardest hit by the economic crisis today. Almost 20 percent of our teenagers are unable to find a job, and the number is even higher among minorities. So it is critical that we enable these young people to get work experience now. Because if they lose out, they are less likely to move into a career later. Teens without jobs are more likely, as we all know, to turn to crime or gangs in these difficult times, and that is going to cost our communities millions in law enforcement and lost productivity.

Mr. President, I ask unanimous consent for 3 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, this bill helps support part-time jobs after school, paid internships, and community service jobs for older youth. Those programs will pay off in the long run.

I have talked about a few of the programs in this package which I believe are a critical shot in the arm to help our economy, and it is not going to come a moment too soon. The economic crisis we are facing is a direct result of failed policies by this President, this administration, in the long run.

We are hearing now we need to bail out Wall Street. Well, this package before us will help the average citizen across our country get the security they need as they face this troubling crisis. I urge my colleagues to work with us to get to a vote and send a message across the country that we in the Senate and the Congress stand behind them, the working families in this country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the noted economist John Kenneth Galbraith once wrote:

> There are two kinds of economists in the world: Those who don't know the future, and those who don't know that they don't know the future.

In that sense, we are all economists now. We are all uncertain about our economic future. What we do know is that the stakes for our economic future are high, and we do know the economy is doing poorly right now.

During the last 8 months, more than 600,000 people lost their jobs. Housing prices have been falling. Last month, the median home sales price fell 9½ percent. That is the largest decline since recordkeeping began in 1999. The experts say we have not yet hit bottom.

Last month, there were more than 300,000 foreclosures. That is a 12-percent increase from the previous month and a 27-percent increase from the year before.

Consumer confidence is low. Last December, the Conference Board's Index for consumer confidence was above 90. Now it is below 57. Last month, retail sales fell by three-tenths of a percent.

In this downturn, Congress acted relatively early. In February, on a bipartisan basis, we passed an economic recovery bill and included in that bill was a tax rebate that put money in people's pockets. Lots of people spent that money, and the second quarter gross domestic product was larger than it otherwise would have been. But almost all those checks have now been sent and spent, and the economy is still in bad shape.

We need another economic recovery package, and that is what this bill would provide. This bill includes help for workers who have lost their jobs. It includes a further expansion in the number of weeks for unemployment benefits and much more.

In June, Congress passed an extension of the number of weeks of unemployment benefits. That extension provided that those who had exhausted their regular 26 weeks of benefits would become eligible for an additional 13 weeks of benefits. We tried to add in a provision for another 13 weeks for those in high-unemployment States, but some of our colleagues and the President opposed that provision so it was dropped in conference.

In August, unemployment hit 6.1 percent. That is the highest level in 5 years. Well, here we are in September and the economy is still struggling. In fact, it is in worse shape. It is not easy to find a job that pays well. In October, for example, it is anticipated that 775,000 workers will exhaust the 13 weeks of additional benefits we provided in June. Another 363,000 workers will exhaust these benefits in November or December. That is a total of more than a million workers.

This bill provides for an extra 7 weeks of benefits in all States, and then it would make right what we could not do earlier this year, which is provide an additional 13 weeks of benefits for individuals who live in States where unemployment is higher than 6 percent. At the moment, that is 18 States.

The bill will also help areas that have been hit by Federal disasters. Under this bill, there would not be a waiting-week penalty when State-extended unemployment benefits kick in during times of disaster. This bill will provide much needed help for overburdened State unemployment systems. We are a society that cares about all its people. In hard economic times, giving additional weeks of unemployment benefits to people who cannot find a job is clearly the right action to take.

But there is another reason providing extra weeks of unemployment benefits will help stimulate the economy. People who are unemployed lose the income from their jobs. They generally don't have the income they need. So if they receive more money, they are likely to spend it; hence, unemployment benefits. When these unemployed workers spend their money, the folks who create the goods and services they buy will need more workers. Those workers will spend the earnings they get. The cycle goes on. Economists call this the multiplier effect.

The chief economist and cofounder of Moody's is Mark Zandi. He estimates that for every dollar of new unemployment benefits, the economy will grow by $1.64. Compared to other options to stimulate the economy, this option has a high bang for the buck.

At times such as these, we need to extend the number of weeks of unemployment benefits. To help strengthen our economy, we also need to provide fiscal relief to State governments.

The economy of a State has a major effect on the state government's budget. When a State's economy weakens, the State government's revenues generally fall off. In addition, as unemployment increases and incomes decline, more people become eligible for

assistance programs like Medicaid. And that increases the demand for State spending.

Almost all of the States have balanced budget requirements. During a time of economic weakness, when revenues drop and the need for expenditures increases, States may have to raise taxes or cut other spending in order to keep their budgets balanced. Unfortunately, that's precisely the wrong fiscal policy.

If a State raises taxes, it reduces the purchasing power of its residents and firms. And that can lead to further economic decline.

Reductions in State spending also lower the purchasing power of those persons or firms that would receive the State funds.

Unfortunately, the current economic weakness is pressing many States to either raise taxes or cut spending. According to the Center on Budget and Policy Priorities, 30 States had to take actions to reduce their budget deficits for fiscal year 2009, which began on July 1 of this year. And of these 30 States, 13 are facing additional budgetary shortfalls that appeared after they enacted their budgets. These 30 States are facing about $52 billion of shortfalls. If States raise taxes or cut spending by that much, it would place a significant drag on the national economy.

During the last economic downturn, Congress increased the Federal matching rate for the Medicaid program by about 3 percentage points for five quarters. This freed up $10 billion for the States so that they did not have to cut Medicaid benefits. And that helped States to avoid cutting other expenditures or raising taxes. Most economists thought that this fiscal assistance measure for the States worked well.

In February, the Finance Committee reported out an economic recovery bill that included State fiscal assistance in the form of an increase in the Medicaid matching rate. Unfortunately, that provision was not agreed to on the Senate floor.

But the fiscal situation of the States is now worse than it was at the beginning of the year. And so, we should try to help the States. So this bill includes State fiscal relief in the form of an increase in the Medicaid matching rate.

This bill contains an across-the-board temporary increase of 4 percentage points in the Federal Medicaid matching rate. That would provide every State with much needed help. At a time of unprecedented fiscal crisis, I think that every State deserves this level of help.

These are historic economic times. We are all uncertain about the economic future. The stakes are high.

Let us not be found wanting. Let us act to bolster the economy's recovery. And let us vote to advance this bill.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I rise today in support of the Reid/Byrd economic stimulus package. Over the past week, congressional leaders have been working with administration officials to craft a bailout package for Wall Street. But if we are going to bail out Wall Street, we also need to help Main Street. The President's failed fiscal policies have resulted in higher unemployment, hardship in coping with rising food costs, higher energy costs, and increased dependence on foreign oil.

If the President thinks that a $700 billion bailout for Wall Street is good for America, he should certainly support a $56 billion investment program to create jobs on Main Street.

The unemployment rate now stands at 6.1 percent, the highest rate since September 2003. The unemployment rate is up 1.4 percentage points since last August. The U.S. economy has lost jobs every month this year, a total of 605,000 jobs. The stimulus package extends unemployment benefits by 7 weeks in all States and another 13 weeks in high unemployment States.

Food prices have increased by 7.5 percent this year after increasing 4.9 percent in 2007. In order to help low-income individuals cope with rising food prices, the stimulus package temporarily increases Food Stamp benefits by 10 percent and includes $450 million for the Women, Infants, and Children—WIC—program, which would allow 625,000 women and children to receive benefits. $50 million is included for food banks, $30 million for the commodity supplemental food program, and $60 million for senior meals programs, providing 18 million more meals to seniors.

There are consequences for failing to invest in America. Bridges fall into rivers. Roads and subways are congested to the breaking point. FEMA cannot respond to a major disaster. Fuel prices go through the roof.

This stimulus package includes $10.8 billion for building and repairing highways, bridges, mass transit, airports, and AMTRAK, creating 384,000 jobs; $50 million for the Economic Development Administration to help communities impacted by massive job losses due to corporate restructuring; $500 million for the COPS program to hire 6,500 police officers; $600 million for clean water systems that would create 24,000 jobs; and $2 billion for school construction that would create 32,300 jobs.

Twenty-nine States are facing a $52 billion shortfall in revenues in their fiscal year 2009 budgets, resulting in cuts in health care, education, and other programs. The stimulus package includes $19.6 billion to reduce the States' share of Medicaid costs by increasing the Federal share by 4 percent.

Energy prices have increased by 22.4 percent in 2008. This stimulus bill includes major investments in promoting energy independence and a clean environment, including funds for advanced battery research, for local governments to improve energy efficiency, for environmental clean up, and weatherizing homes.

Over 22 percent of the world's energy supply is under the Arctic ice cap. The Russian President has stated that Russia should unilaterally claim part of the Arctic, stepping up the race for the disputed energy-rich region. We are not going to go along with that. No. Hell no. Russia has a fleet of 20 heavy icebreakers and is nearing completion of the first of their newest fleet of nuclear-powered icebreakers in an effort to control energy exploration and maritime trade in the region. Thanks to the Bush administration, the United States has only one functioning heavy polar icebreaker, and it has only 6 years left of useful life. Shame. Mr. President, $925 million is included for the Coast Guard to provide what the Navy and the Air Force call, ''an essential instrument of U.S. policy'' in the region.

Funding is included to promote safety and energy efficiency in public housing, implement provisions of the recent housing law, give housing assistance to tenants displaced by foreclosure, and fund FBI investigations of fraud in the mortgage market.

To promote education and job training, $2 billion is included for school repairs, $36 million for homeless education, and $400 million for the secure rural schools program. Job training funds would provide 160,000 dislocated workers and youth with training and job search assistance.

Mr. President, $1.2 billion is included for the National Institutes of Health. America's small businesses, the lifeblood of our economy, face an ever-tightening credit market in the wake of struggling financial markets. The stimulus provides $205 million to support $16 billion in reduced-fee loans to small businesses, delivering needed relief to small businesses on Main Street.

I urge Senators to vote for this bill to send a message to the White House that Main Street matters.

I ask unanimous consent that information relating to rule XLIV of the Standing Rules of the Senate be made a part of the RECORD.

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

DISCLOSURE OF CONGRESSIONALLY DIRECTED SPENDING ITEMS

The Constitution vests in the Congress the power of the purse. The Committee believes strongly that Congress should make the decisions on how to allocate the people's money.

As defined in Rule XLIV of the Standing Rules of the Senate, the term ''congressional

directed spending item'' means a provision or report language included primarily at the request of a Senator, providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or congressional district, other than through a statutory or administrative, formula-driven, or competitive award process.

For each item, a Member is required to provide a certification that neither the Member nor the Senator's immediate family has a pecuniary interest in such congressionally directed spending item. Such certifications are available to the public on the website of the Senate Committee on Appropriations (www.appropriations.senate.gov/senators.cfm).

Following is a list of congressionally directed spending items included in the Senate recommendation discussed in this report, along with the name of each Senator who submitted a request to the Committee of jurisdiction for each item so identified. Neither the Committee recommendation nor this report contains any limited tax benefits or limited tariff benefits as defined in rule XLIV.

CONGRESSIONALLY DIRECTED SPENDING ITEMS

Account	Project	Funding	Member
	SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT		
GSA	District of Columbia, DHS Consolidation and development of St. Elizabeths campus	$346,639,000	The President, Senators Lieberman and Collins
SBA	Veterans Business Resource Centers	$600,000	Senators Bond, Kerry, Levin, Snowe, and Stabenow
	SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT		
Corps of Engineers—Construction	In response to Hurricane Katrina, levee construction and repair, State of Louisiana	$1,500,000,000	Senator Landrieu
	DEPARTMENT OF HOMELAND SECURITY		
Under Secretary for Management	District of Columbia, DHS Consolidation and development of St. Elizabeths campus	$120,000,000	The President, Senators Collins and Lieberman

Mr. REID. Mr. President, has my friend completed his statement?

Mr. BYRD. Yes. I thank the majority leader.

Mr. REID. I join in the statement of the distinguished chairman of the Appropriations Committee, former majority leader and minority leader, assistant leader, secretary—no one has a more astounding and accomplished record in the Senate than Senator ROBERT BYRD of West Virginia.

Mr. REID. Mr. President, this will be the last time this year we will be able to vote on an economic recovery package. The plan we vote on today will provide targeted investments that will help working people now, not weeks or months from now. The dollars we invest in this legislation will come right back to our economy by creating jobs, rebuild our crumbling infrastructure and help small businesses grow.

With 605,000 jobs lost this year alone, this legislation extends unemployment benefits by 7 weeks across our country and by 13 weeks States with particularly high unemployment rates.

With States across America facing budget shortfalls as revenue dries up, this legislation provides funds to prevent State services like health care and education from deteriorating.

We invest in energy efficiency and clean energy programs to help Americans switch to cleaner energy sources that will cost less as oil prices continue to reach record highs.

We invest in our crumbling infrastructure, which will not only help small and large businesses but will create nearly 400,000 good jobs.

We help Americans who are at risk of losing their homes by supporting the Federal Housing Administration, providing tools to stop mortgage fraud, and funding legal assistance for foreclosure prevention.

This legislation also invests in job training, health care and small businesses to give our working Americans and our economy a desperately needed boost.

As I have said before, Members of Congress from both parties will continue working as long as it takes to resolve the bailout legislation.

But we do not have to wait until that bill is passed and implemented to help struggling American families and businesses. I urge all my colleagues to support these wise investments in the places and people that need help the most.

TO EXTEND FOR 5 YEARS THE PROGRAM RELATING TO WAIVER OF THE FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES

Mr. REID. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 5571 and we now proceed to its consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5571) to extend for 5 years the program relating to waiver of the foreign country residence requirement with respect to international medical graduates and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent a Conrad amendment which is at the desk be agreed to, the bill, as amended, be read a third time, passed, the motion to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ALLARD. Mr. President, I wanted to make sure we had an opportunity to speak for 2½ minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 5654) was agreed to, as follows:

(Purpose: To reduce the length of the waiver program extension)

On page 2, line 5, strike ''June 1, 2013'' and insert ''March 6, 2009''.

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 5571), as amended, was read the third time and passed.

EXTENDING THE SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of S. 3606.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3606) to extend the special immigrant nonminister religious worker program and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read a third time, passed, the motion to reconsider be laid upon the table, and if there are statements I ask consent that they be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 3606) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3606

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 ''Special Immigrant Nonminister Religious Worker Program Act''.

SEC. 2. SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM.

(a) EXTENSION.—Subclause (II) and subclause (III) of section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) are amended by striking ''October 1, 2008,'' both places such term appears and inserting ''March 6, 2009,''.

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) issue final regulations to eliminate or reduce fraud related to the granting of special immigrant status for special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)); and

(2) submit a certification to Congress and publish notice in the Federal Register that

such regulations have been issued and are in effect.

(c) REPORT.—Not later than March 6, 2009, the Inspector General of the Department of Homeland Security shall submit to Congress a report on the effectiveness of the regulations required by subsection (b)(1).

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that the Secretary of Homeland Security submits the certification described in subsection (b)(2) stating that the final regulations required by subsection (b)(1) have been issued and are in effect.

EXTENDING THE PILOT PROGRAM FOR VOLUNTEER GROUPS TO OBTAIN CRIMINAL HISTORY BACKGROUND CHECKS

Mr. REID. Mr. President, I now ask that we proceed to S. 3605, introduced earlier today by Senator BIDEN.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3605) to extend the pilot program for volunteer groups to obtain criminal history background checks.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid on the table, there be no intervening action or debate, and any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 3605) was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 3605

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 ''Criminal History Background Checks Pilot Extension Act of 2008''.

SEC. 2. EXTENSION OF PILOT PROGRAM.

Section 108(a)(3)(A) of the PROTECT Act (42 U.S.C. 5119a note) is amended by striking ''a 66-month'' and inserting ''a 78-month''.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

CONCLUSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 3604

Mr. REID. Mr. President, I ask unanimous consent the motion to proceed to S. 3297 be set aside and that it be in order for the majority leader to move to proceed to a bill relating to the stimulus initiative that was introduced earlier today and that is at the desk; that the motion be considered as having been made, there be debate by Senator ALLARD for up to 3 minutes, and that there be an opportunity for Senator DEMINT to offer a unanimous consent request, and that upon completion of that time the Senate proceed to vote on the motion to proceed and the motion be subject to an affirmative 60-vote threshold; that if the motion receives 60 affirmative votes, then it be as if cloture had been invoked on the motion and postcloture time would be in effect; that if the motion does not receive an affirmative 60-vote threshold, then it be withdrawn, and the motion to proceed to S. 3297 recur, with the above occurring with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DEMINT. Reserving the right to object, I understand the majority leader has added into this so-called stimulus package an extension of the ban on oil shale development. I ask consent that his request be modified to include an amendment, which is at the desk, that would authorize and expedite offshore and oil shale exploration.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. I say to my good friend, you should quit while you are ahead. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Is there an objection to the majority leader's request?

Without objection, it is so ordered.

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ECONOMIC RECOVERY FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to proceed to S. 3604 is considered made by the majority leader.

The Senator from Colorado is recognized for 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I rise in opposition to the stimulus package. This stimulus package attempts to overturn an oil shale agreement that was reached in the continuing resolution.

This is more of the same shoddy process we have seen from the majority party throughout the entire Congress. If the purpose of this amendment is to stimulate the economy, why would we attempt to place one of the largest potential deposits of oil in the world out of reach?

This provision would maintain the status quo of sending $700 billion annually to the likes of Hugo Chavez, if we enacted this provision. Not only are we sending American dollars abroad, but we are sending American jobs after them. It is ironic that something that is supposed to stimulate our economy would, in fact, hurt us.

This Congress has already passed a stimulus proposal as well as a supplemental disaster appropriations bill, and we are going to vote on a $700 billion Wall Street bailout. We must realize that the United States does not have a blank check to spend unlimited amounts of taxpayer money.

It is premature to consider the stimulus package before we fully know what our other obligations are going to be. This do-nothing and drill-nothing Congress is out of touch with the people who put them in office.

Earlier this week we saw the largest single-day jump in oil prices in history. How did Democrats in Congress react? They attempted to extend the ill-conceived moratorium on oil shale regulations. This moratorium places over 800 billion barrels of potentially recoverable oil out of reach. That is an energy source larger than the proven reserves of Saudi Arabia. Let me repeat that again. We are talking about an energy source larger than the proven reserves of Saudi Arabia.

The Democratic-controlled Congress is completely ignoring the needs of our Nation. It is not only unfortunate but also insulting to the American people who are struggling to pay these high fuel prices at the gas pump.

Mr. LEVIN. Mr. President, Congress needs to take action to stimulate the slumping economy in ways that create jobs and help average middle-class Americans. So I am pleased that today the Senate is voting on a second economic stimulus package of $56.2 billion aimed at creating jobs and helping people suffering from higher prices at the pump and at the grocery store, reduced State services, high unemployment, home foreclosures and otherwise feeling the economic pain in their daily lives. We clearly need more economic stimulus, especially in States like Michigan. I hope my colleagues will join me in supporting this bill.

Importantly, this package includes a much needed unemployment extension. In August, Michigan's unemployment rate rose from 8.5 percent to 8.9 percent. The Nation's unemployment rate also increased by .4 percent, to 6.1 percent, the highest since 2003. These are very hard economic times. Unemployment rates are rising and since January 2001 we have lost 3.686 million manufacturing jobs nationally and 253,800 manufacturing jobs in Michigan. Since 2000, we have lost more than 450,000 jobs in Michigan across all industries.

The unemployment insurance extension which was signed into law on June 30 as part of the supplemental war appropriations bill included a 13-week extension of UI benefits for all States. Since then, workers who started receiving the 13-week extension in mid-July under the current program will have their benefits cut off starting October 5. This means that an estimated 42,600 workers in Michigan will be cut

off in October, and 775,000 workers across the Nation. By the end of this year, the number of individuals who would have exhausted their unemployment benefits will rise to 58,000 in Michigan and 1.1 million nationally.

The unemployment insurance extension included in this economic stimulus package is essential. This extension will ensure that hard working Americans have an additional 7 weeks as they continue to find jobs. In high unemployment States like Michigan, these States will receive an additional 13 weeks. We must ensure that those individuals who have lost their jobs and are looking for work, during a time when industries are losing jobs and the price of food and energy are rising, are not also struggling to put food on their table, pay their utility bills, and cover their mortgages.

With States facing billions of dollars in shortfalls in revenue collection, they are forced to cut health care, education and other important programs that average people depend on. This bill will help States facing shortfalls by providing $19.6 billion to reduce the State's share of Medicaid costs by increasing the Federal share by 4 percent.

The bill also includes $10.8 billion for building and repairing highways, bridges, mass transit and airports. I have been calling for additional infrastructure spending because infrastructure investment creates jobs and promptly puts people to work. This type of investment strengthens our economy and it gives us better roads and safer bridges.

President Bush had opposed providing infrastructure funding as an economic stimulus claiming there is a lag time to get infrastructure projects going and Federal funding could not be spent fast enough to spur the economy in the short term. But there are plenty of ready to go projects in Michigan and other states that can put people to work right away.

Infrastructure spending for projects that are ready to begin construction could immediately create high-paying jobs in the short term. Once built, the new infrastructure would enhance economic output over the long term. Investment in transportation, water and sewer projects, navigational systems, and other public infrastructure projects that are ready to go will create jobs and provide the means for future economic growth. Specifically, Michigan has at least $263 million of transportation projects that could be started this year.

The Great Lakes navigational system also faces a backlog in construction and operations and maintenance projects. The Army Corps of Engineers estimates $62 million could be used this year to address the backlog in dredging projects to help ensure that shipping—one of the lowest cost ways to transport supplies to industry and products to customers—is not impeded. The Economic Recovery Act includes $100 million for Army Corps of Engineers dredging projects to address this backlog and to ensure that channels are dredged for energy shipments and other raw materials. Great Lakes coal trade for the year totals about 24 million tons, fueling electric utilities and manufacturing plants. In total, Great Lakes vessels transport about 115 million tons of cargo each year, fueling our Nation's industries and manufacturing plants. This funding is critical for ensuring these shipments can continue to flow. The bill also would provide $600 million for the Environmental Protection Agency's clean water State revolving fund, which provides funding to States for low-cost loans for sewer projects. This money could be used immediately in Michigan, which has 20 sewer projects that are ready-to-go, and could use $55 million this year.

I am pleased that the stimulus package contains a significant increase in funding for the Department of Energy's weatherization assistance programs, providing an increase of $500 million over what is already proposed to be included in the continuing resolution for fiscal year 2009, providing a total of close to $1 billion for this program. The Bush administration has consistently reduced funding for weatherization assistance in previous years and even proposed to eliminate it completely this year. But instead of decimating the program as proposed by the administration, the stimulus package will more than triple the current level of funding assistance provided by the Federal Government and help to weatherize an additional 300,000 homes and support more than 8,000 existing jobs.

This stimulus package also includes over $700 million to continue to help our Nation's homeowners and renters, many of whom are experiencing the real impacts of this housing crisis first hand. The increased funding to implement the recently-passed Housing and Economic Recovery Act, funding for legal assistance to families whose homes are in foreclosure, and housing assistance to renters who are being displaced by foreclosure included in this bill would provide much needed relief to those caught in the middle of this crisis. In addition, this bill would provide additional funding to assist the FBI in their investigation of the rising claims of mortgage fraud throughout this country.

The cost of operating and maintaining public housing has been rising and public housing agencies need additional funding to address critical and urgent safety, security and energy-related needs. This bill includes funding to address these needs that will prioritize rehabilitating vacant rental units in order to meet increasing demand for affordable rental housing.

The stimulus package includes an additional $300 million for advanced battery research and development and battery manufacturing. This funding is critical if the U.S. is to develop the components needed for advanced technology vehicles and if we are to remain competitive in the global marketplace. There is a strong push here and in other countries to develop a lithium ion battery suitable for vehicle applications at affordable cost. Significantly more Federal investment is required—as much as triple the amount being spent now—if we are to meet this challenge in the U.S. Over time, Japan and other Asian governments have invested significantly more money in battery technology and have supported their manufacturers in bringing these technologies to the market. Most of these technologies were originally invented here, but the manufacturing has been done overseas because these other countries more vigorously support their manufacturing base. We need a similar strong commitment in the U.S.—both in exploratory research and development and in development of advanced battery manufacturing capabilities—to ensure that the next generation of technology is built here in America. The additional $300 million included in the stimulus will take a giant step in the right direction.

This legislation also includes valuable funding for law enforcement and border security. It includes $490 million for Byrne grants to support State and local police and $500 million for the COPS hiring grant program, which will put 6,500 new officers on the street across the country. Further, the bill includes $776 million for border construction at CBP-owned inspection facilities at land border ports of entry.

Mr. President, with the economic crisis on Wall Street looming before us Congress must act to help people on Main Street now more than ever. The bill before us does this and I will vote for it.

Mr. DOMENICI. Mr. President, with the backdrop of gas prices soaring to new heights this past summer and the specter of sending a half a trillion dollars to overseas to purchase oil from foreign regimes, I am told that the majority leader seeks to reinstate a moratorium on final regulations for the commercialization of oil shale. Ironically he is doing it on a bill that is being called a stimulus. Well, it certainly won't stimulate domestic production of energy. If brought to fruition it will give the majority in the Senate the dubious distinction of being even more antiproduction than the majority in the House.

I have heard my friends on the other side say that they are not standing in the way of oil shale, but at the same time, they are doing exactly that. In the next sentence, they argue that there is nothing about oil shale that will bring relief to the American consumers. I find it difficult to understand these statements, and so do a majority of Americans. Over the summer, the majority did everything it could to obstruct our efforts in increase domestic production. The majority cancelled an appropriations committee markup to avoid the issue of drilling on the OCS

and developing Western oil shale. They prevented a real debate and a real vote on energy. Finally, we saw a breakthrough from the House. After dodging the energy reality for months, they passed a continuing resolution without the moratorium on oil shale regulations and without the moratorium on the OCS. This was a great development and not one we should turn back by reimposing an oil shale ban.

Several recent polls inform us that a strong and growing majority of the American people want to us to produce more of our own American energy resources. The development of Western oil shale will not be upon us today, but an indefensible moratorium on regulations will ensure that the development of oil shale will not be upon us tomorrow, either. And, therefore, relief for the American people will be delayed as well. Let me tell you what I know about oil shale, and the moratorium that the other side supports.

Oil shale is a rock from which oil can be extracted through technologies such as in-situ heating and surface retorting. I have been out to Colorado and I have seen the vast commitments that private industries are making to help make oil shale production a reality in this country. But make no mistake about it—with this moratorium, the other side seeks to stand in the way of that progress.

The USGS estimates that there is a potential total of 2.1 trillion barrels of resource in the Green River Basin of Colorado, Utah, and Wyoming. The Strategic Unconventional Fuels Task Force and Rand Corporation have estimated that 800 billion barrels of oil equivalent is technically recoverable. This is enough to replace the amount of oil we currently import at today's pace for more than 160 years. With oil prices above the $100 mark for a sustained period of time and with technologies advancing rapidly, the potential development of large quantities of oil shale is a reality. American companies stand ready to continue the necessary work, but a moratorium placed on oil shale casts a large shadow of uncertainty. We must remove that shadow immediately.

In 2005, we passed the Energy Policy Act. Working across party lines in both the Senate and the House, Senator BINGAMAN and I brought together broad bipartisan support behind a conference report that each and every Senator from the Western oil shale States supported. In that bill we set up an oil shale pilot program with research and development leases. We also set forth a time frame for the development of final regulations for commercial leasing. This does not mean that commercial leasing would begin now, but what it does mean is that companies that need to make long-term planning decisions on where to make significant capital investments have a clear sense of rules of the road for future Western oil shale leasing.

If these regulations were completed, companies could be provided with certainty and stability. Recently, Chevron joined other companies who have publicly called for the lifting of the moratorium on oil shale regulations. The final regulations would provide a roadmap on diligence requirements, royalty rates, conversion fees, and operating and environmental requirements such as reclamation requirements. Both private industry and localities would know the terms and conditions necessary for this American energy project. That is why we included this provision in the bipartisan 2005 Energy bill. Two years after that bill passed, along came an appropriations moratorium quietly written into a large omnibus spending bill. In other words, Congress has prevented the Department of the Interior from doing the work necessary to make oil shale a reality. Shell Oil Company recently testified before the Senate Energy Committee that, ''the extension of this moratorium on potential future development of America's vast oil shale resource may be intended to become permanent in nature. The extension of this moratorium may well have a chilling effect on our efforts to develop this resource in the future.'' I could not agree more with this assessment.

Additionally, the Department of the Interior recently testified that finalizing oil shale regulations is a critical component to realize the vast potential of our Western oil shale resource. Assistant Secretary Allred stated that, ''absent the certainty that final regulations would bring, the commercial oil shale industry may not be willing to invest the necessary dollars for research, and this vast domestic resource will remain untapped at a time when our Nation is searching for ways to further its energy security.'' And recently Utah's Governor—a voice from on the ground—requested that Congress remove this moratorium, writing, ''I recommend lifting those restrictions. Utah is home not only to substantial oil shale reserves . . . but also to businesses willing to develop oil shale using new technology that will make extraction cleaner and more efficient. We have State and Federal regulators who are capable of ensuring that this resource is developed in an environmentally responsible manner.'' So, despite this coalition of industry, local support, and a Federal agency eager to do the necessary work, and now even the Speaker and the majority in the House—the majority in the Senate is asking us to stand in the way of this progress.

For all of the above reasons, I introduced a bill in May that lifts this unnecessary and harmful oil shale moratorium. We pushed and proded and pushed some more until the House majority listened to the American people. Now, I am sending the same message to the Senate. Ending this moratorium would send a message to the world that America is serious about Western oil shale development. I urge my colleagues on the other side to reaffirm their bipartisan commitments made during the Energy bill of 2005 and help us join the House in removing the oil shale moratorium. If we do that, we will take a step in the right direction of reducing our great dependence on foreign oil and we will strengthen our Nation's energy security.

Ms. MIKULSKI. Mr. President, I rise today in support of the bill offered by Majority Leader REID and Chairman BYRD. I commend them for their leadership during this economic crisis. This bill helps families who are struggling with rising food and energy costs and it creates jobs by investing in America's infrastructure. Simply put, this bill says to the American people—your government is on your side and help is on the way.

We need this bill to show Americans whose side we are on. Americans are mad as hell. They have watched Wall Street executives pay themselves lavish salaries, engage in irresponsible lending practices, practice casino economics and gamble on risky investment mechanisms. Now those very same Americans who've worked hard and played by the rules, who were prudent investors, prudent savers, and prudent citizens are asked to pay the bill for those who didn't.

Now, it is for these people that government must do something. It is for these people that this bill is so important. We have to show them that we are fighting for the middle class. Since we're about to shell out $700 billion to help Wall Street, we need to put government on the side of those who need it.

I agree with the President that Congress must act promptly in order to restore confidence to our markets. But there are still tough questions to be asked. Congress will act with resolve but we will not be a rubberstamp. The administration originally sent us a plan for a blank check. I say no blank checks and no checks without balances. I will continue to work to put in the oversight and accountability into this plan. This plan needs to work. I will fight for the middle class and for the people who play by the rules.

I am supporting the Reid-Byrd stimulus bill for three reasons. First, it provides a safety net for families. Second, the bill creates jobs in America with infrastructure investments. Third, it fights price gouging and fraud.

The stimulus is a safety net for America's families. It is for families who are struggling to pay for food, energy, and housing. It also extends unemployment insurance up to 13 weeks in States with high unemployment. It increases Medicaid payments to States, so States with shortfalls can continue health care. It also helps the elderly pay their energy bills.

The stimulus makes important investments in America's physical infrastructure, which will create jobs. Specifically, it provides: $8 billion to build

and repair bridges and highways; $2 billion for mass transit systems, including important work to improve and expand bus, subway, and light-rail services; and $350 million for AMTRAK to help repair tracks and tunnels. These transportation infrastructure investments will create 384,000 jobs. The bill also provides $600 million for water and sewer grants to fix aging sewer systems; helps take burden off ratepayers and protects public health and the environment. These investments will create 24,000 jobs.

The stimulus fights price gouging and fraud on American taxpayers. The foreclosure crisis is ruining lives and ruining neighborhoods. The FBI Director told the CJS Subcommittee that mortgage fraud investigations are growing rapidly. The Reid-Byrd stimulus provides $5 million to increase the FBI's investigations of mortgage fraud, which will allow the FBI to add at least 20 agents and support staff to keep up with the rising caseload. And the stimulus includes $13.1 million for the Commodity Futures Trading Commission for increased oversight of commodity, energy, and food pricing.

As chairwoman of the Commerce, Justice, Science Subcommittee, I am pleased this bill includes important funding to make America's communities safer and stronger. This bill makes America's neighborhoods safer; safer communities are stronger communities. The bill provides $490 million for Byrne grants, which is the main Federal grant program that helps State and local law enforcement pay for police training, antidrug task forces and equipment like radios and computers. Specifically, this funding will help keep over 6,000 cops on the beat in our local communities and install almost 45,000 mobile laptops in police vehicles. The 2008 Omnibus provided just $170 million for Byrne grants because the President threatened to veto the CJS bill. The $490 million in the Reid-Byrd bill will result in a final 2008 Byrne grant amount of $660 million. This is the level in the Senate passed 2008 CJS bill. The Reid-Byrd bill also includes $500 million for the COPS hiring program, the competitive grant program that pays for new cops on the beat. This funding will put 6,500 new cops on the street in neighborhoods around the Nation. This is the first time since 2005 that the COPS hiring program would receive substantial dedicated funds to help communities hire new police. I'm so pleased the Reid-Byrd stimulus bill includes $50 million to enforce the Adam Walsh Child Protection Act. This funding will enable the U.S. Marshals to hire 150 new deputy marshals devoted to apprehending fugitive sex offenders who prey on our children.

In the area of science and innovation, I'm pleased the bill includes $250 million for NASA to help shorten the 5-year gap in time between the Space Shuttle's retirement in 2010 and the availability of our new vehicle in 2015. During this 5-year gap, the only way U.S. astronauts will be able to go into space is aboard Russian vehicles. The United States of America must remain a leader in science, innovation and space exploration. The Reid-Byrd bill helps close our gap in space access.

The Reid-Byrd bill tells those who are struggling that help is on the way and that your government is on your side. The bill makes important investments in our infrastructure and creates jobs. It makes our communities and our Nation safer and stronger. I urge my colleagues to support the Reid-Byrd stimulus bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I appreciate the leadership permitting me to comment on the schedule for consideration of the Appropriations bills before the vote on the stimulus bill. It is unfortunate that the continuing resolution comes in the form it does to the Senate. What this bill actually contains is the fiscal year 2009 Homeland Security Appropriations bill as well as the Defense appropriations bill, and the Military Construction and Veterans Affairs appropriations bill. It also contains a continuing resolution to fund the rest of the Government through March 6, and a substantial disaster supplemental in response to floods, wildfires, and hurricanes.

There was no opportunity for the Senate to carefully review all of this bill in the time that is being allotted for its consideration this morning, there was no opportunity for most Members—whether they were members of the Appropriations Committee or otherwise—to advocate for specific requests, no forum for offering amendments, no meetings in which to argue policy or air grievances, there was no meeting of a conference committee.

A few elements of the bill have been previously considered, but only a few, by the Senate. Only the Military Construction and Veterans Affairs chapter was debated on the floor of the other body. The regular order has been thrown out the window and we have failed to give the Senate and the people we represent an opportunity to know exactly what we are about to do. Not one of the individual appropriations bills has been brought to the Senate floor. But in spite of that, we have to appropriate the money, we have to vote in support of an appropriations bill. I rest my case. I hope we can do better in the future than we have done in this cycle.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to proceed to S. 3604.

Mr. REID. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Mr. STEVENS).

Further, if present and voting, the Senator from South Carolina (Mr. GRAHAM) would have voted ''nay.''

The PRESIDING OFFICER (Mr. WEBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—52

Akaka	Feingold	Nelson (NE)
Baucus	Feinstein	Pryor
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Brown	Johnson	Rockefeller
Byrd	Kerry	Salazar
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Smith
Casey	Lautenberg	Snowe
Clinton	Leahy	Specter
Coleman	Levin	Stabenow
Collins	Lieberman	Tester
Conrad	Lincoln	Webb
Dodd	Menendez	Whitehouse
Dole	Mikulski	Wyden
Dorgan	Murray	
Durbin	Nelson (FL)	

NAYS—42

Alexander	Craig	Lugar
Allard	Crapo	Martinez
Barrasso	DeMint	McCaskill
Bayh	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hagel	Sununu
Chambliss	Hatch	Thune
Coburn	Hutchison	Vitter
Cochran	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	Wicker

NOT VOTING—6

Biden	Kennedy	Obama
Graham	McCain	Stevens

The PRESIDING OFFICER. Pursuant to previous order, the motion not having attained 60 votes in the affirmative, the motion is withdrawn.

Mr. SALAZAR. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADVANCING AMERICA'S PRIORITIES ACT—MOTION TO PROCEED

The PRESIDING OFFICER. The motion to proceed to S. 3297 is pending.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I understood we were in a position to move forward on the IP bill, plus a number of judges who are on the calendar. As Members know, in a rather extraordinary fashion, I expedited the consideration of 10 judges, notwithstanding

the Thurmond rule and the late date and had gotten support from my side for not holding them over the normal time. I had understood we had an agreement to move forward on the IP bill, plus four or five of these judges this morning. That seems to be somewhat in doubt. According to the House, the IP bill has to go over now. All these matters, I suppose, we could bring them up next year, but I would rather get them done this year.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Before there is a request propounded, I think it would be useful to have a conversation. I think it ought to be possible for us to work out all of these; that is to say, judges and the IP bill. We need a little more conversation in order to do so. I am personally ready to do it right now if the chairman is willing.

Mr. LEAHY. Mr. President, I am going to momentarily suggest the absence of a quorum. We are into about a 5-minute window to work it out. I respect the rights of all Senators. The suggestion that the IP wait until next year, it is strongly supported by the Chamber of Commerce, the National Association of Manufacturers, about every Republican group there is. We had worked that out and included things that Republican Senators wanted. As a practical matter, though, if it has to wait any longer, we can assume it is dead. I assume I will still be chairman of the Judiciary Committee next year. I am perfectly happy to bring up all these judges and IP enforcement next year, if that is what my friends on the other side wish.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BUNNING. Mr. President, I do not wish to interfere with the negotiations going on and the potential of an agreement being reached on the judges and the other things that are being discussed, but I do have about 15 minutes on the current situation in the markets, and I would like to speak on that. So I would be more than happy to wait for them to finish their negotiations or go ahead and speak as though in morning business, depending on the ruling of the Chair.

The PRESIDING OFFICER. Is there objection to the Senator from Kentucky proceeding for up to 15 minutes as in morning business?

Without objection, it is so ordered.

Mr. BUNNING. Thank you, Mr. President.

FEDERAL RESERVE POLICY

Mr. President, I rise to speak about the current economic situation and the bailout bill that will soon be coming to the floor of the Senate. Let me start by saying I am as concerned about what is going on in the financial markets and the economy as everyone else. I know there are extreme tensions in the credit markets, and those problems could soon have an impact on businesses and individuals who had nothing to do with the mortgage mess. However, I do not agree that the bill we have been discussing, and would probably come to the floor of the Senate, will fix those problems.

I also strongly disagree with the Senators who have come to the floor and declared that this crisis is a failure of the free markets. No. The root of the crisis is the failure of Government. It comes from a failure of regulation and, most importantly, monetary policy. In the long term, we certainly need to update our financial regulations to reflect the realities of our modern economic system. But it is just plain wrong to blame failures of our regulations and regulators on the markets.

A little history is in order. Our financial regulations are based on structures put in place during the Great Depression. Our laws simply do not reflect the current landscape of the financial markets. Once upon a time, banks may have been the only instruments that were a danger to the entire financial system, but it is now clear that other institutions are now so big and connected that we cannot ignore them in the future. Also, many of today's common financial instruments did not even exist 20 years ago, much less when our laws were written.

But our regulatory structure is not the only problem. The real fuel on the fire of this crisis has been the monetary policy of the Federal Reserve. I have been a vocal critic of the Fed for many years and have been warning that their policies would hurt Americans in the short and long run. For most of these years, I did not have much company. But I am glad many economists and commentators have recently joined me in my criticism of the Fed.

During the second half of his time as Fed Chief, former Chairman Alan Greenspan tried to micromanage the economy with monetary policy. Any economy is going to have its ups and downs, and it was foolish to try to stop that. But Chairman Greenspan did it anyway. By trying to smooth out those bumps, he overshot to the high and low sides, creating bubbles and then recessions.

I have spoken many times on the floor about the Fed policies that led to the housing bubble, but a few parts are worth repeating. Everyone remembers the dot-com bubble, which itself was partly a result of the easy money pumped into the system by the Fed in the late 1990s. Well, Chairman Greenspan set out to pop that bubble and kept raising interest rates in the face of a slowdown, driving the economy into recession.

In order to undo the problems created by his tight money, he then overshot the other way, taking interest rates as low as 1 percent for a year and below 2 percent for nearly 3 years. In turn, that easy money ignited the housing market by bringing mortgage interest rates to alltime lows. Low-cost borrowing encouraged excessive risk taking in the financial markets and led investors to pump borrowed funds into all kinds of investments, including the various mortgage lending vehicles.

In 2004, Mr. Greenspan encouraged borrowers to get adjustable rate mortgages because of all the money they would save. Four months later, he started a series of 17 interest rate increases that helped make those mortgages unaffordable for the hundreds of thousands of borrowers who listened to his advice. I warned him about that advice the following day after his speech, but that warning fell on deaf ears.

Then, in 2005, rising interest rates and housing price appreciation overcame the ability of borrowers to afford the house they wanted. To keep the party going, borrowers, lenders, investors, rating agencies, and everyone else involved lowered their standards and kept mortgages flowing to less creditworthy borrowers who were buying evermore expensive homes.

Chairman Greenspan also let investors and homeowners down by failing to police the banks and other lenders as they wrote even more risky mortgages. Regulated banks were allowed to keep most of their risky assets off their balance sheets. Even worse, he refused to use the power Congress gave the Federal Reserve in the Home Ownership and Equity Protection Act of 1994 to oversee all lenders, even those not affiliated with banks. His refusal to rein in the worst lending practices allowed banks and others, including Freddie Mac and Fannie Mae, to write the loans that are now at the center of our mortgage crisis. Chairman Ben Bernanke issued rules under that law in July of 2008—14 years later—but that was far too late to solve the problem.

Before turning to the coming legislation, I wish to mention a few more failures of Government that directly contributed to this mess. Federal regulations require the use of ratings from rating agencies that have proven to be wrong on the biggest financial failures of the last decade. The Community Reinvestment Act forced banks to make loans they would not otherwise make based on the credit history of the borrower. The Securities and Exchange Commission, under former Chairman Donaldson, failed to establish meaningful oversight and leverage restrictions for investment banks.

Fannie Mae and Freddie Mac used the implied backing of the Government to grow so large that their takeover by the Government effectively doubled the national debt. They were pushed by their executives and the Clinton administration to loosen their lending standards and write the loans that drove the companies to the point of being bailed out by the taxpayers.

Finally, the same individuals who have come to this building to ask for the latest bailout set the stage for the very panic they are using to justify the bailout. The Secretary of the Treasury and the Fed Chairman set expectations for Government intervention when they bailed out Bear Stearns in March. The markets operated all summer with the belief that the Government would step in and rescue failing firms. Then they let Lehman Brothers fail, and the markets had to adjust to the idea that Wall Street would have to take the losses for Wall Street's bad decisions, not the taxpayers. That new uncertainty could be the most significant contributing factor to why the markets panicked last week. What is more, the panic today is a result of the high expectations set last week when the Secretary and Chairman announced their plan. When resistance in Congress and the public outrage over the plan became clear, the markets walked back to the edge of panic.

BAILOUT PROPOSAL

Now I wish to talk about the bailout bill that we expect to have on the floor of the Senate soon. The Paulson proposal is an attempt to do what we so often do in Washington, DC—throw money at the problem. We cannot make bad mortgages go away. We cannot make the losses that our financial institutions are facing go away. Someone must take those losses. We can either let the people who made the bad decisions bear the consequences of their actions or we can spread the pain to others. That is exactly what Secretary Paulson proposes to do: take Wall Street's pain and spread it to Main Street, the taxpayers.

We all know it is not fair to taxpayers to pick up Wall Street's tab. But what we do not know is if this plan could even work. All we have is the word of the Treasury Secretary and the Fed Chairman. But they have been wrong throughout this whole housing mess. They have previously told us that subprime problems would not spread and the economy was strong. Now they say we are on the edge of a severe recession or maybe the second-largest depression in the history of this great Republic.

Well, I am not buying it, and neither are many of our Nation's leading economists. If some sort of Government intervention is needed to fix the mess created by the Government failure I talked about earlier, we need to get it right. Congress owes it to the American people to slow down and think this through. We need to know that whatever we do is going to fix the problem, protect the taxpayers, not reward those who made bad decisions, and make sure this does not happen again. But we cannot do that in 1 week as we are all trying to rush home. Congress needs to take this seriously and stay until we find the right solution, not just throw $700 billion at Wall Street as we walk out the door.

Now, Mr. President, before I yield the floor, I ask unanimous consent that the two letters I mentioned from economists opposing the bill, along with an article from the New York Times from 1999 about the Clinton administration pushing Fannie and Freddie into risky loans, be printed in the RECORD.

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

To the Speaker of the House of Representatives and the President pro tempore of the Senate:

As economists, we want to express to Congress our great concern for the plan proposed by Treasury Secretary Paulson to deal with the financial crisis. We are well aware ofthe difficulty of the current financial situation and we agree with the need for bold action to ensure that the financial system continues to function. We see three fatal pitfalls in the currently proposed plan:

(1) *Its fairness*. The plan is a subsidy to investors at taxpayers' expense. Investors who took risks to earn profits must also bear the losses. Not every business failure carries systemic risk. The government can ensure a well-functioning financial industry, able to make new loans to creditworthy borrowers, without bailing out particular investors and institutions whose choices proved unwise.

(2) *Its ambiguity*. Neither the mission of the new agency nor its oversight are clear. If taxpayers are to buy illiquid and opaque assets from troubled sellers, the terms, occasions, and methods of such purchases must be crystal clear ahead of time and carefully monitored afterwards.

(3) *Its long-term effects*. If the plan is enacted, its effects will be with us for a generation. For all their recent troubles, America's dynamic and innovative private capital markets have brought the nation unparalleled prosperity. Fundamentally weakening those markets in order to calm short-run disruptions is desperately short-sighted.

For these reasons we ask Congress not to rush, to hold appropriate hearings, arid to carefully consider the right course of action, and to wisely determine the future of the financial industry and the U.S. economy for years to come.

Signed:

Acemoglu, Daron (Massachussets Institute of Technology); Adler, Michael (Columbia University); Admati, Anat R. (Stanford University); Alexis, Marcus (Northwestern University); Alvarez, Fernando (University of Chicago); Andersen, Torben (Northwestern University); Baliga, Sandeep (Northwestern University); Banerjee, Abhijit V. (Massachussets Institute of Technology); Barankay, Iwan (University of Pennsylvania); Barry, Brian (University of Chicago); Bartkus, James R. (Xavier University of Louisiana); Becker, Charles M. (Duke University); Becker, Robert A. (Indiana University); Beim, David (Columbia University); Berk, Jonathan (Stanford University); Bisin, Alberto (New York University); Bittlingmayer, George (University of Kansas); Boldrin, Michele (Washington University); Brooks, Taggert J. (University of Wisconsin); Brynjolfsson, Erik (Massachusetts Institute of Technology).

Buera, Francisco J. (UCLA); Camp, Mary Elizabeth (Indiana University); Carmel, Jonathan (University of Michigan); Carroll, Christopher (Johns Hopkins University); Cassar, Gavin (University of Pennsylvania); Chaney, Thomas (University of Chicago); Chari, Varadarajan V. (University of Minnesota); Chauvin, Keith W. (University of Kansas); Chintagunta, Pradeep K. (University of Chicago); Christiano, Lawrence J. (Northwestern University); Cochrane, John (University of Chicago); Coleman, John (Duke University); Constantinides, George M. (University of Chicago); Crain, Robert (UC Berkeley); Culp, Christopher (University of Chicago); Da, Zhi (University of Notre Dame); Davis, Morris (University of Wisconsin); De Marzo Peter (Stanford University); Dubé, Jean-Pierre H. (University of Chicago); Edlin, Aaron (UC Berkeley).

Eichenbaum, Martin (Northwestern University); Ely, Jeffrey (Northwestern University); Eraslan, Hulya K. K. (Johns Hopkins University); Faulhaber, Gerald (University of Pennsylvania); Feldmann, Sven (University of Melbourne); Fernandez-Villaverde, Jesus (University of Pennsylvania); Fohlin, Caroline (Johns Hopkins University); Fox, Jeremy T. (University of Chicago); Frank, Murray Z. (University of Minnesota); Frenzen, Jonathan (University of Chicago); Fuchs, William (University of Chicago); Fudenberg, Drew (Harvard University); Gabaix, Xavier (New York University); Gao, Paul (Notre Dame University); Garicano, Luis (University of Chicago); Gerakos, Joseph J. (University of Chicago); Gibbs, Michael (University of Chicago); Glomm, Gerhard (Indiana University); Goettler, Ron (University of Chicago); Goldin, Claudia (Harvard University).

Gordon, Robert J. (Northwestern University); Greenstone, Michael (Massachusetts Institute of Technology); Guadalupe, Maria (Columbia University); Guerrieri, Veronica (University of Chicago); Hagerty, Kathleen (Northwestern University); Hamada, Robert S. (University of Chicago); Hansen, Lars (University of Chicago); Harris, Milton (University of Chicago); Hart, Oliver (Harvard University); Hazlett, Thomas W. (George Mason University); Heaton, John (University of Chicago); Heckman, James (University of Chicago—Nobel Laureate); Henderson, David R. (Hoover Institution); Henisz, Witold (University of Pennsylvania); Hertzberg, Andrew (Columbia University); Hite, Gailen (Columbia University); Hitsch, Günther J. (University of Chicago); Hodrick, Robert J. (Columbia University); Hopenhayn, Hugo (UCLA); Hurst, Erik (University of Chicago).

Imrohoroglu, Ayse (University of Southern California); Isakson, Hans (University of Northern Iowa); Israel, Ronen (London Business School); Jaffee, Dwight M. (UC Berkeley); Jagannathan, Ravi (Northwestern University); Jenter, Dirk (Stanford University); Jones, Charles M. (Columbia Business School); Kaboski, Joseph P. (Ohio State University); Kahn, Matthew (UCLA); Kaplan, Ethan (Stockholm University); Karolyi, Andrew (Ohio State University); Kashyap, Anil (University of Chicago); Keim, Donald B (University of Pennsylvania); Ketkar, Suhas L (Vanderbilt University); Kiesling, Lynne (Northwestern University); Klenow, Pete (Stanford University); Koch, Paul (University of Kansas); Kocherlakota, Narayana (University of Minnesota); Koijen, S.J., Ralph (University of Chicago); Kondo, Jiro (Northwestern University).

Korteweg, Arthur (Stanford University); Kortum, Samuel (University of Chicago); Krueger, Dirk (University of

Pennsylvania); Ledesma, Patricia (Northwestern University); Lee, Lungfei (Ohio State University); Leeper, Eric M. (Indiana University); Leuz, Christian (University of Chicago); Levine, David T. (UC Berkeley); Levine, David K. (Washington University); Levy, David M. (George Mason University); Linnainmaa, Juhani (University of Chicago); Lott, Jr., John R. (University of Maryland); Lucas, Robert (University of Chicago—Nobel Laureate); Luttmer, Erzo G.J. (University of Minnesota); Manski, Charles F. (Northwestern University); Martin, Ian (Stanford University); Mayer, Christopher (Columbia University); Mazzeo, Michael (Northwestern University); McDonald, Robert (Northwestern University); Meadow, Scott F. (University of Chicago).

Mehra, Rajnish (UC Santa Barbara); Mian, Atif (University of Chicago); Middlebrook, Art (University of Chicago); Miguel, Edward (UC Berkeley); Miravete, Eugenio J. (University of Texas at Austin); Miron, Jeffrey (Harvard University); Moretti, Enrico (UC Berkeley); Moriguchi, Chiaki (Northwestern University); Moro, Andrea (Vanderbilt University); Morse, Adair (University of Chicago); Mortensen, Dale T. (Northwestern University); Mortimer, Julie Holland (Harvard University); Muralidharan, Karthik (UC San Diego); Nanda, Dhananjay (University of Miami); Nevo, Aviv (Northwestern University); Ohanian, Lee (UCLA); Pagliari, Joseph (University of Chicago); Papanikolaou, Dimitris (Northwestern University); Parker, Jonathan (Northwestern University); Paul, Evans (Ohio State University).

Pejovich, Svetozar (Steve); (Texas A&M University); Peltzman, Sam (University of Chicago); Perri, Fabrizio (University of Minnesota); Phelan, Christopher (University of Minnesota); Piazzesi, Monika (Stanford University); Piskorski, Tomasz (Columbia University); Rampini, Adriano (Duke University); Reagan, Patricia (Ohio State University); Reich, Michael (UC Berkeley); Reuben, Ernesto (Northwestern University); Roberts, Michael (University of Pennsylvania); Robinson, David (Duke University); Rogers, Michele (Northwestern University); Rotella, Elyce (Indiana University); Ruud, Paul (Vassar College); Safford, Sean (University of Chicago); Sandbu, Martin E. (University of Pennsylvania); Sapienza, Paola (Northwestern University); Savor, Pavel (University of Pennsylvania); Scharfstein, David (Harvard University).

Seim, Katja (University of Pennsylvania); Seru, Amit (University of Chicago); Shang-Jin, Wei (Columbia University); Shimer, Robert (University of Chicago); Shore, Stephen H. (Johns Hopkins University); Siegel, Ron (Northwestern University); Smith, David C. (University of Virginia); Smith, Vernon L.—(Chapman University- Nobel Laureate); Sorensen, Morten (Columbia University); Spiegel, Matthew (Yale University); Stevenson, Betsey (University of Pennsylvania); Stokey, Nancy (University of Chicago); Strahan, Philip (Boston College); Strebulaev, Ilya (Stanford University); Sufi, Amir (University of Chicago); Tabarrok, Alex (George Mason University); Taylor, Alan M. (UC Davis); Thompson, Tim (Northwestern University); Tschoegl, Adrian E. (University of Pennsylvania); Uhlig, Harald (University of Chicago).

Ulrich, Maxim (Columbia University); Van Buskirk, Andrew (University of Chicago); Veronesi, Pietro (University of Chicago); Vissing-Jorgensen, Annette (Northwestern University); Wacziarg, Romain (UCLA); Weill, Pierre-Olivier (UCLA); Williamson, Samuel H. (Miami University); Witte, Mark (Northwestern University); Wolfers, Justin (University of Pennsylvania); Woutersen, Tiemen (Johns Hopkins University); Zingales, Luigi (University of Chicago); Zitzewitz, Eric (Dartmouth College).

We, the undersigned economists, write to strongly advise against the proposed $700 billion bailout of the financial services sector as a response to current trends in the market. Granting the Treasury broad authority to purchase troubled assets from private entities poses a significant threat to taxpayers while failing to address fundamental problems that have created a bloated, over-leveraged financial services sector.

Such a large government intervention would create changes whose effects will linger long into the future. The Treasury plan would fundamentally alter the workings of the market, transferring the burden of risk to the taxpayer. At the same time; the $700 billion proposal does not offer fundamental reforms required to avoid a repeat of the current problem. Many of the troubles in today's market are the result of past government policies (especially in the housing sector) exacerbated by loose monetary policy. Congress has been reluctant to reform the government sponsored enterprises that lie at the heart of today's troubled markets, and there is little to suggest the necessary reforms will be implemented in the wake of a bailout. Taxpayers should be wary of such an approach.

In addition to the moral hazard inherent in the proposal, the plan makes it difficult to move resources to more highly valued uses. Successful firms that may have been in a position to acquire troubled firms would no longer have a market advantage allowing them to do so; instead, entities that were struggling would now be shored up and competing on equal footing with their more efficient competitors.

Although it is clear that the financial sector has entered turbulent times, it is by no means evident that providing the U.S. Treasury with $700 billion to purchase troubled assets will resolve the crisis. It is clear, however, that the federal government will be facing substantially higher deficits and taxpayers will be exposed to a significant new burden just as the looming crisis in entitlement spending appears on the horizon.

For these reasons, we find the proposed $700 billion bailout an improper response to the current financial crisis.

Sincerely,

Dick Armey, FreedomWorks Foundation; Wayne Brough, FreedomWorks Foundation; Alan C. Stockman, University of Rochester; Ambassador Alberto Piedra, Institute of World Politics; Arthur A. Fleisher III, Denver Metropolitan State College of Denver; Bryan Caplan, George Mason University; Burt Abrams, University of Delaware; Cecil E. Bohanan, Ball State University; Charles N. Steele, Hillsdale College; Charles W. Baird, California State University East Bay; D. Eric Shansberg, Indiana University Southeast.

Donald L. Alexander, Western Michigan University; E.S. Savas, Baruch College/CUNY; Ed Stringham, Trinity College; Erik Gartzke, University of California, San Diego; Frank Falero, California State University, Bakersfield; George Selgin, West Virginia University; Howard Baetjer, Jr., Towson University; Ivan Pongracic, Jr., Hillsdale College; James L. Huffman, Clark University; James McClure, Ball State University; Joe Pomykala, Towson University.

John P. Cochran, Metropolitan State College of Denver; Kishore G. Kulkarni, Metropolitan State College of Denver; Lawrence H. White, University of Missouri-St. Louis; M. Northrup Buechner, St. John's University; Melvin Hinich, University of Texas, Austin; Nikolai G. Wenzel, Hillsdale College; Norman Bailey, Institute of World Politics; Paul Evans, Ohio State University; Randall Holcombe, Florida State University; Richard W. Rahn, Institute for Global Economic Growth; Robert Heidt, Indiana University School of Law, Bloomington.

Rodolfo Gonzalez, San Jose State University; Roy Cordato, John Locke Foundation; Samuel Bostaph, University of Dallas; Scott Bradford, Brigham Young University; Soheila Fardanesh, Towson University; Stephen Shmanske, California State University, East Bay; T. Norman Van Cott, Ball State University; Walter Block, Loyola University New Orleans; William Barnett, II, Loyola University New Orleans; William F. Shughart, II, University of Mississippi; William Niskanen, Cato Institute.

[From the New York Times, Sept. 30,1999]

FANNIE MAE EASES CREDIT TO AID MORTGAGE LENDING

(By Steven A. Holmes)

In a move that could help increase home ownership rates among minorities and low-income consumers, the Fannie Mae Corporation is easing the credit requirements on loans that it will purchase from banks and other lenders.

The action, which will begin as a pilot program involving 24 banks in 15 markets—including the New York metropolitan region—will encourage those banks to extend home mortgages to individuals whose credit is generally not good enough to qualify for conventional loans. Fannie Mae officials say they hope to make it a nationwide program by next spring.

Fannie Mae, the nation's biggest underwriter of home mortgages, has been under increasing pressure from the Clinton Administration to expand mortgage loans among low and moderate income people and felt pressure from stock holders to maintain its phenomenal growth in profits.

In addition, banks, thrift institutions and mortgage companies have been pressing Fannie Mae to help them make more loans to so-called subprime borrowers. These borrowers whose incomes, credit ratings and savings are not good enough to qualify for conventional loans, can only get loans from finance companies that charge much higher interest rates—anywhere from three to four percentage points higher than conventional loans.

''Fannie Mae has expanded home ownership for millions of families in the 1990's by reducing down payment requirements,'' said Franklin D. Raines, Fannie Mae's chairman and chief executive officer. ''Yet there remain too many borrowers whose credit is just a notch below what our underwriting has required who have been relegated to paying significantly higher mortgage rates in the so-called subprime market.''

Demographic information on these borrowers is sketchy. But at least one study indicates that 18 percent of the loans in the

subprime market went to black borrowers, compared to 5 per cent of loans in the conventional loan market.

In moving, even tentatively, into this new area of lending, Fannie Mae is taking on significantly more risk, which may not pose any difficulties during flush economic times. But the government-subsidized corporation may run into trouble in an economic downturn, prompting a government rescue similar to that of the savings and loan industry in the 1980's.

''From the perspective of many people, including me, this is another thrift industry growing up around us,'' said Peter Wallison a resident fellow at the American Enterprise Institute. ''If they fail, the government will have to step up and bail them out the way it stepped up and bailed out the thrift industry.''

Under Fannie Mae's pilot program, consumers who qualify can secure a mortgage with an interest rate one percentage point above that of a conventional, 30-year fixed rate mortgage of less than $240,000—a rate that currently averages about 7.76 per cent. If the borrower makes his or her monthly payments on time for two years, the one percentage point premium is dropped.

Fannie Mae, the nation's biggest underwriter of home mortgages, does not lend money directly to consumers. Instead, it purchases loans that banks make on what is called the secondary market. By expanding the type of loans that it will buy, Fannie Mae is hoping to spur banks to make more loans to people with less-than-stellar credit ratings.

Fannie Mae officials stress that the new mortgages will be extended to all potential borrowers who can qualify for a mortgage. But they add that the move is intended in part to increase the number of minority and low income home owners who tend to have worse credit ratings than non-Hispanic whites.

Home ownership has, in fact, exploded among minorities during the economic boom of the 1990's. The number of mortgages extended to Hispanic applicants jumped by 87.2 per cent from 1993 to 1998, according to Harvard University's Joint Center for Housing Studies. During that same period the number of African Americans who got mortgages to buy a home increased by 71.9 per cent and the number of Asian Americans by 46.3 per cent.

In contrast, the number of non-Hispanic whites who received loans for homes increased by 31.2 per cent.

Despite these gains, home ownership rates for minorities continue to lag behind non-Hispanic whites, in part because blacks and Hispanics in particular tend to have on average worse credit ratings.

In July, the Department of Housing and Urban Development proposed that by the year 2001,50 percent of Fannie Mae's and Freddie Mac's portfolio be made up of loans to low and moderate-income borrowers. Last year, 44 percent of the loans Fannie Mae purchased were from these groups.

The change in policy also comes at the same time that HUD is investigating allegations of racial discrimination in the automated underwriting systems used by Fannie Mae and Freddie Mac to determine the credit-worthiness of credit applicants.

Mr. BUNNING. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I believe I am next in line to make remarks as in morning business, and I wish to do so.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you very much.

FINANCIAL CRISIS

Mrs. FEINSTEIN. Mr. President, to date I have received from Californians more than 50,000 calls and letters, the great bulk of them in opposition to any form of meeting this crisis with financial help from the Federal Government. I wanted to come to the floor to very simply state how I see this and some of the principles that I hope will be forthcoming in this draft. Before I do so, I wish to pay particular commendation to Senator DODD, Senator SCHUMER, Senator BENNETT, and others who have been working so hard on this issue. I have tried to keep in touch—I am not a negotiator; I am not on the committee—but California is the biggest State, the largest economic engine, and people are really concerned.

We face the most significant economic crisis in 75 years right now. Swift and comprehensive action is crucial to the overall health of our economy. None of us wants to be in this position, and there are no good options here. Nobody likes the idea of spending massive sums of Government money to rescue major corporations from their bad financial decisions. But no one also should be fooled into thinking this problem only belongs to the banks and that it is a good idea to let them fail. The pain felt by Wall Street one day is felt there, and then 2, 3, 4 weeks down the pike, it is felt on Main Street.

The turbulence in our financial sector has already resulted in thousands of layoffs in the banking and finance sectors, and that number will skyrocket if there is a full collapse. The shock waves of failure will extend far beyond the banking and finance sectors. A shrinking pool of credit would affect the home loans, credit card limits, auto loans, and insurance policies of average Americans. I am receiving calls from people who tell me they want to buy a house, but they can't get the credit or the mortgage to do so. Why? Because that market of credit is drying up more rapidly one day after the other. It would have a major impact on State and local governments which would lose tens of millions of dollars, if not hundreds of millions of dollars.

Hurricane Ike shut down refineries on the gulf coast 2 weeks ago, and now, today, people are waiting hours in lines for gasoline in the South. Similarly, the collapse of the financial sector would have severe consequences for Americans all across the economic spectrum: for the person who owns the grocery store, the laundry, the bank, the insurance company. Then, if the worst happens, layoffs. And even more than that, somebody shows up for work and finds their business has closed because the owner of that business can't get credit to buy the goods he hopes to sell that week or that month. Wages and employment rates have already fallen even as the cost of basic necessities has skyrocketed. Our Nation is facing the highest unemployment rate in 5 years, at 6.1 percent. Over 605,000 jobs have been lost nationwide this year. My own State of California, a state of 38 million people, has the third highest unemployment rate in the Nation at 7.7 percent. That is 1.4 million people out of work today. One and a half million people—that is bigger than some States. We have 1.5 million people out of work, and one-half million have had their unemployment insurance expire and have nothing today.

Congress is faced with a situation where we have to act and we have to do two things. We have to provide some reform in the system of regulation and oversight that is supposed to protect our economy. We also have to find a permanent and effective solution to keep liquidity and credit functioning so that markets can recover and make profit. The situation, I believe, is grave, and timely, prudent action is needed.

Just last night, the sixth largest bank in America—Washington Mutual—was seized by government regulators and most of its assets will be sold to JPMorgan Chase. This follows on the heels of bankruptcies and takeovers of Bear Stearns, Lehman Brothers, AIG, Fannie Mae, and Freddie Mac. If nothing is done, the crisis will continue to spread and one by one the dominos will fall.

Now, this isn't just about Wall Street. Because we are this credit society, the financial troubles facing major economic institutions will ricochet throughout this Nation and affect everyone. So I believe the need for action is clear. But that doesn't mean Congress should simply be a rubberstamp for an unprecedented and unbridled program.

My constituents by the thousands have made their views clear. I believe they are responding to the original 3-page proposal by the Secretary of the Treasury. It is clear by now that that 3-page proposal is a nonstarter. It is dead on arrival and that is good. Secretary Paulson's proposal asked Congress to write a $700 billion check to an economic czar who would have been empowered to spend it without any administrative oversight, legal requirements, or legislative review. Decisions made by the Treasury Secretary would be nonreviewable by any court or agency, and the fate of our entire economy would be committed to the sole discretion of one man alone—the man we know today, and the man whom we don't know after January.

Additionally, the lack of governance or oversight in this plan was matched by the lack of a requirement for regular reports to Congress. This proposal stipulated that the economic czar, newly created, would report to Congress after the first three months with reports once every 6 months after that. This was untenable. Six months is an

eternity when you are spending billions a week. The Treasury Secretary asked Congress to approve this massive program without delay or interference. It is hard to think of any other time in our history when Congress has been asked for so much money and so much power to be concentrated in the hands of one person. It is a nonstarter.

Yesterday, shortly before we met for the Democratic Policy Committee lunch, we were told there had been a bipartisan agreement on principles of a possible solution, and many of us rejoiced. We know that our Members, both Republican and Democrat, have been working hard to try to produce something that was positive. Then, all of a sudden, it changed. One Presidential candidate parachuted into town which proved to be enormously destructive to the process. Now, negotiations are back on the table, and as I say, we have just received a draft bill of certain principles.

I would like to outline quickly those principles that I think are important. First is a phase-in. No one wants to put $700 billion immediately at the discretion of one person or even a group of a very few people, no matter how bright, how skilled, how informed they might be on banking or finance principles. The funding should come in phases and Congress should have the opportunity to make its voice heard if the program isn't working or needs to be adjusted.

The second point: Oversight, accountability, and governance. The Treasury Secretary should not and must not have unbridled authority to determine winners and losers, essentially choosing which struggling financial institution will survive and which will not. The original plan placed all authority in the hands of this one man, and this is why I say it was DOA—dead on arrival—at the Congress. We must assure that controls are in place to watch taxpayer dollars and make sure they are well-spent fixing the problem, and that oversight by a governance committee and the Banking Committees are strong, and that they give the best opportunity for the American people to recover their investment and, yes, even eventually make a profit from that investment. That can be done and it has been done in the past.

I believe that frequent reporting to Congress is critical. Transparency, sunlight on this, is critical. So Congress should receive regular, timely briefings, perhaps weekly for the first quarter, on a program of this magnitude. A proposal should mandate frequent reporting and the public should be ensured of transparency to the maximum extent possible.

I also believe that within the first quarter—and this, to me, is key—a comprehensive legislative proposal for reform must be put forward. We must reform those speculative practices that impact price function of markets. We must deal with the unregulated practices that have furthered this crisis. Look. I represent a State that was cost $40 billion in the Enron episode during 1999 and 2000 by speculation, by manipulation, and by fraud. There still is inadequate regulation of energy commodities sold on the futures market. And that is just one point in all of this. We must prevent these things from happening. The only way to do it is to improve the transparency of all markets. No hidden deals. Swaps, in my view, should be ended. The London loophole should be ended.

We have to outline rules for increasing regulation of the mortgage-backed securities market, along with comprehensive oversight of the mortgage industry and lending practices for both prime and subprime lending.

Senator MARTINEZ of Florida and I had a part in the earlier housing bill, which included our legislation entitled the SAFE Mortgage Licensing Act. We found that the market was rife with fraud. We found there was one company that hired hairdressers and others who sold mortgages in their spare time. We found there were unscrupulous mortgage brokers out there unlicensed, preying upon people, walking off with tens of thousands of dollars of cash. This has to end. It has to be controlled. It has to be regulated.

So I believe the crisis of 2008 stems from the failure of Federal regulators to rein in this Wild West mentality of those Wall Street executives who led those firms and who thought that nothing was out of bounds. Every quick scheme was worth the time, and worth a try. Congress cannot ignore this as the root cause of the crisis. It was inherent in the subprime marketplace, and it has now spread to the prime mortgage marketplace.

It is also critical that accurate assessments of the value of these illiquid mortgage-related assets be performed to limit the taxpayers' exposure to risk and structure purchases to ensure the greatest possible return on investment.

Taxpayer money must be shielded at all costs from risk to the greatest extent possible.

Reciprocity is not a bad concept if you can carry it out. The Government must not simply act as a repository for risky investments that have gone bad. An economic rescue effort that serves taxpayers well must allow them to benefit from the potential profits of rescued entities. So a model—and it may well be in these new principles—must be developed to ensure the taxpayers are not only the first paid back but have an opportunity to share in future profits through warrants and/or stocks.

As to executive compensation limits, simply put, Californians are frosted by the absence of controls on executive compensation. Virtually all of the 50,000 phone calls and letters mentioned this one way or another. There must be limits. I am told that the reason the Treasury Secretary does not want limits on executive compensation is because he believes that an executive then will not bring his company in to partake in any program that is set up. Here is my response to that: We can put that executive on his boat, take that boat out in the ocean, and set it on fire. If that is how he feels, that is what should happen, or his company doesn't come in. But to say that the Federal Government is going to be responsible for tens of millions of dollars of executive salaries, golden parachutes, whether they are a matter of contract right or not, is not acceptable to the average person whose taxpayer dollars are used in this bailout. That is just fact.

The one proposal that was made by one of the Presidential candidates that I agree with is that there should be a limit of $400,000 on executive compensation. If they don't like it, too bad, don't participate in the program. As I have talked with people on Wall Street and otherwise, they don't believe it is true that an executive, if his pay is tailored down, will not bring a company in that needs help. I hope that is true. I believe there should be precise limits set on executive pay.

Finally, as to tangible benefits for Main Street in the form of mortgage relief, there have been more than 500,000 foreclosures in my home State of California so far this year. In the second quarter of this year, foreclosures were up 300 percent over the second quarter of 2007. More than 800,000 are predicted before this year is over.

I have a city in California where 1 out of every 25 homes is in foreclosure. This is new housing in subdivisions. As you look at it, you will see garage doors kicked in. You will see houses vandalized. You will see the grass and grounds dry. You will see the street sprinkled with ''For Sale'' signs, and nobody buys because the market has become so depressed.

This crisis has roots in the subprime housing boom that went bust, and it would be unconscionable for us to simply bail out Wall Street while leaving these homeowners to fend for themselves.

Everything I have been told, and I have talked to people in this business, here is what they tell me: It is more cost-effective to renegotiate a subprime loan and keep a family in a house than it is to foreclose and run the risks of what happens to that home on a depressed market as credit is drying up, as vandals loot it, as landscaping dries up, as more homes in the area become foreclosed upon; the way to go is to renegotiate these mortgages with the exiting homeowner wherever possible. I feel very strongly that should be the case.

I don't know what I or any of us will do if we authorize this kind of expenditure and we find down the pike in my State that the rest of the year, 800,000 to 1 million Americans are being thrown out of their homes despite this form of rescue effort. Think of what it means, Mr. President, in your State. You vote for this, any other Senator

votes for it, and these foreclosures continue to take place and individual families continue to be thrown out of their homes. It is not a tenable situation.

I hope, if anybody is listening at all, that in the negotiating team, they will make a real effort to mandate in some way that subprime foreclosures be renegotiated, that families, wherever possible, who have an ability to pay, have that ability to pay met with a renegotiated loan. I have done this now in cases with families who were taken advantage of. We called the CEO of the bank, and the bank has seen that the loan was renegotiated, in one case in Los Angeles down to 2 percent. That is better than foreclosing and running the uncertainty of the sale of the asset in a very depressed housing market.

These are my thoughts. Again, it is easy to come to the floor and give your thoughts. It is much more difficult to sit at that negotiating table.

I once again thank those Senators on both sides of the aisle who really understand the nature of this crisis—that it isn't only Wall Street, that it does involve Main Street, and if there is a serious crash, it will hurt tens of millions of Americans, many of them in irreparable ways. So we must do what we must do, and we must do it prudently and carefully.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that we go into morning business, with Senators to be recognized at 10-minute intervals.

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

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS ACT OF 2008

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 964, S. 3325.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 3325) to enhance remedies for violations of intellectual property laws, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments.

S. 3325

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 ''Enforcement of Intellectual Property Rights Act of 2008''.

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

SEC. 2. REFERENCE.

Any reference in this Act to the ''Trademark Act of 1946'' refers to the Act entitled ''An Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 3. DEFINITION.

In this Act, the term ''United States person'' means—

(1) any United States resident or national,

(2) any domestic concern (including any permanent domestic establishment of any foreign concern), and

(3) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern,

except that such term does not include an individual who resides outside the United States and is employed by an individual or entity other than an individual or entity described in paragraph (1), (2), or (3).

TITLE I—AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL

SEC. 101. CIVIL PENALTIES FOR CERTAIN VIOLATIONS.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by inserting after section 506 the following:

''SEC. 506a. CIVIL PENALTIES FOR VIOLATIONS OF SECTION 506.

''(a) IN GENERAL.—In lieu of a criminal action under section 506, the Attorney General may commence a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 506. Upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty under section 504 which shall be in an amount equal to the amount which would be awarded under section 3663(a)(1)(B) of title 18 and restitution to the copyright owner aggrieved by the conduct.

''(b) OTHER REMEDIES.—

''(1) IN GENERAL.—Imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, injunctive, common law, or administrative remedy, which is available by law to the United States or any other person.

''(2) OFFSET.—Any restitution received by a copyright owner as a result of a civil action brought under this section shall be offset against any award of damages in a subsequent copyright infringement civil action by that copyright owner for the conduct that gave rise to the civil action brought under this section.''.

(b) DAMAGES AND PROFITS.—Section 504 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting '', or the Attorney General in a civil action,'' after ''The copyright owner''; and

(ii) by striking ''him or her'' and inserting ''the copyright owner''; and

(B) in the second sentence by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''; and

(B) in paragraph (2), by inserting '', or the Attorney General in a civil action,'' after ''the copyright owner''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by inserting after the item relating to section 506 the following:

''Sec. 506a. Civil penalties for violations of section 506.''.

TITLE II—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

SEC. 201. REGISTRATION OF CLAIM.

(a) LIMITATION TO CIVIL ACTIONS; HARMLESS ERROR.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting ''**CIVIL**'' before ''**INFRINGEMENT**'';

(2) in subsection (a)—

(A) in the first sentence, by striking ''no action'' and inserting ''no civil action''; and

(B) in the second sentence, by striking ''an action'' and inserting ''a civil action'';

(3) by redesignating subsection (b) as subsection (c);

(4) in subsection (c), as so redesignated by paragraph (3), by striking ''506 and sections 509 and'' and inserting ''505 and section''; and

(5) by inserting after subsection (a) the following:

''(b)(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

''(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

''(B) the [inaccurate] *inaccuracy of the* information, if known, would have caused the Register of Copyrights to refuse registration.

''(2) In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 412 of title 17, United States Code, is amended by striking ''411(b)'' and inserting ''411(c)''.

(2) The item relating to section 411 in the table of sections for chapter 4 of title 17, United States Code, is amended to read as follows:

''Sec. 411. Registration and civil infringement actions.''.

SEC. 202. CIVIL REMEDIES FOR INFRINGEMENT.

[(a) IN GENERAL.—Section 503(a) of title 17, United States Code, is amended—

[(1) by striking ''and of all plates'' and inserting '', of all plates''; and

[(2) by striking the period and inserting '', and of records documenting the manufacture, sale, or receipt of things involved in such violation. The court shall enter, if appropriate, a protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to ensure that confidential information contained in such records is not improperly disclosed to any party.''.

[(b) PROTECTIVE ORDERS FOR SEIZED RECORDS.—Section 34(d)(1)(A) of the Trademark Act (15 U.S.C. 1116(d)(1)(A)) is amended by adding at the end the following: ''The court shall enter, if appropriate, a protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to ensure that confidential information contained in such records is not improperly disclosed to any party.'']

(a) IN GENERAL.—Section 503(a) of title 17, United States Code, is amended to read as follows:

''(a)(1) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable—

''(A) of all copies or phonorecords claimed to have been made or used in violation of the exclusive right of the copyright owner;

''(B) of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies of phonorecords may be reproduced; and

''(C) of records documenting the manufacture, sale, or receipt of things involved in any such violation, provided that any records seized under this subparagraph shall be taken into the custody of the court.

''(2) For impoundments of records ordered under paragraph (1)(C), the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been impounded. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used.

''(3) The relevant provisions of paragraphs (2) through (11) of section 34(d) of the Trademark Act (15 U.S.C. 1116(d)(2) through (11)) shall extend to any impoundment of records ordered under paragraph (1)(C) that is based upon an ex parte application, notwithstanding the provisions of rule 65 of the Federal Rules of Civil Procedure. Any references in paragraphs (2) through (11) of section 34(d) of the Trademark Act to section 32 of such Act shall be read as references to section 501 of this title, and references to use of a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services shall be read as references to infringement of a copyright.''.

(b) PROTECTIVE ORDER FOR SEIZED RECORDS.—Section 34(d)(7) of the Trademark Act (15 U.S.C. 1116(d)(7)) is amended to read as follows:

''(7) Any materials seized under this subsection shall be taken into the custody of the court. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used.''.

SEC. 203. TREBLE DAMAGES IN COUNTERFEITING CASES.

Section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117(b)) is amended to read as follows:

''(b) In assessing damages under subsection (a) for any violation of section 32(1)(a) of this Act or section 220506 of title 36, United States Code, in a case involving use of a counterfeit mark or designation (as defined in section 34(d) of this Act), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever amount is greater, together with a reasonable attorney's fee, if the violation consists of—

''(1) intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act), in connection with the sale, offering for sale, or distribution of goods or services; or

''(2) providing goods or services necessary to the commission of a violation specified in paragraph (1), with the intent that the recipient of the goods or services would put the goods or services to use in committing the violation.

In such a case, the court may award prejudgment interest on such amount at an annual interest rate established under section 6621(a)(2) of the Internal Revenue Code of 1986, beginning on the date of the service of the claimant's pleadings setting forth the claim for such entry of judgment and ending on the date such entry is made, or for such shorter time as the court considers appropriate.''.

SEC. 204. STATUTORY DAMAGES IN COUNTERFEITING CASES.

Section 35(c) of the Trademark Act of 1946 (15 U.S.C. 1117) is amended—

(1) in paragraph (1)—

(A) by striking ''$500'' and inserting ''$1,000''; and

(B) by striking ''$100,000'' and inserting ''$200,000''; and

(2) in paragraph (2), by striking ''$1,000,000'' and inserting ''$2,000,000''.

SEC. 205. TRANSSHIPMENT AND EXPORTATION OF GOODS BEARING INFRINGING MARKS.

Title VII of the Trademark Act of 1946 (15 U.S.C. 1124) is amended—

(1) in the title heading, by inserting after ''IMPORTATION'' the following: ''TRANSSHIPMENT, OR EXPORTATION''; and

(2) in section 42—

(A) by striking ''imported''; and

(B) by inserting after ''customhouse of the United States'' the following: '', nor shall any such article be transshipped through or exported from the United States''.

SEC. 206. IMPORTATION, [TRANSSHIPMENT,] AND EXPORTATION.

(a) IN GENERAL.—The heading for chapter 6 of title 17, United States Code, is amended to read as follows:

''CHAPTER 6—MANUFACTURING REQUIREMENTS, IMPORTATION, [TRANSSHIPMENT,] AND EXPORTATION''.

(b) AMENDMENT ON EXPORTATION.—Section 602(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking ''(a)'' and inserting ''(a) INFRINGING IMPORTATION, [Transshipment,] or Exportation.—

''(1) IMPORTATION.—'';

(3) by striking ''This subsection does not apply to—'' and inserting the following:

''(2) IMPORTATION, [TRANSHIPMENT,] OR EXPORTATION OF INFRINGING ITEMS.—Importation into the United States, [transshipment through the United States,] or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which either constituted an infringement of [copyright or] *copyright, or which* would have constituted an infringement of copyright if this title had been applicable, is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under sections 501 and 506.

''(3) EXCEPTIONS.—This subsection does not apply to—'';

(4) in paragraph (3)(A) (as redesignated by this subsection) by inserting ''or exportation'' after ''importation''; and

(5) in paragraph (3)(B) (as redesignated by this subsection)—

(A) by striking ''importation, for the private use of the importer'' and inserting ''importation or exportation, for the private use of the importer or exporter''; and

(B) by inserting ''or departing from the United States'' after ''United States''.

(c) CONFORMING AMENDMENTS.—(1) Section 602 of title 17, United States Code, is further amended—

(A) in the section heading, by inserting ''**or exportation**'' after ''**importation**''; and

(B) in subsection (b)—

(i) by striking ''(b) In a case'' and inserting ''(b) IMPORT PROHIBITION.—In a case'';

(ii) by striking ''the United States Customs Service'' and inserting ''United States Customs and Border Protection''; and

(iii) by striking ''the Customs Service'' and inserting ''United States Customs and Border Protection''.

(2) Section 601(b)(2) of title 17, United States Code, is amended by striking ''the United States Customs Service'' and inserting ''United States Customs and Border Protection''.

(3) The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

''6. MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION ..... 601''.

TITLE III—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS

SEC. 301. CRIMINAL COPYRIGHT INFRINGEMENT.

(a) FORFEITURE AND DESTRUCTION; RESTITUTION.—Section 506(b) of title 17, United States Code, is amended to read as follows:

''(b) FORFEITURE, DESTRUCTION, AND RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323 of title 18, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

(b) SEIZURES AND FORFEITURES.—

(1) REPEAL.—Section 509 of title 17, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by striking the item relating to section 509.

SEC. 302. TRAFFICKING IN COUNTERFEIT LABELS, ILLICIT LABELS, OR COUNTERFEIT DOCUMENTATION OR PACKAGING FOR WORKS THAT CAN BE COPYRIGHTED.

Section 2318 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking ''Whoever'' and inserting ''(1) Whoever'';

(2) by amending subsection (d) to read as follows:

''(d) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''; and

(3) by striking subsection (e) and redesignating subsection (f) as subsection (e).

SEC. 303. UNAUTHORIZED FIXATION.

(a) Section 2319A(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

(b) Section 2319A(c) of title 18, United States Code, is amended by striking the second sentence and inserting: ''The Secretary of Homeland Security shall issue regulations by which any performer may, upon payment of a specified fee, be entitled to notification by United States Customs and Border Protection of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.''.

SEC. 304. UNAUTHORIZED RECORDING OF MOTION PICTURES.

Section 2319B(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 305. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.

(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''WHOEVER'' and inserting ''OFFENSE.—''

''(1) IN GENERAL.—Whoever;'';

(B) by moving the remaining text 2 ems to the right; and

(C) by adding at the end the following:

''(2) SERIOUS BODILY HARM OR DEATH.—

''(A) SERIOUS BODILY HARM.—If the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for not more than 20 years, or both.

''(B) DEATH.—If the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for any term of years or for life, or both.''.

(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Section 2320(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 306. FORFEITURE, DESTRUCTION, AND RESTITUTION.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 2323. FORFEITURE, DESTRUCTION, AND RESTITUTION.

''(a) CIVIL FORFEITURE.—

''(1) PROPERTY SUBJECT TO FORFEITURE.—The following property is subject to forfeiture to the United States Government:

''(A) Any article, the making or trafficking of which is, prohibited under section 506 [or 1204] of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title.

''(B) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of an offense referred to in subparagraph (A), except that property is subject to forfeiture under this subparagraph only if the United States Government establishes that there was a substantial connection between the property and the violation of an offense referred to in subparagraph (A).

''(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

''(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. *For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used.* At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

''(b) CRIMINAL FORFEITURE.—

''(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 or 1204 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

''(2) PROCEDURES.—

''(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

''(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

''(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

''(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

''(c) RESTITUTION.—When a person is convicted of an offense under section 506 [or 1204] of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 2323. Forfeiture, destruction, and restitution.''.

SEC. 307. FORFEITURE UNDER ECONOMIC ESPIONAGE ACT.

Section 1834 of title 18, United States Code, is amended to read as follows:

''SEC. 1834. CRIMINAL FORFEITURE.

''Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 308. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—

(1) Section 109 (b)(4) of title 17, United States Code, is amended by striking ''505, and 509'' and inserting ''and 505''.

(2) Section 111 of title 17, United States Code, is amended—

(A) in subsection (b), by striking ''and 509'';

(B) in subsection (c)—

(i) in paragraph (2), by striking ''and 509'';

(ii) in paragraph (3), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(iii) in paragraph (4), by striking ''and section 509''; and

(C) in subsection (e)—

(i) in paragraph (1), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(ii) in paragraph (2), by striking ''and 509''.

(3) Section 115(c) of title 17, United States Code, is amended—

(A) in paragraph (3)(G)(i), by striking ''and 509''; and

(B) in paragraph (6), by striking ''and 509''.

(4) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (6), by striking ''sections 509 and 510'' and inserting ''section 510'';

(B) in paragraph (7)(A), by striking ''and 509'';

(C) in paragraph (8), by striking ''and 509''; and

(D) in paragraph (13), by striking ''and 509''.

(5) Section 122 of title 17, United States Code, is amended—

(A) in subsection (d), by striking ''and 509'';

(B) in subsection (e), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(C) in subsection (f)(1), by striking ''and 509''.

(6) Section 411(b) of title 17, United States Code, is amended by striking ''sections 509 and 510'' and inserting ''section 510''.

(b) OTHER AMENDMENTS.—Section 596(c)(2)(c) of the Tariff Act of 1950 (19 U.S.C. 1595a(c)(2)(c)) is amended by striking ''or 509''.

TITLE IV—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND [PIRACY]*INFRINGEMENT*

SEC. 401. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.

(a) INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.—The President shall appoint, by and with the advice and consent of the Senate, an Intellectual Property Enforcement Coordinator (in this title referred to as the ''IPEC'') to serve within the Executive Office of the President. As an exercise of the rulemaking power of the Senate, any nomination of the IPEC submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on the Judiciary.

(b) DUTIES OF IPEC.—

(1) IN GENERAL.—The IPEC shall—

(A) chair the interagency intellectual property enforcement advisory committee established under subsection (b)(3)(A);

(B) coordinate the development of the Joint Strategic Plan against counterfeiting and [piracy]*infringement* by the advisory committee under section 403;

(C) assist in the implementation of the Joint Strategic Plan by the departments and agencies listed in subsection (b)(3)(A);

(D) facilitate the issuance of policy guidance to departments and agencies on basic issues of policy and interpretation, to the extent necessary to assure the coordination of intellectual property enforcement policy and consistency with other law;

([D]*E*) report directly to the President and Congress regarding domestic and international intellectual property enforcement programs;

([E]*F*) report to Congress, as provided in section 404, on the implementation of the Joint Strategic Plan, and make recommendations to Congress for improvements in Federal intellectual property enforcement efforts; and

([F]*G*) carry out such other functions as the President may direct.

(2) LIMITATION ON AUTHORITY.—The IPEC may not control or direct any law enforcement agency in the exercise of its investigative or prosecutorial authority.

(3) ADVISORY COMMITTEE.—

[(A) ESTABLISHMENT.—There is established an interagency intellectual property enforcement advisory committee composed of the IPEC, who shall chair the committee, and Senate-confirmed representatives of the following departments and agencies who are involved in intellectual property enforcement, and who are, or are appointed by, the respective heads of those departments and agencies:

[(i) The Office of Management and Budget.

[(ii) The Department of Justice.

[(iii) The United States Patent and Trademark Office and other relevant units of the Department of Commerce.

[(iv) The Office of the United States Trade Representative.

[(v) The Department of State, the United States Agency for International Development, and the Bureau of International Narcotics Law Enforcement.

[(vi) The Department of Homeland Security, United States Customs and Border Protection, and United States Immigration and Customs Enforcement.

[(vii) The Food and Drug Administration of the Department of Health and Human Services.

[(viii) The United States Copyright Office.

[(ix) Any such other agencies as the President determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and piracy.]

(A) ESTABLISHMENT.—There is established an interagency intellectual property enforcement advisory committee composed of the IPEC, who shall chair the committee, and—

(i) Senate-confirmed representatives of the following departments and agencies who are involved in intellectual property enforcement, and who are, or are appointed by, the respective heads of those departments and agencies:

(I) The Office of Management and Budget.

(II) The Department of Justice.

(III) The United States Patent and Trademark Office and other relevant units of the Department of Commerce.

(IV) The Office of the United States Trade Representative.

(V) The Department of State, the United States Agency for International Development, and the Bureau of International Narcotics Law Enforcement.

(VI) The Department of Homeland Security, United States Customs and Border Protection, and United States Immigration and Customs Enforcement.

(VII) The Food and Drug Administration of the Department of Health and Human Services.

(VIII) The Department of Agriculture.

(IX) Any such other agencies as the President determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and piracy; and

(ii) the Register of Copyrights, or a senior representative of the United States Copyright Office appointed by the Register of Copyrights.

(B) FUNCTIONS.—The advisory committee established under subparagraph (A) shall develop the Joint Strategic Plan against counterfeiting and [piracy]*infringement* under section 403.

(c) COMPENSATION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following: ''United States Intellectual Property Enforcement Coordinator.''.

SEC. 402. DEFINITION.

For purposes of this title, the term ''intellectual property enforcement'' means matters relating to the enforcement of laws protecting copyrights, patents, trademarks, other forms of intellectual property, and trade secrets, both in the United States and abroad, including in particular matters relating to combating counterfeit and [pirated]*infringed* goods.

SEC. 403. JOINT STRATEGIC PLAN.

(a) PURPOSE.—The objectives of the Joint Strategic Plan against counterfeiting and [piracy]*infringement* that is referred to in section 401(b)(1)(B) (in this section referred to as the ''joint strategic plan'') are the following:

(1) Reducing counterfeit and [pirated]*infringed* goods in the domestic and international supply chain.

(2) Identifying and addressing structural weaknesses, systemic flaws, or other unjustified impediments to effective enforcement action against the financing, production, trafficking, or sale of counterfeit or [pirated]*infringed* goods.

(3) Ensuring that information is identified and shared among the relevant departments and agencies, to the extent permitted by law and consistent with law enforcement protocols for handling information, to aid in the objective of arresting and prosecuting individuals and entities that are knowingly involved in the financing, production, trafficking, or sale of counterfeit or [pirated]*infringed* goods.

(4) Disrupting and eliminating domestic and international counterfeiting and [piracy]*infringement* networks.

(5) Strengthening the capacity of other countries to protect and enforce intellectual property rights, and reducing the number of countries that fail to enforce laws preventing the financing, production, trafficking, and sale of counterfeit and [pirated]*infringed* goods.

(6) Working with other countries to establish international standards and policies for the effective protection and enforcement of intellectual property rights.

(7) Protecting intellectual property rights overseas by—

(A) working with other countries and exchanging information with appropriate law enforcement agencies in other countries relating to individuals and entities involved in the financing, production, trafficking, or sale of [pirated]*infringed* or counterfeit goods;

(B) using the information described in subparagraph (A) to conduct enforcement activities in cooperation with appropriate law enforcement agencies in other countries; and

(C) building a formal process for consulting with companies, industry associations, labor unions, and other interested groups in other countries with respect to intellectual property enforcement.

(b) TIMING.—Not later than 12 months after the date of the enactment of this Act, and not later than December 31 of every third year thereafter, the IPEC shall submit the joint strategic plan to the Committee on the Judiciary and the Committee on Appropriations of the Senate, and to the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives.

(c) RESPONSIBILITY OF THE IPEC.—During the development of the joint strategic plan, the IPEC—

(1) shall provide assistance to, and coordinate the meetings and efforts of, the appropriate officers and employees of departments and agencies represented on the advisory committee appointed under section 401(b)(3) who are involved in intellectual property enforcement; and

(2) may consult with private sector experts in intellectual property enforcement in furtherance of providing assistance to the members of the advisory committee appointed under section 401(b)(3).

(d) RESPONSIBILITIES OF OTHER DEPARTMENTS AND AGENCIES.—In the development and implementation of the joint strategic plan, the heads of the departments and agencies identified under section 401(b)(3) shall—

(1) designate personnel with expertise and experience in intellectual property enforcement matters to work with the IPEC and other members of the advisory committee; and

(2) share relevant department or agency information with the IPEC and other members of the advisory committee, including statistical information on the enforcement activities of the department or agency against counterfeiting or [piracy]*infringement*, and plans for addressing the joint strategic plan.

(e) CONTENTS OF THE JOINT STRATEGIC PLAN.—Each joint strategic plan shall include the following:

(1) A detailed description of the priorities identified for carrying out the objectives in the joint strategic plan, including activities of the Federal Government relating to intellectual property enforcement.

(2) A detailed description of the means and methods to be employed to achieve the priorities, including the means and methods for improving the efficiency and effectiveness of the Federal Government's enforcement efforts against counterfeiting and [piracy]*infringement*.

(3) Estimates of the resources necessary to fulfill the priorities identified under paragraph (1).

(4) The performance measures to be used to monitor results under the joint strategic plan during the following year.

(5) An analysis of the threat posed by violations of intellectual property rights, including the costs to the economy of the United States resulting from violations of

intellectual property laws, and the threats to public health and safety created by counterfeiting and [piracy]*infringement*.

(6) An identification of the departments and agencies that will be involved in implementing each priority under paragraph (1).

(7) A strategy for ensuring coordination between the IPEC and the departments and agencies identified under paragraph (6), including a process for oversight by the executive branch of, and accountability among, the departments and agencies responsible for carrying out the strategy.

(8) Such other information as is necessary to convey the costs imposed on the United States economy by, and the threats to public health and safety created by, counterfeiting and [piracy]*infringement*, and those steps that the Federal Government intends to take over the period covered by the succeeding joint strategic plan to reduce those costs and counter those threats.

(f) ENHANCING ENFORCEMENT EFFORTS OF FOREIGN GOVERNMENTS.—The joint strategic plan shall include programs to provide training and technical assistance to foreign governments for the purpose of enhancing the efforts of such governments to enforce laws against counterfeiting and [piracy]*infringement*. With respect to such programs, the joint strategic plan shall—

(1) seek to enhance the efficiency and consistency with which Federal resources are expended, and seek to minimize duplication, overlap, or inconsistency of efforts;

(2) identify and give priority to those countries where programs of training and technical assistance can be carried out most effectively and with the greatest benefit to reducing counterfeit and [pirated]*infringed* products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries;

(3) in identifying the priorities under paragraph (2), be guided by the list of countries identified by the United States Trade Representative under section 182(a) of the Trade Act of 1974 (19 U.S.C. 2242(a)); and

(4) develop metrics to measure the effectiveness of the Federal Government's efforts to improve the laws and enforcement practices of foreign governments against counterfeiting and [piracy]*infringement*.

(g) DISSEMINATION OF THE JOINT STRATEGIC PLAN.—The joint strategic plan shall be posted for public access on the website of the White House, and shall be disseminated to the public through such other means as the IPEC may identify.

SEC. 404. REPORTING.

(a) ANNUAL REPORT.—Not later than December 31 of each calendar year beginning in 2009, the IPEC shall submit a report on the activities of the advisory committee during the preceding fiscal year. The annual report shall be submitted to Congress, and disseminated to the people of the United States, in the manner specified in subsections (b) and (g) of section 403.

(b) CONTENTS.—The report required by this section shall include the following:

(1) The progress made on implementing the strategic plan and on the progress toward fulfillment of the priorities identified under section 403(e)(1).

(2) The progress made in efforts to encourage Federal, State, and local government departments and agencies to accord higher priority to intellectual property enforcement.

(3) The progress made in working with foreign countries to investigate, arrest, and prosecute entities and individuals involved in the financing, production, trafficking, and sale of counterfeit and [pirated]*infringed* goods.

(4) The manner in which the relevant departments and agencies are working together and sharing information to strengthen intellectual property enforcement.

(5) An assessment of the successes and shortcomings of the efforts of the Federal Government, including departments and agencies represented on the committee established under section 401(b)(3).

(6) Recommendations for any changes in enforcement statutes, regulations, or funding levels that the advisory committee considers would significantly improve the effectiveness or efficiency of the effort of the Federal Government to combat counterfeiting and [piracy]*infringement* and otherwise strengthen intellectual property enforcement, including through the elimination or consolidation of duplicative programs or initiatives.

(7) The progress made in strengthening the capacity of countries to protect and enforce intellectual property rights.

(8) The successes and challenges in sharing with other countries information relating to intellectual property enforcement.

(9) The progress made under trade agreements and treaties to protect intellectual property rights of United States persons and their licensees.

SEC. 405. SAVINGS AND REPEALS.

[(a) REPEAL OF COORDINATION COUNCIL.—Section 653 of the Treasury and General Government Appropriations Act, 2000 (15 U.S.C. 1128) is repealed.]

(a) TRANSITION FROM NIPLECC TO IPEC.—

(1) REPEAL OF NIPLECC.—Section 653 of the Treasury and General Government Appropriations Act, 2000 (15 U.S.C. 1128) is repealed effective upon confirmation of the IPEC by the Senate and publication of such appointment in the Congressional Record.

(2) CONTINUITY OF PERFORMANCE OF DUTIES.—Upon confirmation by the Senate, and notwithstanding paragraph (1), the IPEC may use the services and personnel of the National Intellectual Property Law Enforcement Coordination Council, for such time as is reasonable, to perform any functions or duties which in the discretion of the IPEC are necessary to facilitate the orderly transition of any functions or duties transferred from the Council to the IPEC pursuant to any provision of this Act or any amendment made by this Act.

(b) CURRENT AUTHORITIES NOT AFFECTED.—Except as provided in subsection (a), nothing in this title shall alter the authority of any department or agency of the United States (including any independent agency) that relates to—

(1) the investigation and prosecution of violations of laws that protect intellectual property rights;

(2) the administrative enforcement, at the borders of the United States, of laws that protect intellectual property rights; or

(3) the United States trade agreements program or international trade.

[(c) REGISTER OF COPYRIGHTS.—Nothing in this title shall derogate from the duties and functions of the Register of Copyrights.]

(c) RULE OF CONSTRUCTION.—Nothing in this title shall derogate from the powers, duties, and functions of any of the agencies, departments, or other entities listed or included under section 401(b)(3)(A).

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

TITLE V—DEPARTMENT OF JUSTICE PROGRAMS

SEC. 501. LOCAL LAW ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Section 2 of the Computer Crime Enforcement Act (42 U.S.C. 3713) is amended—

(1) in subsection (b), by inserting after ''computer crime'' each place it appears the following: '', including infringement of copyrighted works over the Internet''; and

(2) in subsection (e)(1), relating to authorization of appropriations, by striking ''fiscal years 2001 through 2004'' and inserting ''fiscal years 2009 through 2013''.

(b) GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants to eligible State or local law enforcement entities, including law enforcement agencies of municipal governments and public educational institutions, for training, prevention, enforcement, and prosecution of intellectual property theft and infringement crimes (in this subsection referred to as ''IP–TIC grants''), in accordance with the following:

(1) USE OF IP–TIC GRANT AMOUNTS.—IP–TIC grants may be used to establish and develop programs to do the following with respect to the enforcement of State and local true name and address laws and State and local criminal laws on anti-piracy, anti-counterfeiting, and unlawful acts with respect to goods by reason of their protection by a patent, trademark, service mark, trade secret, or other intellectual property right under State or Federal law:

(A) Assist State and local law enforcement agencies in enforcing those laws, including by reimbursing State and local entities for expenses incurred in performing enforcement operations, such as overtime payments and storage fees for seized evidence.

(B) Assist State and local law enforcement agencies in educating the public to prevent, deter, and identify violations of those laws.

(C) Educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(D) Establish task forces that include personnel from State or local law enforcement entities, or both, exclusively to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(E) Assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analyses of evidence in matters involving those laws.

(F) Facilitate and promote the sharing, with State and local law enforcement officers and prosecutors, of the expertise and information of Federal law enforcement agencies about the investigation, analysis, and prosecution of matters involving those laws and criminal infringement of copyrighted works, including the use of multijurisdictional task forces.

(2) ELIGIBILITY.—To be eligible to receive an IP–TIC grant, a State or local government entity shall provide to the Attorney General—

(A) assurances that the State in which the government entity is located has in effect laws described in paragraph (1);

(B) an assessment of the resource needs of the State or local government entity applying for the grant, including information on the need for reimbursements of base salaries and overtime costs, storage fees, and other expenditures to improve the investigation, prevention, or enforcement of laws described in paragraph (1); and

(C) a plan for coordinating the programs funded under this section with other federally funded technical assistance and training

programs, including directly funded local programs such as the Edward Byrne Memorial Justice Assistance Grant Program authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(3) MATCHING FUNDS.—The Federal share of an IP–TIC grant may not exceed 90*75* percent of the costs of the program or proposal funded by the IP–TIC grant, [unless the Attorney General waives, in whole or in part, the 90 percent requirement].

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There is authorized to be appropriated to carry out this subsection the sum of $25,000,000 for each of fiscal years 2009 through 2013.

(B) LIMITATION.—Of the amount made available to carry out this subsection in any fiscal year, not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

SEC. 502. IMPROVED INVESTIGATIVE AND FORENSIC RESOURCES FOR ENFORCEMENT OF LAWS RELATED TO INTELLECTUAL PROPERTY CRIMES.

(a) IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes related to the theft of intellectual property—

(1) create an operational unit of the Federal Bureau of Investigation—

(A) to work with the Computer Crime and Intellectual Property section of the Department of Justice on the investigation and coordination of intellectual property crimes [that are complex, committed in more than 1 judicial district, or international;]

(B) that consists of at least 10 agents of the Bureau; and

(C) that is located at the headquarters of the Bureau;

(2) ensure that any unit in the Department of Justice responsible for investigating computer hacking or intellectual property crimes is [assigned]*supported by* at least 2 agents of the Federal Bureau of Investigation (in addition to any agent [assigned to]*supporting* such unit as of the date of the enactment of this Act) to support such unit for the purpose of investigating or prosecuting intellectual property crimes; [and]

(3) ensure that all Computer Hacking and Intellectual Property Crime Units located at an office of a United States Attorney are assigned at least 2 Assistant United States Attorneys responsible for investigating and prosecuting computer hacking or intellectual property crimes; and

(*34*) implement a comprehensive program—

(A) the purpose of which is to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to intellectual property crimes;

(B) that includes relevant forensic training related to investigating and prosecuting intellectual property crimes; and

(C) that requires such agents who investigate or prosecute intellectual property crimes to attend the program annually.

(b) ORGANIZED CRIME TASK FORCE.—Subject to the availability of appropriations to carry out this subsection, and not later than 120 days after the date of the enactment of this Act, the Attorney General, through the United States Attorneys' Offices, the Computer Crime and Intellectual Property section, and the Organized Crime and Racketeering section of the Department of Justice, and in consultation with the Federal Bureau of Investigation and other Federal law enforcement agencies, shall create [a Task Force to develop] and implement a comprehensive, long-range plan to investigate and prosecute international organized crime syndicates engaging in or supporting crimes relating to the theft of intellectual property.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $12,000,000 for each of fiscal years 2009 through 2013.

SEC. 503. ADDITIONAL FUNDING FOR RESOURCES TO INVESTIGATE AND PROSECUTE CRIMINAL ACTIVITY INVOLVING COMPUTERS.

(a) ADDITIONAL FUNDING FOR RESOURCES.—

(1) AUTHORIZATION.—In addition to amounts otherwise authorized for resources to investigate and prosecute criminal activity involving computers, there are authorized to be appropriated for each of the fiscal years 2009 through 2013—

(A) $10,000,000 to the Director of the Federal Bureau of Investigation; and

(B) $10,000,000 to the Attorney General for the Criminal Division of the Department of Justice.

(2) AVAILABILITY.—Any amounts appropriated under paragraph (1) shall remain available until expended.

(b) USE OF ADDITIONAL FUNDING.—Funds made available under subsection (a) shall be used by the Director of the Federal Bureau of Investigation and the Attorney General, for the Federal Bureau of Investigation and the Criminal Division of the Department of Justice, respectively, to—

(1) hire and train law enforcement officers to—

(A) investigate crimes committed through the use of computers and other information technology, including through the use of the Internet; and

(B) assist in the prosecution of such crimes; and

(2) procure advanced tools of forensic science to investigate, prosecute, and study such crimes.

SEC. 504. INTERNATIONAL INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATORS.

(a) DEPLOYMENT OF ADDITIONAL COORDINATORS.—Subject to the availability of appropriations to carry out this section, the Attorney General shall, within 180 days after the date of the enactment of this Act, deploy 5 Intellectual Property Law Enforcement Coordinators, in addition to those serving in such capacity on such date of enactment. Such deployments shall be made to those countries and regions where the activities of such a coordinator can be carried out most effectively and with the greatest benefit to reducing counterfeit and [pirated]*infringed* products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries. The mission of all International Intellectual Property Law Enforcement Coordinators shall include the following:

(1) Acting as liaison with foreign law enforcement agencies and other foreign officials in criminal matters involving intellectual property rights.

(2) Performing outreach and training to build the enforcement capacity of foreign governments against intellectual property-related crime in the regions in which the coordinators serve.

(3) [Coordinating]*Assisting in the coordination of* United States law enforcement activities against intellectual property-related crimes in the regions in which the coordinators serve.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary for the deployment and support of all International Intellectual Property Enforcement Coordinators of the Department of Justice, including those deployed under subsection (a).

SEC. 505. ANNUAL REPORTS.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on actions taken to carry out this title.

[SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.]

TITLE VI—MISCELLANEOUS

SEC. 601. GAO STUDY ON PROTECTION OF INTELLECTUAL PROPERTY OF MANUFACTURERS.

(a) STUDY.—The Comptroller General of the Untied States shall conduct a study to help determine how the Federal Government could better protect the intellectual property of manufacturers by quantification of the impacts of imported and domestic counterfeit goods on—

(1) the manufacturing industry in the United States; and

(2) the overall economy of the United States.

(b) CONTENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine—

(1) the extent that counterfeit manufactured goods are actively being trafficked in and imported into the United States;

(2) the impacts on domestic manufacturers in the United States of current law regarding defending intellectual property, including patent, trademark, and copyright protections;

(3) the nature and scope of current statutory law and case law regarding protecting trade dress from being illegally copied;

(4) the extent which such laws are being used to investigate and prosecute acts of trafficking in counterfeit manufactured goods;

(5) any effective practices or procedures that are protecting all types of intellectual property; and

(6) any changes to current statutes or rules that would need to be implemented to more effectively protect the intellectual property rights of manufacturers.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study required under subsection (a).

SEC. 602. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States intellectual property industries have created millions of high-skill, high-paying United States jobs and pay billions of dollars in annual United States tax revenues;

(2) the United States intellectual property industries continue to represent a major source of creativity and innovation, business start-ups, skilled job creation, exports, economic growth, and competitiveness;

(3) counterfeiting and infringement results in billions of dollars in lost revenue for United States companies each year and even greater losses to the United States economy in terms of reduced job growth, exports, and competitiveness;

(4) the growing number of willful violations of existing Federal criminal laws involving counterfeiting and infringement by actors in the United States and, increasingly, by foreign-based individuals and entities is a serious threat to the long-term vitality of the United States economy and the future competitiveness of United States industry;

(5) effective criminal enforcement of the intellectual property laws against such violations in all categories of works should be among the highest priorities of the Attorney General; and

(6) with respect to criminal counterfeiting and infringement of computer software, the Attorney General should give priority to cases—

(A) involving the willful theft of intellectual property for purposes of commercial advantage or private financial gain;

(B) where the theft of intellectual property is central to the sustainability and viability of the commercial activity of the enterprise (or subsidiary) involved in the violation;

(C) where the counterfeited or infringing goods or services enables the enterprise to unfairly compete against the legitimate rights holder;

(D) where there is actual knowledge of the theft of intellectual property by the directors or officers of the enterprise; and

(E) where the enterprise involved in the theft of intellectual property is owned or controlled by a foreign enterprise or other foreign entity.

PROGRAM OVERSIGHT

Mr. LEAHY. Intellectual property is the lifeblood of our economy, and protecting that property from theft and misappropriation is important to preserving our place at the economic forefront of the world. Combatting intellectual property offenses can help us save jobs for Americans, increase tax revenues from legitimate businesses, and bolster our productivity, with all the gains that come from that. Some of the provisions in this bill authorize significant resources to the Department of Justice and the Federal Bureau of Investigation to better take on the tasks of battling intellectual property crimes. I have confidence in law enforcement, and I also take seriously the obligation we have in the Congress to ensure that the public's money is well and responsibly spent.

Mr. COBURN. I, too, believe that intellectual property is important to our country, businesses and individual rights holders. Illegal importation of counterfeit goods, such as pharmaceuticals, also threatens the health and safety of U.S. citizens. It is necessary for the Federal Government to protect and enforce intellectual property rights domestically and internationally. I believe we are on the way to achieving this goal with S. 3325, but we have to ensure that the agencies this bill tasks with enforcement of intellectual property rights are held responsible. All of us, including those in the intellectual property community, would have to agree that enforcement of intellectual property rights, even with passage of S. 3325, will only become a priority of the Federal Government if agencies, such as the Justice Department and FBI, are truly held accountable for achieving the goal of increased enforcement.

Mr. LEAHY. I am committed to vigorous oversight of the Justice Department in all its functions, and as the champion of S. 3325, I am especially interested in ensuring that these programs are effectively and efficiently managed. My interest does not end with the enactment of this bill; in fact, this is just the beginning. I am committing myself and the Judiciary Committee to oversight of these programs; soon after the filing date of the reports required of the Justice Department and the FBI, we will hold hearings to ensure that the information we need to evaluate these programs and the use of the funds that have been appropriated.

Mr. COBURN. I am glad that the Senator from Vermont is making this commitment and am relying on his assurance of oversight of these programs so that our government is held responsible and informed decisions are made on how to responsibly allocate our scarce Federal dollars. Although the criteria we established in this legislation are necessary, they will neither have an effect on how the Justice Department and FBI prioritize and use the funds authorized under this bill, nor ensure grantees appropriately use Federal grant dollars, unless we make certain these agencies rigorously follow the standards we set forth in this legislation. If the Justice Department and FBI continue to receive Federal funding year after year without Congress questioning the contents of their required reports or grantees' use of funds, all of the efforts of those supporting this bill will be for naught, and we will not have succeeded in making IP enforcement a priority for this country.

I thank the Senator from Vermont and the Senator from Pennsylvania for their work on this bill. I recognize we have all made compromises along the way to ensure we pass the most effective enforcement legislation possible, while still maintaining our desire to hold Federal agencies, which spend taxpayer dollars, accountable for their actions so that this country's intellectual property rights holders are protected from counterfeiting and piracy.

Mr. KYL. Mr. President, I rise today to comment on the impending passage of S. 3325, the Enforcement of Intellectual Property Rights Act of 2008/Prioritizing Resources and Organization for Intellectual Property Act of 2008.

When I first reviewed the bill, I was concerned that section 301's creation of the intellectual property enforcement coordinator, or IPEC, a presidentially appointed White House officer, might allow political interference with the Justice Department's copyright investigation and enforcement decisions. I am now persuaded, however, that the bill's creation of this new office does not, and was not intended to, influence the exercise of prosecutorial and law enforcement decisionmaking by the Department of Justice and other law enforcement agencies. Criminal law enforcement is a critical component of Federal enforcement of intellectual property rights, and the bill includes language that prevents the IPEC from exercising any control over criminal investigations and prosecutions. These restrictions are consistent with the bill's language, as well as with current Department of Justice and White House policies that guard against improper contacts between the White House and the Department of Justice on prosecutions and investigations.

For example, the bill contains several important limitations on the authority of the IPEC. Section 301(b)(2) of the bill provides that the IPEC ''may not control or direct any law enforcement agency, including the Department of Justice, in the exercise of its investigative or prosecutorial authority.'' Section 305(b) further provides that ''nothing in this title shall alter the authority of any department or agency of the United States (including any independent agency) that relates to—(1) the investigation and prosecution of violations of laws that protect intellectual property rights; (2) the administrative enforcement, at the borders of the United States, of laws that protect intellectual property rights.'' Section 306(c) also provides that ''Nothing in this title—(1) shall derogate from the powers, duties, and functions of any of the agencies, departments, or other entities listed or included under section 301(b)(3)(A); and (2) shall be construed to transfer authority regarding the control, use, or allocation of law enforcement resources, or the initiation of prosecution of individuals cases or types of case, from the responsible law enforcement department or agency.''

The foregoing provisions of the bill make clear that the IPEC does not, and was not intended to, have the authority to influence or attempt to influence the law enforcement and prosecutorial decisionmaking of the Department of Justice and its law enforcement partners. Rather, the IPEC's role is limited to general coordination, as defined in the statute, that does not interfere with, or derogate from, the existing prosecutorial and law enforcement authority and responsibilities of the Department of Justice and other law enforcement agencies.

With this understanding in mind, I interpose no objection to the Senate's adoption of this bill and will lend my support to its passage.

Mr. COBURN. Mr. President I support the overall goals of S. 3325, the PRO–IP Act, and believe that our country's intellectual property rights should be protected at home and abroad. However, I believe that Congress should make both realistic and fiscally responsible commitments in the legislation it passes.

Intellectual property is important to our country, businesses, and individual rights holders. Illegal importation of counterfeit goods, such as pharmaceuticals, also threatens the health and safety of U.S. citizens. It is necessary for the Federal Government to protect and enforce intellectual property rights domestically and internationally.

I believe we are on the way to achieving this goal with this legislation, but we have to ensure that the agencies this bill tasks with enforcement of intellectual property rights are held responsible. All of us, including the members of the intellectual property community, would have to agree that enforcement of intellectual property rights, even with passage of this legislation, will only become a priority of the Federal Government if agencies,

such as the Department of Justice and Federal Bureau of Investigation, are truly held responsible for achieving the goal of increased enforcement.

I believe that the only way to ensure these agencies actually answer for their actions, and make intellectual property enforcement a priority, is through effective oversight by this Body. We have included in this bill two reporting requirements for the Justice Department and FBI that will make certain we know: (1) exactly what the agencies were doing before this bill was enacted to enforce intellectual property laws so that we may establish a performance baseline, and (2) what the agencies will be doing in the future as a result of this bill. We have also included other standards for State and local law enforcement agencies that will be receiving grants from the Justice Department, so that the grantees also have standards to meet in order to receive Federal funds.

These reports and standards, however, will neither have an effect on how these agencies prioritize and use the funds authorized under this bill, nor ensure grantees appropriately use Federal funds unless we make certain the criteria we set forth in this bill are met. If the Justice Department and FBI continue to receive funding year after year under this legislation without Congress questioning the contents of the reports they are required to submit, all of the efforts of those supporting this bill will be for naught, and we will not have succeeded in making intellectual property enforcement a priority for this country.

To be clear, I would prefer actual language in this bill stating that, if the Justice Department and FBI fail to submit their reports on time, any authorizations under title IV of this bill would be suspended until those reports are submitted. However, even though this language was not accepted, the Senator from Vermont has assured me that the Judiciary Committee will hold oversight hearings early each year so we may thoroughly question the contents of the reports required to be submitted by the Justice Department and FBI under title IV. It is my hope that the outcome of any oversight hearings in the Judiciary Committee related to the content of this bill will be effectively communicated to the Appropriations Committee so that the members of that committee will have detailed information to establish whether these agencies have complied with the requirements of S. 3325, and enable them to make informed decision on how to responsibly allocate our scarce Federal dollars.

I thank the Senator from Vermont and the Senator from Pennsylvania for their work on this bill. I recognize that we have all made compromises along the way to ensure we pass the most effective enforcement legislation possible, while still maintaining our desire to hold Federal agencies, which spend taxpayer dollars, accountable for their actions so that this country's intellectual property rights holders are protected from counterfeiting and piracy.

Mr. VOINOVICH. Mr. President, I rise today to join my colleagues, Senators SPECTER, LEAHY, BAYH, and others in strong support of S. 3325, the Prioritizing Resources and Organization for Intellectual Property Act of 2008, PRO IP Act, which was just approved unanimously by the Senate today. First, I would ike to express my appreciation to Senator SPECTER and Senator LEAHY for the excellent job they have done in ensuring that the Senate passed this important piece of legislation before we complete our business for the year. I would like to thank Senator BAYH. I have partnered with Senator BAYH on this issue for the past 3 years. We first introduced intellectual property enforcement legislation in the first session o the 109th Congress. I believe it is safe to say that we are both pleased that the concepts contained in our legislation have become a part of the PRO–IP Act. I think it is important to point out that the PRO–IP Act has strong bipartisan support in the Senate. When we pass legislation in a bipartisan manner, it reveals the best of the Senate.

For over 4 years, I have been talking about the need for our Government to improve its efforts to protect our Nation's intellectual property from what I have referred to as the Pirates of the 21st Century. At a time when American businesses face some of the fiercest competition ever, our Government cannot ignore the growing threat of intellectual property theft to companies, workers, and consumers. Intellectual property theft is no longer an issue limited to knockoff hand bags and pirated DVDs and CDs.

Today, almost every product made is subject to being counterfeited. The problem of intellectual property theft impacts businesses—big and small. Genuine products manufactured in the United States are competing with phony products, which are sold both here and abroad. At a time when so many American businesses and workers are in dire straits, our Nation can no longer turn a blind eye to this problem. The economic impact of intellectual property theft is overwhelming. According to the U.S. Chamber of Commerce, intellectual property theft is costing American businesses an estimated $250 billion each year and has cost an estimated 750,000 jobs. The chamber estimates that if counterfeit auto parts sales were eliminated, the U.S. auto industry could hire up to 200,000 additional workers. In my home State of Ohio, 200,000 additional auto industry jobs would make a tremendous impact in reversing the loss of manufacturing jobs.

The costs of intellectual property theft are not limited to lost jobs and revenues. There are significant health and safety ramifications. For example, during a hearing I held in July 2006, the general counsel from Bendix Commercial Vehicle Systems LLC, Bendix, which is headquartered in Elyria, OH, testified that counterfeit air brakes used in tractor-trailers are so authentic looking that some of these counterfeit products are returned to Bendix via its warranty claims process. Bendix is so concerned about the safety implications of this problem that it is spending $1 million annually on IP protection and enforcement activities—that is $1 million that this one company is not able to spend each year on other things such as research and development or worker training. Moreover, given the proliferation of counterfeit goods into areas such as pharmaceuticals and auto parts, it is only a matter of time before our Nation sees the dire health and safety consequences arising from this problem.

The passage of the PRO–IP Act is an important step to building upon the efforts that have begun under the National Intellectual Property Law Enforcement Coordination Council and STOP! initiative. The PRO–IP Act will provide increased resources for Department of Justice programs to combat intellectual property theft and provide coordination and strategic planning of Federal efforts against counterfeiting and piracy. I am particularly pleased that the PRO–IP Act will create a White House-led coordinator. I believe that the most effective intellectual property enforcement coordination requires White House leadership. As a result, I believe the efforts underway in each Department and agency will have improved effectiveness by placing the new IP enforcement coordinator within the Executive Office of the President. The coordinator will have both the visibility and the access to provide a most effective executive branch voice on IP enforcement.

Finally, while I am pleased that the Senate completed its work on passing intellectual property enforcement legislation, I know that my job is not finished. I will continue to work with my colleagues to ensure that Congress provides effective oversight over the various agencies and departments charged with enforcing and protecting intellectual property rights and that these entities have the resources necessary to get the job done.

Mr. LEAHY. Mr. President, I ask unanimous consent that the committee amendments be withdrawn; that a Leahy substitute amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 5655) was agreed to:

The amendment is printed in today's RECORD under ''Text of Amendments.''

The bill (S. 3325), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. LEAHY. Mr. President, we are a nation in the midst of an unprecedented financial crisis. It is not just our financial enterprises that are shaken but our confidence in our own economic strength. The Members of this Congress and the people of this Nation are being asked to take extraordinary steps to contain the explosions on Wall Street.

We must not, as we try to repair the structure of our financial institutions, neglect the very sources of our economic power. Intellectual property—copyrights, patents, trademarks, and trade secrets—is an ever-growing sector of our economy. We are the envy of the world for the quality and the quantity of our innovative and creative goods and services. If we want to continue to lead the world in producing intellectual property, we need to protect Americans' rights in that property.

This bill is among the most important I have championed. I drew on the experiences of thousands of intellectual property owners, hundreds of law enforcement officials, and all the legislators on both sides of the aisle in Congress, and we have a bill that provides a focused and honed set of improvements to the intellectual property law, targeted increases in resources for significant enforcement efforts, streamlined interagency efforts to coordinate governmental intellectual property policies but also vigorous oversight of the Justice Department's programs.

I thank all those who cosponsored it. Our bill is going to improve the enforcement of our Nation's intellectual property laws, they will bolster our intellectual property-based economy, and it will protect American jobs.

Mr. President, we are a Nation in the midst of an unprecedented financial crisis. It is not just our financial enterprises that are shaken, but our confidence in our own economic strength. The Members of this Congress, and the people of this Nation, are being asked to take extraordinary steps to contain the explosions on Wall Street. We must not, as we try to repair the structure of our financial institutions, neglect the very sources of our economic power. Intellectual property—copyrights, patents, trademarks, and trade secrets—is an ever-growing sector of our economy. We are the envy of the world for the quality, and the quantity, of our innovative and creative goods and services. If we want to continue to lead the world in producing intellectual property, we need to protect our citizens' rights in that property.

Long ago, I was the Chittenden County State's Attorney in Vermont. There is crime everywhere, even in Vermont, and I prosecuted every kind of case. I will never forget how much successful prosecutions depend on whether the investigators and lawyers charged with protecting the public from crime have the right tools to do so. No matter how dedicated the prosecutor, and no matter how outrageous the crime, if the laws are not clearly and sensibly drafted, or if the resources are simply inadequate, no justice will be done.

The intellectual property enforcement bill we consider today is designed solely and specifically to ensure that law enforcement has the tools it needs to protect our Nation's impressive array of intellectual property. The revisions to the civil and criminal statutes, the provision of directed resources to Government at all levels, the coordination across the Federal Government of efforts in creating policies and enforcement efforts, and the requirements for reporting to the Congress—all of these provisions are focused on strengthening the protection of our intellectual property.

Vermont is special to me, and the goods from Vermont that embody intellectual property are prized by consumers around the world. But every State in the Union is home to industries based on intellectual property. The creative and innovative Vermonters that I am proud to call friends and constituents have counterparts in every other State. These individuals and industries are essential to restoring and building our fiscal health. In a time of such frightening economic malaise, we should redouble our efforts to make sure that the productive and valuable sectors of our economy are freed from the debilitating effects of theft and misappropriation.

Intellectual property is just as vulnerable as it is valuable. The Internet has brought great and positive change to all our lives, but it is also an unparalleled tool for piracy. The increasing inter-connectedness of the globe, and the efficiencies of sharing information quickly and accurately between continents, has made foreign piracy and counterfeiting operations profitable in numerous countries. Americans suffer when their intellectual property is stolen, they suffer when those counterfeit goods displace sales of the legitimate products, and they suffer when counterfeit products actually harm them, as is sometimes the case with fake pharmaceuticals and faulty electrical products.

This bill is among the most important I have championed. Drawing on the experiences of thousands of intellectual property owners, hundreds of law enforcement officials, and all of the legislators in Congress, it provides a focused and honed set of improvements to the intellectual property law, targeted increases in resources for significant enforcement efforts, streamlined inter-agency efforts to coordinate governmental intellectual property policies, and vigorous oversight of the Justice Department's programs. I thank all the cosponsors of this legislation for their efforts and support. Our bill will improve the enforcement of our Nation's intellectual property laws, bolster our intellectual property-based economy, and protect American jobs.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 771, 772, 773, 774, 775, 779, 780, 781, 782, and 783; that the Senate then proceed to the nominations en bloc, the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that the President be immediately notified of the Senate's action, and the Senate resume legislative session; that any statements relating to these nominations be printed in the RECORD.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Clark Waddoups, of Utah, to be United States District Judge for the District of Utah.

Michael M. Anello, of California, to be United States District Judge for the Southern District of California.

Mary Stenson Scriven, of Florida, to be United States District Judge for the Middle District of Florida.

Christine M. Arguello, of Colorado, to be United States District Judge for the District of Colorado.

Philip A. Brimmer, of Colorado, to be United States District Judge for the District of Colorado.

Anthony John Trenga, of Virginia, to be United States District Judge for the Eastern District of Virginia.

C. Darnell Jones II, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Mitchell S. Goldberg, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Joel H. Slomsky, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Eric F. Melgren, of Kansas, to be United States District Judge for the District of Kansas.

NOMINATION OF ANTHONY J. TRENGA

Mr. WARNER. Mr. President, I rise today in support of an outstanding Virginian, Anthony J. Trenga, who has been nominated by the President to serve as an article III judge on the United States District Court for the Eastern District of Virginia.

I am pleased to note that Mr. Trenga also enjoys the strong support of my colleague, Senator WEBB. Senator WEBB and I have worked closely together to provide the White House with recommendations of outstanding nominees to serve the Eastern District of Virginia. After interviewing more than a dozen candidates out of a very strong field of applicants, Senator WEBB and I

were honored to recommend Anthony Trenga for the Federal bench in the Eastern District of Virginia. He is an exceptionally skilled attorney and, in my view, he will make an outstanding Federal judge.

Anthony Trenga has been practicing law before Federal courts in Virginia for more than 30 years. He has served as lead counsel in more than 50 cases before the Federal court in the Eastern District of Virginia on a wide range of subject areas. Since 1998, Mr. Trenga has worked at the law firm of Miller and Chevalier, where he specializes in litigation and trial practice. He is a fellow of the American College of Trial Lawyers and has served as a member of the faculty of the National Trial Advocacy College at the University of Virginia, sponsored by the Virginia CLE Committee of the Virginia Bar Foundation.

Mr. Trenga received his law degree from the University of Virginia School of Law and completed his undergraduate studies at Princeton University. Upon graduation, he was a law clerk to the Honorable Ted Dalton, U.S. District Court for the Western District of Virginia from 1974 to 1975.

From 1982 to 1998, Mr. Trenga was a partner at Sachs, Greenbaum & Tayler in Washington, DC, and a managing partner at Hazel & Thomas based in Fairfax, VA.

Equally impressive to his legal career, though, is that despite the rigors of a busy legal practice, Mr. Trenga has always found time to be actively involved in community affairs. In addition to participating in his firm's pro bono program, Mr. Trenga serves as chairman and member of the Alexandria Human Rights Commission, the board of directors of the Northern Virginia Urban League, the board of trustees of the Alexandria Symphony Orchestra, and the board of directors for the Bethesda Center of Excellence.

It is clear to me that Anthony Trenga is eminently qualified to sit as a jurist on this illustrious court. I note that the American Bar Association and the Virginia State Bar concur in this assessment, as both have given him their highest rating.

I thank the committee for favorably reporting this exemplary nominee to the full Senate, and I urge my colleagues to vote to confirm him.

NOMINATION OF MARY STENSON SCRIVEN

Mr. MARTINEZ. Mr. President, I share with my colleague, Senator NELSON, great gratitude for the chairman of the Judiciary Committee, as well as Ranking Member SPECTER, for moving forward with judicial nominations. One of those is of great importance to the State of Florida and deals with the Middle District of Florida, where there have been a couple of vacancies. This is a district that continues to grow in population but does not have a commensurate growth in judges on the bench.

I am delighted that we have moved the confirmation of Mary Scriven to the U.S. District Court for the Middle District of Florida. Magistrate Judge Mary Scriven is an outstanding attorney and a terrific public servant. She has been serving with great distinction as a magistrate judge and will serve with great distinction as a U.S. district judge.

In 1987, after earning her undergraduate degree from Duke University, she then went on to Florida State University College of Law, where I happened to have gone to law school myself. I am delighted that Judge Scriven and I share that bit of heritage. She then entered the private practice of law in Tampa with the law firm of Carlton Fields. There is no finer firm in Florida than Carlton Fields. Judge Scriven eventually became a partner there before going on to a life of public service, becoming a magistrate in 1997.

In December of 1997, Judge Scriven was selected to serve an 8-year term as a Federal magistrate judge. She was reappointed to another 8-year term in 2005. In her 11 years as a magistrate judge, Judge Scriven has proven herself to be a committed public servant. She has a tremendous amount of courtroom experience, both in civil and criminal matters, and she has put in the time and effort necessary to understand and fairly decide issues with little glamour but often of a critical nature, not only to the litigants but to the people of the State.

I know that I echo the sentiments of those who know Judge Scriven when I say she reflects the necessary attributes of a jurist—intelligence, honesty, and evenhandedness.

I congratulate her on this great accomplishment. To her and the members of her family I met when she came up for her hearing—her mother, father, husband, and children—I congratulate the entire family on this tremendous accomplishment. We know the President made a good choice in nominating Judge Scriven to the bench. I am pleased her confirmation has now been accomplished.

I also thank Senator NELSON for the cooperative way our office has worked on nominations. Every day, I am more and more proud of the Judicial Nominating Commission that our good friend Mickey Grindstaff chaired and of all of the fine people, lawyers and nonlawyers, from throughout the State who give of their time to review candidates and to make recommendations in a bipartisan way, trying not only to put somebody on the bench but to make sure we get the very best in the legal profession to then rise to this honored position of a Federal district court judge.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I thank all the volunteers who sit on the Judicial Nominating Commission, which is an informal custom we set up in Florida so that we have people process applications, interview the candidates, and make recommendations to us for the vacancy. Then Senator MARTINEZ and I will sit down with each of the suggestions coming from the Judicial Nominating Commission and explore in detail.

Judge Scriven has been through this process three times. The last time, it was a jump ball for Senator MARTINEZ and myself between two outstanding women candidates. The two of us had the feeling that when the next vacancy came up, we certainly wanted Judge Scriven to have that Federal judgeship. Sure enough, we happily come to the floor today to say congratulations to Judge Scriven. Now she is going to be Federal Judge Scriven. I thank her for offering herself for public service and for the public service she has rendered so unselfishly for so long.

To those who have participated in the process, when we get to the merits, this isn't politics because of the way Senator MARTINEZ and I select these judges. This is not politics. This is the merits because they are looked upon for their accomplishments, background, and judicial temperament. Then we, in collaboration with the White House and advising the White House before we consent, work the process. It has worked very well.

We have two vacancies. I wish we could fill both vacancies, but Senator MARTINEZ and I understood that in the last hurly-burly of trying to wrap up this session, the likelihood was that we were going to get only one. There is another vacancy out there we want to see filled very promptly at the beginning of the new Congress in January. Thus, the two of us will be pushing and pushing to get a nominee confirmed.

Congratulations to Judge Scriven.

Mr. MARTINEZ. If I may add a followup, now that the chairman of the committee is here, I wish to repeat my thanks to Chairman LEAHY for the cooperative way in which we have been able to accomplish these judgeships, not only the ones for Florida but the ones throughout the country that are so very important. We still have a U.S. attorney that we are hoping in the next 24 hours we might be able to get into a package: Mr. Albritton for the Middle District, a longstanding vacancy in the U.S. Attorney's Office that needs to be filled.

The point is to say thank you to the chairman. We appreciate his work. Senator NELSON and I both appreciate Judge Scriven's confirmation. She will serve with great distinction.

Mr. LEAHY. If the Senator will yield for a moment, both Senators from Florida have talked about this, and I will not say anything different than what they have heard me say. They work very well, in a bipartisan fashion, to seek out the best possible people. I have a great deal of respect for both of the Senators. Because they have done that, it has made my job as chairman a lot easier. I look at the distinguished Presiding Officer from Virginia as another example because he was worked so well with the distinguished senior

Senator from that state. Again, it is a situation where there is a Democratic Senator and a Republican Senator. They have worked very closely together to try to bring the best.

I have no problem with different parties in an, obviously, political position choosing partisan positions. In the Federal judiciary, which is supposed to be outside of partisan politics, I wish more Senators and Presidents—the next President, whoever it is—would look at the model of the Senators now on the floor. I include the distinguished Senator from Virginia, the Presiding Officer, in this. Seek the best possible man or woman for these judgeships. Let those of us in legislative office take care of the partisan politics. We can do that. But let the American people, when they walk into a courtroom, say: Whether I am plaintiff or defendant or whether I am rich or poor, no matter who I am, this judge will give me a fair trial. Win or lose, I will walk out knowing I had a fair trial and it was based on the facts, not on politics.

I thank my two friends from Florida.

Mr. NELSON of Florida. Mr. President, I echo how much Senator MARTINEZ and I appreciate the exceptional cooperation the chairman extends to us. We have one more vacancy. I am not talking about the U.S. attorney, I am talking about one more judicial vacancy that, in the new Congress, we want to address immediately and see whether we can fill.

NOMINATION OF ERIC F. MELGREN

Mr. ROBERTS. Mr. President, I rise today to express my gratitude for the Senate's confirmation of Eric F. Melgren as Federal District Judge for the District of Kansas.

It is important that we deliver solid judges to our court system. With that said, I believe Eric Melgren is qualified for this important responsibility. Since 2002, he has been serving as U.S. attorney for the District of Kansas. Between 2002 and 2003, the District of Kansas had a fourteen percent increase in the number of criminal cases filed in U.S. District and State courts.

Eric's nomination will be of great benefit to the District of Kansas. Due to an increase in caseload, a temporary judgeship was created in the District of Kansas in 1990. Since the temporary judgeship was created, we have seen an increase in the caseload for the District of Kansas.

Currently, Kansas has five active Federal district judges. With Eric's confirmation, we will now have six active judges. However, one of these judgeships is temporary and set to expire on November 21 of this year. If the temporary judgeship would have expired before the Senate confirmed Eric and another judge took senior status this year, the District of Kansas would only have four active judges. Therefore, with the increase in caseload, it was vital that we confirmed Eric before the expiration of this temporary judgeship.

Again, thank you for confirming the nomination of Eric Melgren. He is a man of integrity and sound judgement. Eric's passion for the law will be of great benefit to the State of Kansas and the rest of the Nation.

Mr. HATCH. Mr. President, I rise to express my pleasure at the confirmation today of Clark Waddoups to the U.S. district court in Utah and my thanks to all those, in particular the chairman of the Judiciary Committee, Senator LEAHY, who facilitated this result.

Clark Waddoups will be a truly outstanding judge.

He graduated from the University of Utah law school where he was president of the Utah Law Review and has been practicing law in Utah for nearly 35 years, a majority of it in Federal court.

More than that, he has participated in the life of the law in our State, serving on the board of visitors of the law school at Brigham Young University and for 17 years on the Advisory Committee to the Utah Supreme Court on the Rules of Evidence.

Not surprisingly, the Utah chapter of the Federal Bar Association has recognized Clark as Utah's outstanding lawyer and the American Bar Association unanimously gave him its highest well qualified rating to serve as a Federal judge.

Not only is Clark Waddoups an outstanding lawyer, but he is a good man.

He is active in his church and for many years served on and led the board of the Family Support Center of Utah.

Federal courts across America are very busy today, and no more so than in Utah.

Utah has just five U.S. district court seats and our population has increased by more than 50 percent since the last one was created in 1990.

Because this vacancy occurred when Judge Paul Cassell resigned to go back to teaching, there was no senior judge available to help out.

So the service of such an outstanding judge will be welcome indeed.

My colleague and friend from Utah, Senator BENNETT, and I worked together to recommend the very best candidate to replace Judge Cassell.

Clark Waddoups stood out from the many qualified and experienced lawyers we considered.

He is known and respected through the legal community and will be a fair and wise jurist who will live up to the highest standards of the American legal system.

As everyone knows, the confirmation process, especially for judicial nominees, has its share, perhaps more than its share, of tension and controversy.

As a former chairman of the Judiciary Committee, I know there are many competing demands and expectations.

But Chairman LEAHY nonetheless scheduled not one but two hearings this month to consider a total of 10 additional nominees to the U.S. district court.

And he made sure that they got on the Judiciary Committee agenda, reported to the floor yesterday, and confirmed today.

So I am deeply grateful to President Bush for nominating Clark Waddoups and to Chairman LEAHY for facilitating his progress through the confirmation process.

Utah and America will be better off with Judge Clark Waddoups on the bench.

Mr. LEAHY. Mr. President, as this Congress winds down, we need to focus on confronting the worst financial crisis we have experienced since the Great Depression, one that has exposed the American taxpayers to trillions in losses. But just as I continued to hold hearings on nominations on September 13, 2001, in the wake of the attacks of 9/11, I have continued deep into this Presidential election year to hold hearings and take action on both executive and judicial nominees. Indeed, yesterday the Judiciary Committee reported out 13 nominations, including 10 nominations for lifetime appointments to the Federal bench, and the nomination of Greg Garre to be Solicitor General of the United States, one of the highest and most prestigious positions at the Department of Justice.

I went the extra mile to hold two expedited hearings this month on judicial nominations—despite the Thurmond Rule that Republicans created and followed with Democratic Presidents, despite the practices they followed in 1996 and 2000, and despite the record of Republicans in filibustering and raising objections to important bills with broad bipartisan support.

I held a hearing just 3 days ago as an accommodation to Senator SPECTER, the ranking republican member of our committee and a former chairman. I have accommodated Senator HATCH, another former chairman. I also accommodated the Senator from Kansas and included the nominee from Kansas at a hearing Tuesday afternoon, even though his nomination has raised concerns. We also have proceeded with hearings on another nominee from Virginia, a nominee from California, and the two nominees from Colorado. I continue my practice of working with Senators on both sides of the aisle.

Today I have continued to do so, and the Senate has confirmed all 10 of these Bush judicial nominations: Clark Waddoups of Utah, Michael Anello of California, Mary Stenson Scriven of Florida, Christine Arguello and Phillip A. Brimmer of Colorado, C. Darnell Jones II, Mitchell S. Goldberg, and Joel H. Slomsky of Pennsylvania, Anthony J. Trenga of Virginia, and Eric Melgren of Kansas.

I have said throughout my chairmanship that I would treat President Bush's nominees better than Republicans treated President Clinton's, and I have done so. In the 17 months I served as chairman of this committee during President Bush's first term with a Democratic majority, the Senate confirmed 100 of the President's judicial nominations. In the 38 months I

have served as Judiciary Committee chairman, the Senate has now confirmed 10 more nominees than it did during the more than 4 years Republicans led the committee, 168 nominees compared to 158.

Even before the August recess, we had confirmed more judicial nominations in this Congress than were confirmed during the previous 2 years when a Republican Senate majority and Republican chairman of this committee did not have to worry about the Thurmond Rule and an abbreviated session due to a Presidential election. With the confirmations today we have confirmed 68 this Congress, 14 more than in the last Congress with a Republican majority.

My approach has been consistent throughout my chairmanships during the Bush presidency. I submit that the results have been positive. Last year, the Judiciary Committee favorably reported 40 judicial nominations to the Senate, and all 40 were confirmed. That was more than had been confirmed in any of the 3 preceding years when a Republican chairman and Republican Senate majority managed the process. Even though this is a Presidential election year, we confirmed more of President Bush's nominees this year—28—than the Republican-led Senate confirmed in 2005 and virtually the same number as in 2006, both non-Presidential election years.

Indeed, the contrast between our productivity on judicial nominations by confirming 10 judicial nominees late in this Congress and the flurry of activity undone by Republican obstructionism at the end of the last Congress is significant. Although we wasted many months during the 109th Congress debating a handful of President Bush's most extreme failed nominees, the Democratic Senators on the Judiciary Committee worked especially hard as time ran down in that Congress to be accommodating on judicial nominations. We agreed to the request of Senator SPECTER, then the committee chairman, to hold four hearings in September 2006 on nominations and numerous extra business meetings. But our work to be accommodating and move nominations forward was to no avail when holds by Senator BROWNBACK and other Republicans stopped the Senate from confirming 14 judicial nominees. Included in these were three nominees to fill judicial emergency vacancies in the Western District of Michigan, a situation not resolved until this Congress, when the Michigan Senators and the White House worked together with us to fill those vacancies.

Despite our efforts to step away from the tit for tat of the nomination battles of the past and the work we have done to dramatically lower judicial vacancies by approving the nominees of a President from the other party, our efforts have yet to be acknowledged. After today, we will have cut the judicial vacancies from I encountered in the summer of 2001 after years of pocket filibusters of moderate and qualified nominees of President Clinton by Republican Senate leadership, to about a third, from 110 to as low as 34 today. In the 6 years of Senate Republican majority control during the Clinton administration, the pocket filibusters and obstruction of moderate, qualified nominees more than doubled circuit court vacancies. By contrast, we have cut circuit court vacancies by two-thirds, from 32 to a low of 9 this summer.

We have broken through long-standing logjams in the Fourth, Fifth, and Sixth Circuits and lowered vacancies in virtually every circuit from when President Bush took office. With the recent confirmations of Helene White and Ray Kethledge to seats on the Sixth Circuit, that circuit, which had four vacancies after the Republican pocket filibusters, now has none. The Fifth Circuits had a circuit-wide emergency due to the multiple simultaneous vacancies during the Clinton years, when Republicans controlled the Senate. The Fifth Circuit now has no vacancies. We have succeeded in lowering vacancies in the Fourth Circuit, the Fifth Circuit, the Sixth Circuit, the Eighth Circuit, the Ninth Circuit, the Tenth Circuit, the Eleventh Circuit, the DC Circuit, and the Federal Circuit.

Judicial vacancies that rose steadily and dramatically under Republican Senate control with a Democratic President have fallen dramatically with a Republican President when a Democratic Senate majority was in charge. I recall that as the Presidential elections in 2000 drew closer, Republican pocket filibusters resulted in the judicial vacancy rate rising to 10 percent. Democrats have reversed that course. We have now lowered that number to 34, less than a third of where they stood after Republican pocket filibusters and obstruction. The vacancy rate is below 4 percent vacancy now. As unemployment for ordinary Americans has now risen about 6 percent nationwide and much higher in some States and communities, we have cut the judicial vacancy rate dramatically.

I suspect many of these facts have been lost among the Republican election-year gambits and grumblings about judicial nominations that always seem loudest when we are moving forward on nominations. Partisan Republican critics ignore the progress we have made on judicial vacancies. They also ignore the crisis that they had created by not considering circuit nominees in 1996, 1997, and 1998. They ignore the fact that they refused to confirm a single circuit nominee during the entire 1996 session. They ignore the fact that they returned 17 circuit court nominees without action to the White House in 2000. They ignore the public criticism of their actions by Chief Justice Rehnquist during those years. They ignore the fact that they were responsible for more than doubling circuit court vacancies through pocket filibusters of moderate and qualified Clinton nominees or that we have reduced those circuit court vacancies by more than two thirds.

In the 1996 session, the Republican majority confirmed only 17 of President Clinton's judicial nominees, and none were circuit court nominations. In stark contrast, under Democratic leader in this election year, the Senate has confirmed 28 judicial nominees, 4 of them to prestigious circuit courts.

I have yet to hear explanations for why they did not proceed with the nominations of Barry Goode, Helene White, Alston Johnson, James Duffy, Elena Kagan, James Wynn, Kathleen McCree Lewis, Enrique Moreno, Allen Snyder, Kent Markus, Robert Cindrich, Bonnie Campbell, Stephen Orlofsky, Roger Gregory, Christine Arguello, Andre Davis, Elizabeth Gibson, and so many others.

One of those many nominees blocked by the Republican abuses of those years was finally confirmed today. I was happy to accommodate Senator SALAZAR's request that we add two Colorado nominees to the first of our September hearings, after he and Senator ALLARD reached an agreement. That agreement led Senator ALLARD finally to return the blue slip for Ms. Arguello. Of course, Ms. Arguello was nominated by President Clinton to the Tenth Circuit, but a Republican pocket filibuster in 2000 stalled her nomination. Ms. Arguello, like Judge Helene White, who was confirmed to the Sixth Circuit earlier this year, has now been nominated by Presidents of both parties. I thank the committee for completing the work on her nomination we should have completed a decade ago, and I am pleased that she was confirmed today.

I am also pleased that today we confirmed the nomination of Darnell Jones, who has been a highly regarded judge on the Philadelphia Court of Common Pleas for more than 20 years, serving as the President Judge of that court for the last two. Judge Jones will now become just the 88th African-American Federal judge or justice, out of 875 seats, and the 72nd African-American district court judge.

There is still much work to be done. In his two terms, President Bush has nominated only 25 African-American judges to the Federal bench, compared to 77 African-American judges nominated by President Clinton in his two terms, more than three times as many. President Bush's failure to nominate an African-American judge from Mississippi even though that State has the highest percentage of African-American residents of any State is disappointing and inexplicable. I have urged, and will continue to urge, this President and the next one to nominate men and women to the Federal bench who reflect the diversity of America. Racial diversity remains a pillar of strength for our country and one of our greatest natural resources. Diversity on the bench helps ensure

that the words ''equal justice under law,'' inscribed in Vermont marble over the entrance to the Supreme Court, is a reality and that justice is rendered fairly and impartially.

Another aspect of the problem created by Republicans that we have worked hard to improve is a dramatic reduction in the number of judicial emergency vacancies. Nearly half of the judicial nominees the Senate has confirmed while I have chaired the Judiciary Committee have filled vacancies classified by the Administrative Office of the Courts as judicial emergency vacancies. Eighteen of the 27 circuit court nominees confirmed while I have chaired the committee filled judicial emergency vacancies, including 9 of the 10 circuit court nominees confirmed this Congress. When President Bush took office, there were 28 judicial emergency vacancies. Now that number is 13, fewer than half.

Of course, we have made this progress even while devoting extensive time and attention to rebuilding the Justice Department in the wake of the scandals of the Gonzales era and the Bush-Cheney administration.

At the beginning of this Congress, the Judiciary Committee began its oversight efforts. Over the next 9 months, our efforts revealed a Department of Justice gone awry. The leadership crisis came more and more into view as I led a bipartisan group of concerned Senators to consider the U.S. attorney firing scandal, a confrontation over the legality of the administration's warrantless wiretapping program, the untoward political influence of the White House at the Department of Justice, and the secret legal memos excusing all manner of excess and subverting the rule of law.

What our efforts exposed was a crisis of leadership that took a heavy toll on the tradition of independence that has long guided the Justice Department and provided it with safe harbor from political interference. It shook the confidence of the American people. Through bipartisan efforts among those from both sides of the aisle who care about Federal law enforcement and the Department of Justice, we joined together to press for accountability. That resulted in a change in leadership at the Department, with the resignations of the Attorney General and virtually all of its highest ranking officials, along with several high ranking White House officials.

Earlier this month the Judiciary Committee held its ninth hearing to restock and restore the leadership of the Department of Justice in the last year alone, including confirmation hearings for the new Attorney General, the new Deputy Attorney General, the new Associate Attorney General, and so many others. We have already confirmed 35 executive nominations so far this Congress and are poised to add to this total, having reported out of committee this month another six high-level executive nominations, including the nomination of Greg Garre to be Solicitor General of the United States, one of the highest and most prestigious positions at the Department of Justice, and of J. Patrick Rowan to be the Assistant Attorney General in charge of the National Security Division.

The reduction in judicial vacancies is one of the few areas in which conditions have actually improved over the last couple of years. I wish we could say the same about unemployment or the price of gas or food, or the condition of our financial markets and housing markets. The economy has experienced job losses every month this year, and they now total more than 650,000. Compare the progress we have made on filling judicial vacancies with what has happened to cost of gasoline, food prices, health care costs, inflation, the credit crisis, home mortgages, and the national debt. All those indicators have been moving in the wrong direction, as is consumer confidence and the percentage of Americans who see the country as on the wrong track.

The American people are also best served by a Federal judiciary they can trust to apply the law fairly regardless of who walks into the courtroom. The judiciary is the one arm of our Government that should never be political or politicized, regardless of who sits in the White House. I have continued to work in the waning days of this Congress with Senators from both sides of the aisle to confirm an extraordinary number of nominees late in the election year. I will continue to work with the next President to ensure that the Federal judiciary remains independent and able to provide justice to all Americans, without fear or favor.

LEGISLATIVE SESSION

MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION REAUTHORIZATION AND IMPROVEMENT ACT OF 2008

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 622, S. 2304.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 2304) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants for the improved mental health treatment and services provided to offenders with mental illness, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008''.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) Communities nationwide are struggling to respond to the high numbers of people with mental illnesses involved at all points in the criminal justice system.

(2) A 1999 study by the Department of Justice estimated that 16 percent of people incarcerated in prisons and jails in the United States, which is more than 300,000 people, suffer from mental illnesses.

(3) Los Angeles County Jail and New York's Rikers Island jail complex hold more people with mental illnesses than the largest psychiatric inpatient facilities in the United States.

(4) State prisoners with a mental health problem are twice as likely as those without a mental health problem to have been homeless in the year before their arrest.

SEC. 3. REAUTHORIZATION OF THE ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS THROUGH 2014.—Section 2991(h) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793aa(h)) is amended—

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

(2) in paragraph (2), by striking ''for fiscal years 2006 through 2009.'' and inserting ''for each of the fiscal years 2006 and 2007; and''; and

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

''(3) $75,000,000 for each of the fiscal years 2009 through 2014.''.

(b) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—Section 2991(h) of such title is further amended—

(1) by redesignating paragraphs (1), (2), and (3) (as added by subsection (a)(3)) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins accordingly;

(2) by striking ''There are authorized'' and inserting ''(1) IN GENERAL.—There are authorized''; and

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

''(2) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—For fiscal year 2009 and each subsequent fiscal year, of the amounts authorized under paragraph (1) for such fiscal year, the Attorney General may obligate not more than 3 percent for the administrative expenses of the Attorney General in carrying out this section for such fiscal year.''.

(c) ADDITIONAL APPLICATIONS RECEIVING PRIORITY.—Subsection (c) of such section is amended to read as follows:

''(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

''(1) promote effective strategies by law enforcement to identify and to reduce risk of harm to mentally ill offenders and public safety;

''(2) promote effective strategies for identification and treatment of female mentally ill offenders; or

''(3)(A) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

''(B) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

''(C) document, in the case of an application for a grant to be used in whole or in part to

fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and reentry services for such individuals; and

''(D) have the support of both the Attorney General and the Secretary.''.

SEC. 4. LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.

(a) IN GENERAL.—Part HH of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797aa) is amended by adding at the end the following new section:

''SEC. 2992. LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.

''(a) AUTHORIZATION.—The Attorney General is authorized to make grants to States, units of local government, Indian tribes, and tribal organizations for the following purposes:

''(1) TRAINING PROGRAMS.—To provide for programs that offer law enforcement personnel specialized and comprehensive training in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

''(2) RECEIVING CENTERS.—To provide for the development of specialized receiving centers to assess individuals in the custody of law enforcement personnel for suicide risk and mental health and substance abuse treatment needs.

''(3) IMPROVED TECHNOLOGY.—To provide for computerized information systems (or to improve existing systems) to provide timely information to law enforcement personnel and criminal justice system personnel to improve the response of such respective personnel to mentally ill offenders.

''(4) COOPERATIVE PROGRAMS.—To provide for the establishment and expansion of cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety through the use of effective intervention with respect to mentally ill offenders.

''(5) CAMPUS SECURITY PERSONNEL TRAINING.—To provide for programs that offer campus security personnel training in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

''(b) BJA TRAINING MODELS.—For purposes of subsection (a)(1), the Director of the Bureau of Justice Assistance shall develop training models for training law enforcement personnel in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved, including suicide prevention.

''(c) MATCHING FUNDS.—The Federal share of funds for a program funded by a grant received under this section may not exceed 75 percent of the costs of the program unless the Attorney General waives, wholly or in part, such funding limitation. The non-Federal share of payments made for such a program may be made in cash or in-kind fairly evaluated, including planned equipment or services.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section $10,000,000 for each of the fiscal years 2009 through 2014.''.

*(b) CONFORMING AMENDMENT.—Such part is further amended by amending the part heading to read as follows: ''**GRANTS TO IMPROVE TREATMENT OF OFFENDERS WITH MENTAL ILLNESSES**''.*

SEC. 5. IMPROVING THE MENTAL HEALTH COURTS GRANT PROGRAM.

(a) REAUTHORIZATION OF THE MENTAL HEALTH COURTS GRANT PROGRAM.—Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended by striking ''fiscal years 2001 through 2004'' and inserting ''fiscal years 2009 through 2014''.

(b) ADDITIONAL GRANT USES AUTHORIZED.—Section 2201 of such title (42 U.S.C. 3796ii) 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 new paragraphs:

''(3) pretrial services and related treatment programs for offenders with mental illnesses; and

''(4) developing, implementing, or expanding programs that are alternatives to incarceration for offenders with mental illnesses.''.

SEC. 6. EXAMINATION AND REPORT ON PREVALENCE OF MENTALLY ILL OFFENDERS.

(a) IN GENERAL.—

(1) IN GENERAL.—The Attorney General shall examine and report on mental illness and the criminal justice system.

(2) SCOPE.—Congress encourages the Attorney General to specifically examine the following:

(A) POPULATIONS.—The rate of occurrence of serious mental illnesses in each of the following populations:

(i) Individuals, including juveniles, on probation.

(ii) Individuals, including juveniles, incarcerated in a jail.

(iii) Individuals, including juveniles, incarcerated in a prison.

(iv) Individuals, including juveniles, on parole.

(B) BENEFITS.—The percentage of individuals in each population described in subparagraph (A) who have—

(i) a serious mental illness; and

(ii) received disability benefits under title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.).

(b) REPORT.—Not later than 36 months after the date of the enactment of this Act, the Attorney General shall submit to Congress the report described in subsection (a).

(c) DEFINITIONS.—In this section—

(1) the term ''serious mental illness'' means that an individual has, or at any time during the 1-year period ending on the date of enactment of this Act had, a covered mental, behavioral, or emotional disorder; and

(2) the term ''covered mental, behavioral, or emotional disorder''—

(A) means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, or the International Classification of Diseases, Ninth Revision, Clinical Modification equivalent of the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition; and

(B) does not include a disorder that has a V code within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, a substance use disorder, or a developmental disorder, unless that disorder cooccurs with another disorder described in subparagraph (A) and causes functional impairment which substantially interferes with or limits 1 or more major life activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for 2009.

Mr. LEAHY. Mr. President, I ask unanimous consent that a Kennedy amendment, which is at the desk, be agreed to; the committee substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 5656) was agreed to, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008''.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) Communities nationwide are struggling to respond to the high numbers of people with mental illnesses involved at all points in the criminal justice system.

(2) A 1999 study by the Department of Justice estimated that 16 percent of people incarcerated in prisons and jails in the United States, which is more than 300,000 people, suffer from mental illnesses.

(3) Los Angeles County Jail and New York's Rikers Island jail complex hold more people with mental illnesses than the largest psychiatric inpatient facilities in the United States.

(4) State prisoners with a mental health problem are twice as likely as those without a mental health problem to have been homeless in the year before their arrest.

SEC. 3. REAUTHORIZATION OF THE ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS THROUGH 2014.—Section 2991(h) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797aa(h)) is amended—

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

(2) in paragraph (2), by striking ''for fiscal years 2006 through 2009.'' and inserting ''for each of the fiscal years 2006 and 2007; and''; and

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

''(3) $50,000,000 for each of the fiscal years 2009 through 2014.''.

(b) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—Section 2991(h) of such title is further amended—

(1) by redesignating paragraphs (1), (2), and (3) (as added by subsection (a)(3)) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins accordingly;

(2) by striking ''There are authorized'' and inserting ''(1) IN GENERAL.—There are authorized''; and

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

''(2) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—For fiscal year 2009 and each subsequent fiscal year, of the amounts authorized under paragraph (1) for such fiscal year, the Attorney General may obligate not more than 3 percent for the administrative expenses of the Attorney General in carrying out this section for such fiscal year.''.

(c) ADDITIONAL APPLICATIONS RECEIVING PRIORITY.—Subsection (c) of such section is amended to read as follows:

''(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

''(1) promote effective strategies by law enforcement to identify and to reduce risk of harm to mentally ill offenders and public safety;

''(2) promote effective strategies for identification and treatment of female mentally ill offenders;

''(3) promote effective strategies to expand the use of mental health courts, including the use of pretrial services and related treatment programs for offenders; or

''(4)(A) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

''(B) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

''(C) document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and reentry services for such individuals; and

''(D) have the support of both the Attorney General and the Secretary.''.

SEC. 4. LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.

Section 2991 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797aa) is amended by—

(1) redesignating subsection (h) as subsection (i); and

(2) inserting after subsection (g) the following:

''(h) LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.—

''(1) AUTHORIZATION.—The Attorney General is authorized to make grants under this section to States, units of local government, Indian tribes, and tribal organizations for the following purposes:

''(A) TRAINING PROGRAMS.—To provide for programs that offer law enforcement personnel specialized and comprehensive training in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

''(B) RECEIVING CENTERS.—To provide for the development of specialized receiving centers to assess individuals in the custody of law enforcement personnel for suicide risk and mental health and substance abuse treatment needs.

''(C) IMPROVED TECHNOLOGY.—To provide for computerized information systems (or to improve existing systems) to provide timely information to law enforcement personnel and criminal justice system personnel to improve the response of such respective personnel to mentally ill offenders.

''(D) COOPERATIVE PROGRAMS.—To provide for the establishment and expansion of cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety through the use of effective intervention with respect to mentally ill offenders.

''(E) CAMPUS SECURITY PERSONNEL TRAINING.—To provide for programs that offer campus security personnel training in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

''(2) BJA TRAINING MODELS.—For purposes of paragraph (1)(A), the Director of the Bureau of Justice Assistance shall develop training models for training law enforcement personnel in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved, including suicide prevention.

''(3) MATCHING FUNDS.—The Federal share of funds for a program funded by a grant received under this subsection may not exceed 50 percent of the costs of the program. The non-Federal share of payments made for such a program may be made in cash or in-kind fairly evaluated, including planned equipment or services.''.

SEC. 5. EXAMINATION AND REPORT ON PREVALENCE OF MENTALLY ILL OFFENDERS.

(a) IN GENERAL.—

(1) IN GENERAL.—The Attorney General shall examine and report on mental illness and the criminal justice system.

(2) SCOPE.—Congress encourages the Attorney General to specifically examine the following:

(A) POPULATIONS.—The rate of occurrence of serious mental illnesses in each of the following populations:

(i) Individuals, including juveniles, on probation.

(ii) Individuals, including juveniles, incarcerated in a jail.

(iii) Individuals, including juveniles, incarcerated in a prison.

(iv) Individuals, including juveniles, on parole.

(B) BENEFITS.—The percentage of individuals in each population described in subparagraph (A) who have—

(i) a serious mental illness; and

(ii) received disability benefits under title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.).

(b) REPORT.—Not later than 36 months after the date of the enactment of this Act, the Attorney General shall submit to Congress the report described in subsection (a).

(c) DEFINITIONS.—In this section—

(1) the term ''serious mental illness'' means that an individual has, or at any time during the 1-year period ending on the date of enactment of this Act had, a covered mental, behavioral, or emotional disorder; and

(2) the term ''covered mental, behavioral, or emotional disorder''—

(A) means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, or the International Classification of Diseases, Ninth Revision, Clinical Modification equivalent of the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition; and

(B) does not include a disorder that has a V code within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, a substance use disorder, or a developmental disorder, unless that disorder cooccurs with another disorder described in subparagraph (A) and causes functional impairment which substantially interferes with or limits 1 or more major life activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for 2009.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2304), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. LEAHY. Mr. President, I was proud to be a cosponsor, but I am especially proud of the lead sponsor, Senator EDWARD KENNEDY of Massachusetts. This is a matter he has cared passionately about, and he has worked tirelessly. He relied not only on his own family experience but also the experiences of so many other thousands of families who have seen Senator KENNEDY as a champion. I applaud him.

We have been in constant contact with Senator KENNEDY during the time we have been talking about this issue. Incidentally, we are, of course, talking about The Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act. I have talked with him about his personal experience and with those who are mentally ill, and his concern about this whole subject has been shown time and time again. So I applaud Senator KENNEDY and all the other cosponsors for what they have done.

Today, the Senate will finally turn to legislation to reauthorize the Mentally Ill Offender Treatment and Crime Reduction Act. Though this bill was reported by the Judiciary Committee in April, it has stalled on the Senate floor for 5 months due to Republican objection. I am glad that we are moving forward on this bill today.

I was a sponsor of the original authorization of this Act in 2004, and I am proud that these programs have helped State and local governments to reduce crime by providing more effective treatment for the mentally ill. I am pleased to be a cosponsor of the reauthorization of this important legislation in this Congress, and I thank Senators KENNEDY, DOMENICI, and SPECTER for their leadership on this issue.

All too often, people with mental illness find themselves in a revolving door between the criminal justice system and the streets of our communities, committing a series of minor offenses. These offenders end up in prisons or jails, where little or no appropriate medical care is available for them. This bill gives State and local governments the tools to break this cycle, for the good of law enforcement, corrections officers, the public's safety, and the mentally ill offenders themselves. More than 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness, and about 20 percent of youth in the juvenile justice system have serious mental health problems. Almost half the inmates in prison with a mental illness were incarcerated for committing a nonviolent crime. This is a serious problem that I hear about often when I talk with law enforcement officials and others in Vermont.

Under this bill, State and local governments can apply for funding to create or expand mental health courts or other court-based programs, which can divert qualified offenders from prison to receive treatment; create or expand programs to provide specialized training for criminal justice and mental health system personnel; create or expand local treatment programs that serve individuals with mental illness or co-occurring mental illness and substance abuse disorders; and promote and provide mental health treatment for those incarcerated in or released from jails and prisons.

The grants created under this program have been in high demand, but only about 11 percent of the applications submitted have been able to receive funding due to the scarce Federal funds available. The bill's sponsors and I worked hard to determine an appropriate authorization level of funding, which has unfortunately been slashed

in this bill in order to accommodate the objection of the junior Senator from Oklahoma. I look forward to working with Senators KENNEDY, DOMENICI, and SPECTER as the appropriations process moves forward so that these vital programs can be adequately funded.

This legislation brings together law enforcement, corrections, and mental health professionals to help respond to the needs of our communities. They are familiar with the unique problems states face with mentally ill offenders, and they understand the importance of federal support. I am glad the Republican objection to moving this bill forward has been lifted, and I hope the House passes this important bill swiftly.

Mr. DOMENICI. Mr. President, I rise today with my colleagues, Senator KENNEDY, Senator LEAHY, and Senator SPECTER, to laud the passage of S. 2304, the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008. This bill reauthorizes and improves several programs intended to provide federal support for collaborations between criminal justice and mental health systems.

I must first show my great admiration and appreciation for Senator TED KENNEDY, with whom I have worked diligently on legislation related to mental illness. His support, knowledge, and friendship have been invaluable in our joint fight for better access and opportunities for the millions of Americans who suffer from some form of mental illness. To him I owe a debt of gratitude and am thankful for the opportunity to have worked so closely with him for so many years.

It is estimated that approximately 16 percent of adult U.S. jail and prison inmates suffer from mental illness and the numbers are even higher in the juvenile justice system. Many of these individuals are not violent or habitual criminals. Most have been charged or convicted of non-violent crimes that are a direct consequence of not having received needed treatment and supportive services for their mental illness.

The presence of defendants with mental illnesses in the criminal justice system imposes substantial costs on that system and can cause significant harm to defendants. In response to this problem, a number of communities around the country are implementing mental health courts, a specialty court model that utilizes a separate docket, coupled with regular judicial supervision, to respond to individuals with mental illnesses who come in contact with the justice system.

Many communities are not prepared to meet the comprehensive treatment and needs of individuals with mental illness when they enter the criminal justice system. The bill passing today is intended to help provide resources to help states and counties design and implement collaborative efforts between criminal justice and mental health structures. The bill reauthorizes the Mentally Ill Offender Treatment and Crime Reduction Grant Program and reauthorizes the Mental Health Courts Program. It creates a new grant program to help law enforcement identify and respond to incidents involving persons with mental illness and it funds a study and report on the prevalence of mentally ill offenders in the criminal justice system. All of these reforms will help to address this problem from both a public safety and a public health point of view. This will help save taxpayers money, improve public safety, and link individuals with the treatment they need to become productive members of their community.

Certainly, not every crime committed by an individual diagnosed with a mental illness is attributable to their illness or to the failure of public mental health. Mental health courts are not a panacea for addressing the needs of the growing number of people with mental illnesses who come in contact with the criminal justice system. But they should be one part of the solution. Evidence has shown that in communities where mental health and criminal justice interests work collaboratively on solutions it can make a significant impact in fostering recovery, improving treatment outcomes and decreasing recidivism.

I thank my good friends for working with me on this very important issue. I appreciate their commitment to advancing these important programs and I am thankful to be here to see the passage of this legislation that we worked so hard on.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. KENNEDY. Mr. President, it is a privilege to join my colleague from New Mexico, Senator DOMENICI, in strongly supporting Senate passage of S. 2304, the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008. This bicameral, bipartisan legislation demonstrates strong Federal support for helping local communities address the current crisis in which far too many persons with mental illness are subjected to incarceration, not treatment. With full funding, this proposal has the potential to achieve significant reforms in the criminal justice system's treatment of people diagnosed with mental illness.

I commend Senator DOMENICI for his leadership on this bill and on many other initiatives to improve our Nation's mental health system. I also commend the leadership of Representatives BOBBY SCOTT and FORBES in the House of Representatives on this issue. This important legislation will promote cooperative initiatives that will significantly reduce recidivism and improve treatment outcomes for mentally ill offenders.

Based on the most recent studies by the Bureau of Justice, more than half of all prison and jail inmates in 2005 had a mental health problem, including 56 percent of inmates in State prisons, 45 percent of Federal prisoners, and 64 percent of jail inmates. According to a report by the Council of State Governments' Criminal Justice-Mental Health Consensus Project, the rate of mental illness in State prisons and jails is at least three times the rate in the general population, and at least three-quarters of those incarcerated have a substance abuse disorder.

Far too often, individuals are subjected to the criminal justice system, when what is really needed is treatment and support for mental illness or substance abuse disorders. Families often resort in desperation to the police in order to obtain treatment and assistance for a loved one suffering from an extreme episode of a mental illness. During times of such distress, families feel they have no other alternative because persons with symptoms such as paranoia, exaggerated actions, or impaired judgment are unable to recognize the need for treatment.

It is unconscionable, and may well be unconstitutional, for these vulnerable individuals to be further marginalized after they are incarcerated. Too often they are denied even minimal treatment because of inadequate resources. Most mentally ill offenders who come into contact with the criminal justice system are charged with low-level, nonviolent crimes. Once behind bars, they may well face an environment that further exacerbates symptoms of mental illness that might otherwise be manageable with proper treatment, and they may soon be back in prison as a result of insufficient and inadequate services when they are released.

This bill reauthorizes critical programs to move away from troubled systems that often result in the escalating incarceration of individuals with mental illness. Through this legislation, State and local correctional facilities will be able to create appropriate, cost-effective solutions. In particular, I am very supportive of the crisis intervention teams that many communities have developed to expand cooperation between the mental health system and law enforcement. These teams have been very effective in enabling officers to spend less time arresting mentally ill individuals and more time directing them toward treatment. I also support the continued expansion of mental health courts, so that defendants can be placed into judicially supervised community-based treatment programs, which often result in better outcomes and reduced recidivism.

To date, we have seen only a fraction of the possible potential of this legislation, because only a small number of communities have been able to benefit from this legislation. Because of limited Federal funding, only 11 percent of applicants have been able to receive one of these grants, even though demand for them is high. No magic solution will solve the problems faced by communities across America. But this

bill will effectively address local needs by fostering greater cooperation between law enforcement and mental health providers.

In addition, members of State and local law enforcement need access to training and other alternatives to improve safety and responsiveness. It reauthorizes the Mentally Ill Offender Treatment Program and maintains its authorized funding at $50 million a year. The legislation also authorizes grants to States and local governments to train law enforcement personnel on procedures to identify and respond more appropriately to persons with mental illness, and develop specialized receiving centers to assess individuals in custody.

The broad support for this legislation includes the Council of State Governments, the National Alliance on Mental Illness, the National Sheriffs Association, the Bazelon Center for Mental Health Law, the National Council for Community Behavioral Healthcare, the National Alliance for the Mentally Ill, the Campaign for Mental Health Reform and Mental Health America. These organizations understand it will provide much needed assistance to help solve this complex problem. Courts, law enforcement, corrections and mental health communities have all come together in support of this legislation, and Congress is right to respond.

Individuals and their loved ones struggle with countless challenges and barriers during a mental health crisis. With this bill, Congress will be providing significant new support for needed cooperative efforts between law enforcement and mental health experts. I am pleased that the Senate supports this legislation, and I am optimistic it will be enacted before the end of this current session of Congress.●

The PRESIDING OFFICER. The Senator from Pennsylvania.

JUDICIAL NOMINATIONS

Mr. SPECTER. Mr. President, at the outset, I wish to thank my distinguished colleague, the chairman of the Senate Judiciary Committee, for the committee's action in considering the judicial nominees and for moving ahead with their confirmations today. Senator LEAHY is used to being generous and statesmanlike, but to confirm all these judges at this time, on September 26, considering the background of the controversies in the Senate, is an act of statesmanship. If they wrote a book ''Profiles in Statesmanship,'' as well as the book ''Profiles in Courage,'' Senator LEAHY would be at the top of the list.

There has been a lot of controversy during the last 2 years of the administration regarding judges. Both Republicans and Democrats have been at fault in the last 2 years of President Reagan's administration, the last 2 years of President George H. W. Bush, the last 2 years of President Clinton, and beyond President Clinton. As I have said on the floor on a number of occasions, I have crossed party lines to support President Clinton's judges because I thought they were inappropriately bottled up. There is controversy now and we have moved ahead. Senator LEAHY has been the leader, the chairman of the committee, to get the job done.

There are three Pennsylvanians in the group of judges that we are confirming today: C. Darnell Jones, II, president judge of the Philadelphia Court of Common Pleas; Mitchell Goldberg, judge on the Bucks County Court of Common Pleas; and Joel Slomsky, a distinguished practitioner. Three very distinguished nominees.

I see the Senator from Colorado is on the floor, and there are two Colorado judges, as well as other judges, that were confirmed. I thank the chairman for his action taken today.

Mr. LEAHY. Mr. President, if the Senator will yield, one, I appreciate his kind words. He and I have been friends from our days when we first met as prosecutors in our jurisdictions. So I appreciate that.

I also appreciate the fact that he has said privately what he has said publicly in thanking me. The Senators from Colorado, the Senators from Florida, and the Senators from Virginia have also joined with the Senators from Pennsylvania in thanking me for moving these nominations. I am sure when the RECORD is read that Senators from the other States will be aware of what we have done. But I do appreciate that. His words mean a great deal to me.

Mr. SPECTER. Mr. President, a few more concluding comments. I was glad to yield to my distinguished colleague, the chairman of the committee.

I also wish to comment briefly about the intellectual property enforcement bill, which is the Leahy-Specter bill. I am glad to see that has cleared and that the holds have been taken off, and I thank Senator COBURN for taking the hold off, after very extensive discussions, which I know the chairman has had and I have had. This is a very important bill for the intellectual property community to provide enforcement and to provide teeth so intellectual property is respected, giving additional powers to the Department of Justice to see to it that the infringement of intellectual property is acted upon swiftly.

I see a number of my colleagues waiting to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

NOMINATIONS OF CHRISTINE ARGUELLO AND PHILIP BRIMMER

Mr. SALAZAR. Mr. President, I rise, first and foremost, to thank the chairman of the Judiciary Committee, Senator PATRICK LEAHY, for his statesmanship and his hard work and leadership on the Judiciary Committee, as on so many issues. The ten judges that have just been confirmed show the kind of statesmanship he brings to this body, and I am very proud to be able to work with him and proud to be able to work with the distinguished ranking member as well.

I wish to make a brief comment regarding two of the judges who were confirmed a moment ago, and they would be Christine Arguello and Philip Brimmer from Colorado.

Christine Arguello is a person who was nominated by President Clinton, now over 10 years ago, to the district court, as well as the Tenth Circuit Court of Appeals. She is truly an American dream. She was born and raised in very humble circumstances. There was a poignant time where, because her father worked on the railroad, she actually lived in a boxcar. Yet, over time, she became a very successful student and ended up at Harvard Law School. She went on to have a very distinguished career both in the private sector and the public sector and served as my chief deputy attorney general during the time I served as the attorney general for the State of Colorado.

She is a tenured law professor. She knows the law well, and she will make the State of Colorado and the United States of America very proud with her service on the bench of the U.S. District Court for the State of Colorado. So I congratulate her, and I thank Senator LEAHY and Senator SPECTER for their leadership in moving that through the house.

I wish to congratulate Phil Brimmer, who will join Christine Arguello in the U.S. District Court. He comes from a family of distinguished jurists, and he has a distinguished academic career and now over 7 years of leadership experience within the U.S. Attorney's Office in Colorado, where he has been in charge of the special prosecutions unit. He is a lawyer's lawyer. Both Christine Arguello and Phil Brimmer will move the hands of justice forward in a way we can all be very proud of for the State of Colorado.

I see there are two of my colleagues on the floor, Senator BINGAMAN and Senator MIKULSKI. I think they are waiting to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

TRIBUTE TO SENATORS

Mr. BINGAMAN. Mr. President, I want to take just a few minutes to speak about our colleagues who have announced their plans to retire at the conclusion of this 110th Congress. We obviously will miss them. There are five individuals about whom I wanted to say a brief word: Senators ALLARD, HAGEL, CRAIG, WARNER, and DOMENICI. They have all brought their intelligence, principles, and perspectives on the issues confronting our Nation. The Nation is better for their efforts.

Senators ALLARD and HAGEL both came to the Senate in 1996.

WAYNE ALLARD

Senator ALLARD had a long career in public service before coming to the Senate. He managed to serve the State of Colorado while never giving up his credentials as an expert veterinarian in that State, reaffirming the long-held belief that he and all of us have had that a legislative body should be composed of individuals with training other than that which they acquire here in the Halls of Congress. His straightforward approach has been a hallmark of his work here.

Living a principle that he espouses, he is fulfilling his often-stated intention to limit himself to two terms. He and his wife Joan will certainly be missed here in the Senate.

CHUCK HAGEL

CHUCK HAGEL of Nebraska forged a very successful career in business and broadcasting, civic organizations and government, but first he served our country as a sergeant in Vietnam. It was an honor to work with him on the Vietnam Memorial visitors center legislation. He has championed that cause, knowing firsthand how much it means to have lived through the experience of that war. He has a wide knowledge of the world, and he has informed his thoughtful and well-considered positions on foreign policy and arms control and national security issues with that knowledge.

He can always be counted on for a straightforward approach and an honest statement of his views.

LARRY CRAIG

My longtime colleague on the Energy and Natural Resources Committee, Senator CRAIG, has been a valuable voice for Idaho for decades. He served in his State's legislature for 6 years before coming to the House of Representatives 28 years ago, where he served for 10 years.

In 1990, he was elected to the Senate. We worked very closely on issues important to energy and natural resources throughout the West. He has been a leader in many national policy areas, including aging and opening trade to Cuba.

I have appreciated his contributions, particularly in our Energy and Natural Resources Committee, where his opinions have always been clearly expressed and his best efforts are made to represent his State and the Nation.

JOHN WARNER

With the exception of Harry Byrd, JOHN WARNER has represented Virginia in the Senate longer than any other Senator in its history. He has done so with great enthusiasm, skill, hard work, and style. To many people, JOHN WARNER embodies what a Senator should be. He knows the world, he knows this country, and he knows, of course, his beloved State. He is an outstanding citizen of each of those.

He is a patriot in the old-fashioned and in the deep-hearted sense of that word. He has demonstrated his love of country through years of service both in uniform and out of uniform. The miles he has traveled to all corners of the world to see our forces in action and the hours—innumerable hours—he spent hearing committee testimony, he has absorbed. That has equipped him to really be an expert in this body on military issues. His leadership will be missed on those issues and other issues as well here.

PETE DOMENICI

The most senior Senator retiring this year, of course, is my colleague and friend Senator PETE DOMENICI. He is not only the most senior Senator retiring this year from the Senate, he is also the most senior Senator New Mexico has ever had. When PETE leaves the Senate this year, it will be after 36 years of unstinting work doing his best for his country and for our State of New Mexico.

He will be the first to say that his success and longevity here could not have been possible without two important elements: his family and his staff. The love and support of his wife Nancy have been invaluable. Also, from the first, he has had a fine staff. It was true when he came to Washington and it is certainly true today, here and in New Mexico. They are skilled individuals who make it their business to be helpful to the people of our State.

Senator DOMENICI's contributions are well known to all of us. His work on the Budget Committee and the Energy and Natural Resources Committee and the Appropriations Committee over the years has made a lasting impact on national policy. As a member of the Budget Committee, from the day he was sworn in, he was either the chairman or ranking member of that committee for 12 years of his 36 years on the committee.

One of the things in which he takes great pride is helping to get us to a balanced Federal budget twice. We can all appreciate how difficult that kind of undertaking is.

Senator DOMENICI and I, of course, served on the Energy and Natural Resources Committee together. The Senate Historian has told us that as far as his office can tell, it is the only instance in the history of the Senate where Senators from the same State served as chairman and ranking member of the same committee at the same time. Obviously, I will miss that arrangement.

New Mexicans, including me, have great affection and respect for PETE DOMENICI. ''People for Pete'' is the motto PETE has used in each of his campaigns for many years. It is not just a famous campaign phrase in our State—although it is seen on bumper stickers all over our State whenever a campaign is underway involving PETE—but it is a bit of a twist on what his career has been all about; that is: PETE for the people of New Mexico. That has been his commitment. He has carried through in great form.

We will miss his service to the State of New Mexico here in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

SENATE JUDICIAL CONFIRMATIONS IN COLORADO

Mr. ALLARD. Mr. President, I would like to take a moment to thank the chairman of the Judiciary Committee for working with Senator SALAZAR and myself in getting two individuals finally confirmed by the Senate; that is, Phillip Brimmer and Christine Arguello to the District Court of Colorado. I know it was not an easy task that the chairman of the Judiciary Committee had before him. I know he had to buck some of the persistent rules of his committee, he had to buck a very tight timeline at the end and had to deal with some misunderstandings that further delayed their confirmation.

I respect him highly for his good work as chairman of the Judiciary Committee. I respect him for the fact that he was able to keep his commitment to both myself and Senator SALAZAR on these two individuals. Senator SALAZAR and I worked hard to work out an agreement where we could fill at least two of the vacancies of the three existing vacancies on the District Court of Colorado.

I also compliment my good friend and colleague Senator SALAZAR for being willing to work with me to meet the needs of this district court. When you have three vacancies on a district court, they are reaching the status of what we call emergency status. That means there is considerable more workload there because of the vacancies, and as a result of that it begins to impede their ability to deal with the cases that might come before that district court.

I also state for the record that this is a court that deals with a very heavy workload and probably should have an additional seat on the bench there in this district court because of the heavy workload we have in the Colorado District Court.

PHILIP BRIMMER

I would like to take a moment to talk about the two fine individuals on whom Senator SALAZAR and I ended up agreeing—first of all, in regard to Mr. Brimmer.

Mr. Brimmer is an outstanding lawyer. He is a graduate of Harvard and Yale Law School, institutions that provided him with tremendous analytical tools and an arsenal of knowledge which have served him well in his career.

Upon graduation from law school, Mr. Brimmer spent 2 years clerking for the U.S. District Court for the District of Colorado. Thereafter, he joined a Denver law firm, where he spent 7 years in private practice before making a decision to devote his career to public service. This decision led Mr. Brimmer to the Denver District Attorney's Office, serving first as a deputy district

attorney and later promoted to chief deputy district attorney,

Former District Attorney and current Governor of Colorado Bill Ritter wrote, ''throughout Mr. Brimmer's service at the Denver District Attorney's Office, he upheld the highest standards of integrity, fairness, honesty, hard work—and a dedication to public service.'' Governor Ritter felt he could trust Phil Brimmer with the most challenging cases that came through the office; Phil Brimmer did not disappoint.

Current Denver District Attorney Mitch Morrissey recently wrote of his former colleague in a similar fashion. ''[Phil Brimmer] never failed to impress me both with his work ethic and his knowledge of the law . . . He was one of our most valued attorneys.'' The sentiments of Governor Ritter and District Attorney Morrissey are reflected in numerous other letters sent to my office from people who worked with Mr. Brimmer throughout the years.

Similar to his experience as deputy district attorney, Mr. Brimmer has been exceptionally successful as Federal prosecutor. Almost 7 years ago, he joined the U.S. Attorney's Office as an assistant U.S. attorney and has worked on an assortment of criminal cases as chief of the major crimes section and now as chief of special prosecutions section.

As chief of special prosecutions in the U.S. Attorney's Office, Mr. Brimmer handled very challenging and procedurally complex case, dealing with an assortment of crimes, including child exploitation, cyber crimes, capital crimes, and prison crimes. Attorney general of Colorado John Suthers hired Phil Brimmer in the fall of 2001, recognizing his ''excellent work ethic'' and his ''tremendous intellectual capability''. It seems Mr. Brimmer continues to impress everyone he works beside as he continues to serve Colorado's legal community with great distinction.

Anyone familiar with Philip Brimmer's professional credentials can attest to his intelligence and his talent. Anyone familiar with Philip Brimmer, as an individual, would certainly observe that he is respectful, loyal, and good-humored. His integrity, honesty and professional dedication to public service also contribute to making Philip Brimmer a ''rare find.''

From my conversations with Mr. Brimmer, it is clear that he recognizes the proper role of the judiciary. His personal qualities and character, coupled with his professional experience, an ABA rating of ''well qualified'', and outstanding bipartisan recommendations from within Colorado's legal community make Philip Brimmer ideally suited to service on the federal district court.

CHRISTINE ARGUELLO

I would also like to welcome Ms. Christine Arguello to the U.S. Senate.

This is not my first endorsement of Ms. Arguello. In 1999, I made a recommendation to then President Clinton to nominate Ms. Arguello for a seat on the U.S. District Court for the District of Colorado. This past January, I again offered her name to President Bush and urged he consider nominating Christine Arguello to fill a vacant judgeship on Colorado's Federal district court.

I speak before the Senate today in support of the nomination of this fine lawyer for service on the Federal bench. In her more than 25 years of legal experience, she has worn many different hats. She has experience as a trial lawyer, in-house counsel, law professor, and public servant.

She is a skilled attorney with impressive credentials and a diverse professional background.

Ms. Arguello earned her undergraduate degree from the University of Colorado and her law degree from Harvard. She began her distinguished professional career working as an associate for a law firm. She moved to a public service career after 19 years of private practice when she joined the Colorado Attorney General's Office, where she served as the chief deputy attorney general under the former attorney general, and now my currently Senate colleague, KEN SALAZAR.

In 2003, she returned to private practice as a civilian litigation attorney, and in 2006 she assumed her current job as managing senior associate counsel for the University of Colorado at Boulder.

She has been described by many as a trailblazer. Ms. Arguello and the wide-ranging experiences and accomplishments she brings with her would make her a great asset to the Federal bench. In addition to being the first Hispanic from Colorado to be admitted to Harvard Law School and the first Hispanic to be promoted to partner at one of the ''big four'' law firms in Colorado, Ms. Arguello has added law professor to a long list of accomplishments.

She became a tenured professor at the University of Kansas Law School and joined the faculty at the University of Colorado School of Law and the University of Denver College of Law as an adjunct professor and visiting professor, respectively.

It is with a great deal of pleasure that I am able to see to conclusion the confirmation of Phil Brimmer and Christine Arguello to the District Court of Colorado.

Again, I cannot say how thankful I am I have a good friend and colleague such as Senator KEN SALAZAR who is willing to work with me on issues that are facing the Colorado District Court and many other issues that are facing the State of Colorado.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

THE ECONOMY

Ms. MIKULSKI. Mr. President, I seek recognition under morning business and wish to speak about the economic crisis facing the Nation. I will be brief because I think we need less deeds and more action.

Mr. President, we do have an economic crisis. We do have a credit crisis. We need to be able to protect our economy, we need to act to protect the taxpayer, and we need to act to protect the distressed homeowner.

I am frustrated and deeply troubled. I am deeply troubled by where we find ourselves when I observe that House Republicans are defying their own President. Our economy is in trouble.

Yesterday, leadership on both sides of the aisle and both sides of the dome went to the White House at the President's request to try to deal with this issue. To my surprise, House Republicans poked their own President in the eye and derailed a plan that we were developing. Now we need action. And I say to President Bush, we need Presidential leadership. We need a situation room. We need a situation room not at CNN, we need an economic situation room at the White House.

I ask the President, while all of this hubbub is going on on Capitol Hill, to be the commander in chief of the economy. We need a commander in chief of the economy. I ask him to do what he has done as Commander in Chief, to listen to his generals. He has Paulson, he has Bernanke, and he also needs to get his Republican troops in line.

Yesterday we had a method and we had momentum for working on this problem. I salute my Senate colleagues, Senator DODD, the chairman of the Banking Committee, and his Democrats. But I also salute the Republicans in the Senate, on a bipartisan basis. They were working methodically, they were working steadily, and they were acting responsibly. We had a plan.

What happened is the Republican House became afraid of voters. I know we need to listen to voters. I am getting the same kind of e-mails they are. In the last 72 hours, I have received close to 8,000 e-mails and only 30 were for this plan.

I have received over 1,300 phone calls and almost all were against the bailout and why they are against the bailout. They wonder who is on their side, who is looking out for them; who is going to bail them out of their stagnant wages; who is going to bail them out of their rising, escalating health care; who is going to bail them out when they are trying to pay their utility and put gas in their car and buy groceries. Seniors are wondering who is going to bail them out as they try to make sure they do not outlive their income. We listened to them loudly and clearly. Yet what we need to be able to do is not only respond to them, we need to be able to respond to this credit crisis.

Make no mistake, if we do not act we could lose jobs that could affect small business and ordinary homeowners. It could cause massive or significant temporary layoffs.

Now, I am for reform. I absolutely do want reform. I believe we were working

to get it. We have to get back on track, and the President needs to get us back on track.

I believe what the Senate was doing protected the economy by putting capital where it needed to go. It also protected the taxpayer by making sure that we had a stake in the outcome. We absolutely also forbade golden parachutes and put a cap on compensation. Again, we made sure that those who created the crisis do not further gouge us by profiting off the crisis. We had methods and we had momentum for both solving the crisis and at the same time bringing reform. But in the midst of it, the House Republicans decided they were going to do their own plan and come up with some kind of insurance plan. Well, where were they 2 days before that?

Then, the Republican Presidential nominee parachuted in, ran back and forth on both sides of the Capitol and huffed and puffed. Huffing and puffing will not do it. We have had too much huff, we have had too much puff, and there is now a need for Presidential leadership.

I am glad the Republican nominee decided to go to Mississippi and debate. That is where we will debate the economic future of the United States of America. Tonight's topic should be on the economy. We should listen to the Republican nominee and the Democratic nominee. We need to hear their ideas on the future of the economy of the United States, how they will be the next commander in chief of the economy; how that will create jobs that stay in the United States of America and pay a living wage, not a survivable wage; how they will deal with the skyrocketing cost of health care.

How are we going to deal with energy? It affects utilities and gas and, therefore, groceries. We need that debate because it is on the economic future, and I am glad he is going.

And here, while they are in Mississippi debating, we should begin to act. I ask that the President create this economic situation room. I am proud of my Senate colleagues. I salute the Republicans on the other side for working. We all worked together. We have all had to set aside, in these last couple of days, the outcome we wanted.

I am at heart and soul a reformer. I wanted more reform. I want more teeth in the Securities and Exchange Commission where they do not just bark, that they bite. I was one of the people 10 years ago who voted against deregulation of the financial institutions. But we could not get that much reform in this package. We can do that on another day.

I stood on the floor of the Senate and said I wanted retribution for those who created fraud and engaged in predatory practices against unsuspecting homeowners. I want them investigated. I want people to go to jail. That is why, as chair of the committee that funds the FBI, we put money into the Federal checkbook so we can now have the FBI agents out there doing forensics, looking at the books of those people who tried to cook the books.

So, sure, I am for reform, and I am for retribution. But right now we have to focus on rescue. So let's get it together. Let's put politics aside. I believe the Senate is acting that way. The House Republicans need to act that way. But the one person who has called us to come together, the President of the United States, has now got to go hands on, to listen to his generals, get his troops in line, and let's win this battle for America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to say to Senator MIKULSKI how much I appreciate her words of passion, of leadership. I think she laid it out for the American people. We are on their side. We want to make sure we address their concerns.

The fact is, it looked as though we had a framework, I say to my friend, that was workable. The fact is, we had brought together people from both sides. Sadly, that was all disrupted when Presidential politics got involved.

Now, I want to say something from the heart. I know all of my colleagues agree with what I say. On an issue such as this one, which is kind of a once-in-a-lifetime—we certainly hope for us—issue, where we are in a crisis situation, where we are being told by the President's men who have not handled this economy with any, in my opinion, skill at this moment in time, it is one of those votes that is going to be a vote of conscience for each of us. It is going to be a vote we think about. A lot of us are already losing sleep about this subject. This is tough stuff. And no Presidential candidate is going to tell me how to vote—with all due respect to JOHN MCCAIN—whether he flies in or flies out or whatever he does. This Senator, and, frankly, I think Senators—Republicans, Democrats, Independents—each Senator will vote their constituents' interests, what they think is best for their families, for the small businesses, to keep the economy going, what is right for taxpayers, what is right to get to the root cause of the problem.

I want to say that as far as I am concerned, frankly, Senator MCCAIN has one vote, and so do I. My vote will be my vote and no one else is going to tell me how to vote for my people. I felt that passion in my friend's remarks. It is very sad that we have lost the momentum that she talked about. But I believe we will get it back.

I know our chairman of the Banking Committee, CHRIS DODD, has an open door. I know he is waiting for the Republicans to walk back in and say: Let's get to work across party lines. We hope they will do that.

UNANIMOUS CONSENT REQUEST—H.R. 3999

Mr. President, on behalf of Senator KLOBUCHAR and myself, I ask unanimous consent to move a bill that would be very important for this economy that we know is suffering, very important for jobs, and very important to save lives. It is a bill that would immediately make $1 billion available to rebuild our Nation's bridges.

It passed out of the Environment and Public Works Committee, and it passed the full House of Representatives. Why? Because we do not want to see another bridge go down in Minnesota or any other place. Yes, we believe it is important to move in this direction to save lives, to rebuild our infrastructure, and to create jobs.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1050, H.R. 3999; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. ALLARD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Mr. President, I am very disturbed and disheartened that our Republican friends would object to such a bill at such a time. During rush hour on August 1, 2007, the I–35 West bridge in Minneapolis collapsed, sending dozens of cars into the Mississippi River. This tragedy, which every American remembers well, claimed the lives of 13 people.

Just to see that bridge go down broke your heart. It served, though, as a wake-up call—at least we thought it did—that we cannot neglect our Nation's crumbling infrastructure. Half of all the bridges in this country were built before 1964, the average age of a bridge in the national bridge inventory is 43 years old, and 26 percent of our bridges are deficient. Yet the Republicans will not allow this bipartisan bill to go through. It shouldn't take a tragedy such as the one in Minneapolis to remind us that the safety of our bridges and highways and other infrastructure can be a matter of life and death.

Senator KLOBUCHAR and Chairman OBERSTAR have worked to address these problems. That bill I asked unanimous consent to pass today, the National Highway Bridge Reconstruction and Inspection Act of 2008, will begin those repairs.

I beg my Republican friends to wake up and smell the roses. A bridge collapsed. We need to rebuild our bridges and put people to work to do it. If we have enough money to rebuild Iraq, we ought to have enough money to rebuild bridges in this country that are a danger to our people.

The I–35 tragedy claimed the lives of 13 people. It has also served as an urgent wake-up call that we cannot neglect our Nation's crumbling infrastructure.

The National Transportation Safety Board has not yet issued the results of

its investigation into the Minnesota bridge collapse, but we do know that additional resources are needed to repair and replace aging bridges and highways across our Nation.

Half of all bridges in this country were built before 1964, and the average age of a bridge in the National Bridge Inventory is 43 years old.

Of approximately 600,000 bridges nationwide, about 26 percent are considered deficient.

This means we need to make significant investments just to maintain our bridges at safe functioning levels, followed by even larger investments over the next 20 to 30 years to completely replace aging bridges.

It should not take a tragedy like the one in Minneapolis to remind us that the safety of our bridges, highways, and other infrastructure can be a matter of life and death.

Senator KLOBUCHAR and Chairman OBERSTAR have worked together to address problems with our Nation's bridges by introducing legislation entitled, the National Highway Bridge Reconstruction and Inspection Act of 2008.

The House version of this legislation, H.R. 3999, was approved by an overwhelming bipartisan vote of 357 to 55 in the House of Representatives on July 24 and was approved the Senate Committee on Environment and Public Works by voice vote on September 17.

This legislation makes changes to the requirements set forth in the Highway Bridge Program, while authorizing a one-time additional $1 billion for bridge repair and replacement.

One key provision in this legislation is a requirement for the Department of Transportation to develop a national risk-based priority system for the repair, rehabilitation or replacement of each structurally deficient or functionally obsolete bridge.

We have great challenges before us. But at the end of the day it is a matter of setting priorities.

If we are going to keep our people safe and our economy strong and healthy, we need to make a serious investment in our transportation infrastructure.

I ask unanimous consent to have the following letters of support printed in the RECORD.

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

AMERICAN SOCIETY OF CIVIL ENGINEERS,
Washington, DC, July 16, 2008.

Hon. JAMES OBERSTAR,
Chairman, House Committee on Transportation and Infrastructure, Washington, DC.

Hon. JOHN MICA,
Ranking Member, House Committee on Transportation and Infrastructure, Washington, DC.

DEAR MR. CHAIRMAN OBERSTAR AND RANKING MEMBER MICA: On behalf of the more than 140,000 members of the American Society of Civil Engineers we offer our strong support for the National Highway System Bridge Reconstruction Initiative (H.R. 3999).

According to the U.S. Department of Transportation (DOT), approximately 74,000 U.S. bridges are classified as structurally deficient. Furthermore, the U.S. DOT estimates it would cost $65 billion to fix all existing bridge deficiencies.

This proposal is an important step toward addressing the problem of our nation's crumbling infrastructure. It makes constructive improvements to the current system by outlining bridge inspector qualifications and improving federal oversight of state inspections. Any bridge safety program should be based on providing for public safety first.

Successfully and efficiently addressing the nation's failing infrastructure, bridges and highways and other public works systems, will require a long-term, comprehensive nationwide strategy—including identifying potential financing methods and investment requirements. For the safety and security of our families, we, as a nation, can no longer afford to ignore this growing problem. We must demand leadership from our elected officials, because without action, aging infrastructure represents a growing threat to public health, safety, and welfare, as well as to the economic well-being of our nation.

Once again, ASCE is grateful for your leadership on this most important problem. If we can be of any assistance in this matter, please do not hesitate to contact Brian Pallasch, ASCE Managing Director of Government Relations & Infrastructure Initiatives, at (202) 789–7842 or at bpallasch@asce.org.

Sincerely yours,

DAVID G. MONGAN,
President.

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,
Washington, DC, July 15, 2008.

Hon. JAMES OBERSTAR,
Chairman, House Transportation and Infrastructure Committee, Washington, DC.

DEAR CHAIRMAN OBERSTAR: The American Road and Transportation Builders Association (ARTBA) strongly supports the National Highway Bridge Reconstruction and Inspection Act, H.R. 3999. Your proposal would generate federal leadership in response to a national need, setting priorities and establishing the accountability Americans demand and deserve.

The collapse of the 1–35 W Bridge August 1, 2007, is a stark reminder the U.S. transportation system is not keeping pace with the demands being placed on it and that tragic consequences can occur when warning signs are not acted upon. According to the Federal Highway Administration, more than one-quarter of all bridges on the NHS are considered either functionally obsolete or structurally deficient. The U.S. Department of Transportation also estimates at least $65 billion could be invested immediately in a cost-beneficial fashion to address existing bridge deficiencies.

The nation has vast unmet bridge needs that are well documented and irrefutable. The U.S., however, is not just suffering from a bridge crisis; it is suffering from a transportation infrastructure crisis. We need to dramatically upgrade the nation's bridges, roadways and public transportation facilities and increased investment is a critical part of the solution. The U.S. transportation network is a holistic system and we must begin the process of addressing all of these needs in a meaningful way as soon as possible. H.R. 3999 is a logical first step toward a restructuring of the core federal highway and public transportation programs to address unmet national needs in the 2009 reauthorization of the federal highway and transit programs.

ARTBA commends your leadership on this critical national issue and pledges to work with you to ensure all U.S. transportation infrastructure needs are met.

Sincerely,

T. PETER RUANE,
President and CEO.

FEDERATION OF STATE PIRGS,
Washington, DC, July 16, 2008.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: One year after the tragic collapse of the 1–35 W Bridge in Minneapolis, our country's bridges remain in critical condition and in need of significant funding for maintenance and repair. We strongly urge you to support H.R. 3999, The National Highway Bridge Reconstruction and Inspection Act.

The unmet needs of our nation's aging transportation infrastructure endanger the safety and security of American families. While billions in federal funds are spent annually on new highway projects and lane expansion, our existing assets have been left behind. According to the U.S. Department of Transportation, approximately 74,000 bridges in this country are classified as structurally deficient.

H.R. 3999 is an important first step towards addressing this national problem. The legislation authorizes dedicated funding for bridge repairs throughout the country and provides minimum inspection standards.

The tragedy in Minnesota should serve as a wake-up call for this Congress, which must embrace an approach to highway spending that prioritizes maintenance and repair of our existing roadways over new capacity. Our country can no longer afford the cost of inaction as our bridges continue to age and deteriorate. Please support H.R. 3999, The National Highway Bridge Reconstruction and Inspection Act.

Thank You,

JOHN KRIEGER,
Staff Attorney, U.S. Public Interest Research Group.

NATIONAL STONE, SAND & GRAVEL ASSOCIATION,
July 15, 2008.

Hon. JAMES OBERSTAR,
Chairman, House Committee on Transportation & Infrastructure, House of Representatives, Washington, DC.

DEAR CHAIRMAN OBERSTAR: On behalf of the National Stone, Sand & Gravel Association (SSGA) I wish to commend you for your continued efforts to address the nation's bridge maintenance and repair problems so tragically highlighted by the Minnesota bridge collapse. NSSGA joins our coalition partners in supporting H.R. 3999, the ''National Highway Bridge Reconstruction and Inspection Act.''

A key part of the problem facing the nation's transportation system is that it is old with over half of the bridges built before 1964. Interstate bridges, which were primarily constructed in the 1960s, are at the end of their service lives (estimated to be 44 years for bridges built at that time). NSSGA supports the key goals of the legislation that establishes a risk-based priority for replacing bridges along the National Highway System and improving the bridge inspection program. This legislation will ultimately make travel safer and more efficient for all users as older bridges are upgraded to current safety standards and are rebuilt to accommodate increases in traffic.

As you are aware, from 1990 to 2005, there has been a 19 percent increase in the nation's population, a 39 percent increase in vehicle miles traveled, but only a 4 percent increase in highway capacity. As you are also aware, a number of reports, including the National Surface Transportation Policy and Revenue

Study Commission final report, detail the need for additional funding for the nation's infrastructure along with a suggestion for restructuring the Department of Transportation. H.R. 3999 is a positive step forward in addressing the nation's aging surface transportation infrastructure.

According to the U.S. Geological Survey, NSSGA is the largest mining association by product volume in the world and represents the crushed stone, sand and gravel- or aggregate-industries. Our member companies produce more than 90 percent of the crushed stone and 70 percent of the sand and gravel consumed annually in the United States. More than three billion tons of aggregates (or 2.95 billion metric tons) were produced in 2007 at a value of approximately $21 billion, contributing nearly $38 billion to the GDP of the Unites States. Without these important materials, the nation's infrastructure could not be built or maintained, and the commerce and quality of life would be severely reduced. The aggregates industry workforce is made up of about 118,000 men and women. Every $1 million in aggregate sales creates 19.5 jobs, and every dollar of industry output returns $1.58 to the economy. With over 11,000 operations nationwide, most Congressional Districts are home to multiple operations.

NSSGA looks forward to working with you and our coalition partners to advance the bridge initiative to improve the safety and stability of the nation's transportation infrastructure.

Sincerely,

JENNIFER JOY WILSON,
President & CEO.

TRANSPORTATION TRADES DEPARTMENT, AFL–CIO
Washington, DC, July 16, 2008.

Re: Support the National Highway Bridge Reconstruction and Inspection Act.

DEAR REPRESENTATIVE: On behalf of the Transportation Trades Department, AFL–CIO (TTD), I urge you to vote in favor of the National Highway Bridge Reconstruction and Inspection Act (H. R. 3999) when it is considered by the House. This important measure will improve the safety of American bridges and decrease the chance of another catastrophic bridge collapse like the one we witnessed almost a year ago in Minneapolis.

H.R. 3999 will improve bridge safety and invest in the reconstruction of structurally deficient bridges. Specifically, the bill requires the federal Department of Transportation (DOT) to create a risk-based approach to safety so that states may focus attention on bridges in need of rehabilitation and replacement. In order to receive federal assistance, states will be required to create a five-year performance plan for highway bridge inspection, rehabilitation and replacement specifically for federal-aid highway bridges which are structurally deficient or functionally obsolete.

For years, our nation's infrastructure has suffered from an appalling lack of investment. The state of our nation's highway bridges is just one example of what happens when we neglect key aspects of our transportation system. According to the DOT, one out of every eight bridges in the United States is structurally deficient. While this classification does not immediately imply that a bridge will collapse, structurally deficient bridges require significant maintenance and repair to remain in service and eventual rehabilitation or replacement.

H.R. 3999 will ensure that bridges are being properly inspected and facilities in need of improvement are identified and prioritized. In addition, the bill authorizes $1 billion to repair, reconstruct and replace structurally deficient bridges. While this money will not fully meet the needs to fix existing bridge deficiencies, it does represent an important down payment and will provide immediate assistance to states in desperate need of bridge repair funding.

As we witnessed in Minneapolis, a bridge collapse can have horrific consequences. In addition to the 13 people killed, it is estimated that road user costs totaled $400,000 per day in travel time delays and increased operational costs. Overall, the state's economy lost $61 million for 2007 and 2008 as a result of the collapse. Transportation workers and American motorists depend on a safe and reliable highway network. It is clear that we must do more to support this system.

Again, I urge you to pass H. R. 3999 and to ensure that this bill becomes law as quickly as possible. If you have any questions or need additional information, please contact me or Brendan Danaher at 202/628–9262.

Sincerely,

EDWARD WYTKIND,
President.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Arlington, VA, July 21, 2008.

Hon. JAMES OBERSTAR,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Associated General Contractors of America (AGC), I am writing in support of H.R. 3999, the National Highway Bridge Reconstruction and Inspection Act of 2008. As a targeted, nationwide bride repair and reconstruction program, your initiative would provide another $1 billion in critically-needed federal resources for states to continue efforts to better identify and address their most at-risk bridges.

Nearly one year after the tragic collapse of a span of the I–35 bridge in Minneapolis, which brought national attention to the state of the nation's bridges, the country continues to under invest in its transportation infrastructure. In 2007, in response to this tragedy, Congress provided an additional $1 billion for states to begin addressing their most at-risk bridges; however, estimates show that the problem is much more widespread—more than a quarter of the nation's bridges have structural problems or fail to meet current design standards. State departments of transportation have undertaken additional inspections and emergency repairs to ensure there are not imminent failures, yet the system still needs an infusion of $65 billion to repair or replace the significant number of bridges that are 50 years or older.

In addition, states are struggling to keep pace with the rising prices of many construction inputs: asphalt prices have more than doubled since the beginning of 2008, with increases of as much as 40 percent announced in many regions since July 1; on-highway diesel fuel costs have risen 68 percent in the past 12 month; reinforcing steel (rebar) has roughly doubled since the beginning of 2008; and the price of construction plastics, such as polyvinyl chloride (PVC) pipe and plastic fencing and moisture barriers, have risen 10 to 25 percent since early 2008.

While bridges are a vital link in the nation's transportation network, they are but one component of the intermodal system that supports our $14 trillion economy. Likewise, other system needs exist and require solutions to address a variety of mobility challenges. Unfortunately, the Minneapolis tragedy is but a symptom of a bigger, looming infrastructure crisis in this country which involves all modes of infrastructure in addition to surface transportation, including aviation, water infrastructure, flood control, and navigation. Recognizing the committee's hard work to address these needs through other legislative efforts, your bridge initiative is an important first step towards fixing the long-term neglect of our nation's aging and deteriorating infrastructure.

Again, AGC strongly supports H.R. 3999, and looks forward to working with you to enact this worthy legislation.

Sincerely,

STEPHEN E. SANDHERR,
Chief Executive Officer.

AMERICAN COUNCIL ON ENGINEERING COMPANIES,
Washingon, DC, July 15, 2008.

Hon. JAMES OBERSTAR,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

MR. CHAIRMAN: On behalf of the American Council of Engineering Companies (ACEC)—the voice of America's engineering industry—I wanted to express our strong support for H.R. 3999, the National Highway Bridge Reconstruction and Inspection Act and applaud your leadership in addressing the shortcomings of our national bridge program.

ACEC member firms are involved in every aspect of bridge planning, design and inspection. As you know, ACEC members testified before your committee and others about the need for a risk-based approach to bridge inspections and repair and rehabilitation decisions. Thank you for incorporating our recommendations into the bill. Improving existing inspection procedures and techniques, as called for in H.R. 3999, will allow states and the federal government to better allocate limited resources. The bill rightly calls for priority consideration based on safety, serviceability, and the impact on regional and national freight and passenger mobility.

ACEC strongly supports the requirement in the bill that bridge program managers and critical bridge inspection team leaders be licensed professional engineers. While we recognize the value of experience in bridge inspections, there is no replacement for the rigorous education, testing and standards for professional licensing. We firmly believe that a licensed professional engineer, qualified to practice structural engineering, should be in ''responsible charge'' of every bridge safety inspection.

Finally, ACEC appreciates the inclusion of a $5 million grant program to evaluate the effectiveness, accuracy and reliability of advanced condition assessment inspection processes and technologies. As noted in our testimony, inspectors are often limited in time and resources to visual or other simple inspections that provide only an immediate snapshot of bridge conditions, existing and emerging deficiencies, and any potential hazards. Significant safety improvements can be found in emerging technologies such as fiber optic, vibrating wire, acoustical emissions, and peak strain displacement for monitoring and evaluating the structural health of a highway bridge. The pilot program in the bill will help move these technologies forward.

For these reasons, ACEC supports passage of H.R. 3999. We look forward to working with you on this and other transportation infrastructure legislation in the future.

Sincerely,

DAVID A. RAYMOND,
President and CEO.

FEMA ACCOUNTABILITY ACT OF 2008

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 951, S. 2382.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2382) to require the Administrator of the Federal Emergency Management Agency to quickly and fairly address the abundance of surplus manufactured housing units stored by the Federal Government around the country at taxpayer expense.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 2382

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

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''FEMA Accountability Act of 2008''.

(b) DEFINITIONS.—In this Act—

(1) the term ''Administrator'' means the Administrator of FEMA;

(2) the term ''FEMA'' means the Federal Emergency Management Agency; and

(3) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SEC. 2. STORAGE, SALE, TRANSFER, AND DISPOSAL OF HOUSING UNITS.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—

(1) complete an assessment to determine the number of temporary housing units purchased by FEMA that FEMA needs to maintain in stock to respond appropriately to major disasters occurring after the date of enactment of this Act; and

(2) establish criteria for determining whether individual temporary housing units stored by FEMA are in usable condition, which shall include appropriate criteria for formaldehyde testing and exposure.

(b) PLAN.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall establish a plan for—

(A) storing the number of temporary housing units that the Administrator has determined under subsection (a)(1) that FEMA needs to maintain in stock;

(B) selling, transferring, or otherwise disposing of the temporary housing units in the inventory of FEMA that—

(i) are in excess of the number of temporary housing units that the Administrator has determined under subsection (a)(1) that FEMA needs to maintain in stock; and

(ii) are in usable condition, based on the criteria established under subsection (a)(2); and

(C) disposing of the temporary housing units in the inventory of FEMA that the Administrator determines are not in usable condition, based on the criteria established under subsection (a)(2).

(2) APPLICABILITY OF DISPOSAL REQUIREMENTS.—The plan established under paragraph (1) shall be subject to the requirements of section 408(d)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)) and other applicable provisions of law.

(c) IMPLEMENTATION.—Not later than 9 months after the date of enactment of this Act, the Administrator shall implement the plan described in subsection (b).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the appropriate committees of the House of Representatives a report on the status of the distribution, sale, transfer, or other disposal of the unused temporary housing units purchased by FEMA.

Mr. NELSON of Florida. I ask unanimous consent that the Pryor amendment at the desk be agreed to; the committee-reported substitute, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

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

The amendment (No. 5657) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''FEMA Accountability Act of 2008''.

(b) DEFINITIONS.—In this Act—

(1) the term ''Administrator'' means the Administrator of FEMA;

(2) the terms ''emergency'' and ''major disaster'' have the meanings given such terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); and

(3) the term ''FEMA'' means the Federal Emergency Management Agency.

SEC. 2. STORAGE, SALE, TRANSFER, AND DISPOSAL OF HOUSING UNITS.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—

(1) complete an assessment to determine the number of temporary housing units purchased by FEMA that FEMA needs to maintain in stock to respond appropriately to emergencies or major disasters occurring after the date of enactment of this Act; and

(2) establish criteria for determining whether the individual temporary housing units stored by FEMA are in usable condition, which shall include appropriate criteria for formaldehyde testing and exposure of the individual temporary housing units.

(b) PLAN.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall establish a plan for—

(A) storing the number of temporary housing units that the Administrator has determined under subsection (a)(1) that FEMA needs to maintain in stock;

(B) selling, transferring, or otherwise disposing of the temporary housing units in the inventory of FEMA that—

(i) are in excess of the number of temporary housing units that the Administrator has determined under subsection (a)(1) that FEMA needs to maintain in stock; and

(ii) are in usable condition, based on the criteria established under subsection (a)(2); and

(C) disposing of the temporary housing units in the inventory of FEMA that the Administrator determines are not in usable condition, based on the criteria established under subsection (a)(2).

(2) APPLICABILITY OF DISPOSAL REQUIREMENTS.—The plan established under paragraph (1) shall be subject to the requirements of section 408(d)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)) and other applicable provisions of law.

(c) IMPLEMENTATION.—Not later than 9 months after the date of enactment of this Act, the Administrator shall implement the plan described in subsection (b).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of the Senate and the House of Representatives a report on the status of the distribution, sale, transfer, or other disposal of the unused temporary housing units purchased by FEMA.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2382), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

PAUL D. WELLSTONE MUSCULAR DYSTROPHY COMMUNITY ASSISTANCE, RESEARCH, AND EDUCATION AMENDMENTS OF 2008

Mr. NELSON of Florida. I ask unanimous consent that the Senate proceed to immediate consideration of H.R. 5265, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5265) to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal, muscular dystrophies.

There being no objection, the Senate proceeded to consider the bill.

Mr. NELSON of Florida. I ask unanimous consent that the substitute amendment be agreed to; the bill, as amended, be read three times and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 5658) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008''.

SEC. 2. EXPANSION, INTENSIFICATION, AND COORDINATION OF ACTIVITIES OF NIH WITH RESPECT TO RESEARCH ON MUSCULAR DYSTROPHY.

(a) TECHNICAL CORRECTION.—Section 404E of the Public Health Service Act (42 U.S.C. 283g) is amended by striking subsection (f) (relating to reports to Congress) and redesignating subsection (g) as subsection (f).

(b) AMENDMENTS.—Section 404E of the Public Health Service Act (42 U.S.C. 283g) is amended—

(1) in subsection (a)(1), by inserting ''the National Heart, Lung, and Blood Institute,'' after ''the Eunice Kennedy Shriver National Institute of Child Health and Human Development,'';

(2) in subsection (b)(1), by adding at the end of the following: ''Such centers of excellence shall be known as the 'Paul D. Wellstone Muscular Dystrophy Cooperative Research Centers'.''; and

(3) by adding at the end the following:

''(g) CLINICAL RESEARCH.—The Coordinating Committee may evaluate the potential need to enhance the clinical research infrastructure required to test emerging therapies for the various forms of muscular dystrophy by prioritizing the achievement of the goals related to this topic in the plan under subsection (e)(1).''.

SEC. 3. DEVELOPMENT AND EXPANSION OF ACTIVITIES OF CDC WITH RESPECT TO EPIDEMIOLOGICAL RESEARCH ON MUSCULAR DYSTROPHY.

Section 317Q of the Public Health Service Act (42 U.S.C. 247b–18) is amended—

(1) by redesignating subsection (d) as subsection (f); and

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

''(d) DATA.—In carrying out this section, the Secretary may ensure that any data on patients that is collected as part of the Muscular Dystrophy STARnet (under a grant under this section) is regularly updated to reflect changes in patient condition over time.

''(e) REPORTS AND STUDY.—

''(1) ANNUAL REPORT.—Not later than 18 months after the date of the enactment of the Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008, and annually thereafter, the Director of the Centers for Disease Control and Prevention shall submit to the appropriate committees of the Congress a report—

''(A) concerning the activities carried out by MD STARnet site funded under this section during the year for which the report is prepared;

''(B) containing the data collected and findings derived from the MD STARnet sites each fiscal year (as funded under a grant under this section during fiscal years 2008 through 2012); and

''(C) that every 2 years outlines prospective data collection objectives and strategies.

''(2) TRACKING HEALTH OUTCOMES.—The Secretary may provide health outcome data on the health and survival of people with muscular dystrophy.''.

SEC. 4. INFORMATION AND EDUCATION.

Section 5 of the Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001 (42 U.S.C. 247b–19) is amended—

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

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

''(c) REQUIREMENTS.—In carrying out this section, the Secretary may—

''(1) partner with leaders in the muscular dystrophy patient community;

''(2) cooperate with professional organizations and the patient community in the development and issuance of care considerations for Duchenne-Becker muscular dystrophy, and other forms of muscular dystrophy, and in periodic review and updates, as appropriate; and

''(3) widely disseminate the Duchenne-Becker muscular dystrophy and other forms of muscular dystrophy care considerations as broadly as possible, including through partnership opportunities with the muscular dystrophy patient community.''.

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 5625), as amended, was read the third time, and passed.

AMENDING THE IMMIGRATION AND NATIONALITY ACT

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 960, S. 3166.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3166) to amend the Immigration and Nationality Act to impose criminal penalties on individuals who assist aliens who have engaged in genocide, torture, or extrajudicial killings to enter the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 3166) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3166

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

SECTION 1. AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.

Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended by striking ''(other than subparagraph (E) thereof)''.

SUPPORTING ''LIGHTS ON AFTERSCHOOL!''

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 104.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 104) supporting ''Lights On Afterschool!,'' a national celebration of after school programs.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, today Senator ENSIGN and I have introduced a resolution designating October 16, 2008, Lights On Afterschool Day. Lights on Afterschool brings students, parents, educators, lawmakers, and community and business leaders together to celebrate afterschool programs. This year, more than 1 million Americans are expected to attend about 7,500 events designed to raise awareness and support for these much needed programs.

In America today, 1 in 4 youth, more than 14 million children, go home alone after the school day ends. This includes more than 40,000 kindergartners and almost 4 million middle school students in grades six to eight. On the other hand, only 6.5 million children, or approximately 11 percent of school-aged children, participate in afterschool programs. An additional 15 million would participate if a quality program were available in their community.

Lights On Afterschool, a national celebration of afterschool programs, is celebrated every October in communities nationwide to call attention to the importance of afterschool programs for America's children, families, and communities. Lights On Afterschool was launched in October 2000 with celebrations in more than 1,200 communities nationwide. The event has grown from 1,200 celebrations in 2001 to more than 7,500 today. This October, 1 million Americans will celebrate Lights On Afterschool!

Quality afterschool programs should be available to children in all communities. These programs support working families and prevent kids from being both victims and perpetrators of violent crime. They also help parents in balancing work and home life. Quality afterschool programs help to engage students in their communities, and when students are engaged, they are more successful in their educational endeavors.

In our work on the Senate Afterschool Caucus, Senator ENSIGN and I have been working for more than 4 years to impress upon our colleagues the importance of afterschool programming. It is our hope that they will join us on October 16 to celebrate the importance of afterschool programs in their communities back home.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 104) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 104

Whereas high quality after school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high quality after school programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high quality after school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high quality after school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas ''Lights On Afterschool!'', a national celebration of after school programs held on October 16, 2008, promotes the critical importance of high quality after school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States have no place to go after school; and

Whereas many after school programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports the goals and ideals of ''Lights On Afterschool!'' a national celebration of after school programs.

THE CALENDAR

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following items en bloc: Calendar Nos. 1062, 1064, 1065, and 1066.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the measures en bloc.

Thereupon, the Senate proceeded to consider the bills en bloc.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the bills be read a third time and passed en bloc, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

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

MAYOR WILLIAM ''BILL'' SANDBERG POST OFFICE BUILDING

The bill (S. 3309) to designate the facility of the United States Postal Service located at 2523 7th Avenue East in North Saint Paul, Minnesota, as the Mayor William ''Bill'' Sandberg Post Office Building, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3309

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

SECTION 1. MAYOR WILLIAM "BILL" SANDBERG POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2523 7th Avenue East in North Saint Paul, Minnesota, shall be known and designated as the ''Mayor William 'Bill' Sandberg Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Mayor William 'Bill' Sandberg Post Office Building''.

CPL. JOHN P. SIGSBEE POST OFFICE

The bill (H.R. 5975) to designate the facility of the United States Postal Service located at 101 West Main Street in Waterville, New York, as the ''Cpl. John P. Sigsbee Post Office,'' was ordered to a third reading, was read the third time, and passed.

SERGEANT PAUL SAYLOR POST OFFICE BUILDING

The bill (H.R. 6092) to designate the facility of the United States Postal Service located at 101 Tallapoosa Street in Bremen, Georgia, as the ''Sergeant Paul Saylor Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

CORPORAL ALFRED MAC WILSON POST OFFICE

The bill (H.R. 6437) to designate the facility of the United States Postal Service located at 200 North Texas Avenue in Odessa, Texas, as the ''Corporal Alfred Mac Wilson Post Office,'' was ordered to a third reading, was read the third time, and passed.

RECESS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate recess until 3:15 p.m. this afternoon.

There being no objection, the Senate, at 2:16 p.m., recessed until 3:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CASEY).

MORNING BUSINESS

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. Yes.

Mr. DORGAN. I ask unanimous consent to speak as in morning business for such time as I may consume.

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

FINANCIAL CRISIS

Mr. DORGAN. Mr. President, the discussion late last night and many days before, and perhaps tonight and beyond, is about the financial crisis that is described in this country by the Treasury Secretary and the chairman of the Federal Reserve Board. They have been indicating to us most of this year that we have a strong economy in this country and indicated that there have been some problems with toxic mortgage-backed securities that have gone sour and so they have dealt with them in a number of ways, but still indicated that the economy is essentially strong and the fundamentals are all right.

But in recent weeks, especially, step after step taken by the Treasury Secretary and the Federal Reserve Board is to commit American taxpayers' dollars to try to remedy some very serious problems in the economy. The discussion these days—especially in the last few days—has been about a proposal by the President and his Secretary of the Treasury for $700 billion as a rescue fund for the economy. What most people are not talking about is the fact that we have already committed $1 trillion for this purpose before the Congress would vote on $700 billion more. Let me describe why.

When Bear Stearns went belly up, the Federal Reserve Board provided $29 billion to buy Bear Stearns to J.P. Morgan, so that was taxpayer money. That is our guarantee: $300 billion through the Fed window direct lending to investment banks. For the first time in the history of this country, the Federal Reserve Board opened its lending window to nonregulated, unregulated banks. So investment banks go to the Fed: $300 billion.

Fannie and Freddie. We assumed the liability of Fannie and Freddie. That is $200 billion.

When Lehman went belly up, the funding was provided by the taxpayers for J.P. Morgan to buy Lehman Brothers: $87 billion. American International Group: $85 billion. Propping up money market funds: $50 billion.

That is $1.7 trillion in total, $700 billion of which is before this Congress as a proposition by the President for a rescue fund.

Now, the reason I wanted to visit about this today is it seems to me this is a proposition—if you equate it to a bathtub—of suggesting that we put water in the bathtub before we plug in the drain, you are not going to fill the bathtub. You are just going to put water in the top and it is going to drain out the bottom.

This morning I woke up, as did most Americans, to discover one of America's largest banks had failed and had been purchased by an investment bank overnight. The purchase was arranged by the Federal Reserve Board. So I was curious about this: Washington Mutual, one of America's largest banks. I went back to take a look to see what the president of Washington Mutual earned last year. Obviously, the bank was headed, apparently, toward a crash landing someplace. Well, Mr. Kerry Killinger, the president of Washington Mutual, which was bought last evening by J.P. Morgan, earned $14 million in compensation last year. Fourteen million dollars was paid—to the CEO of a company that last night we were told was going belly up—with insured deposits, so our Government arranged a purchase by an investment bank called J.P. Morgan.

Now, there is another piece to the story. Washington Mutual, which failed last evening, not only paid its CEO $14 million last year; it hired a new chief executive officer weeks ago. By the way, the new chief executive officer 3 weeks ago signed with a bonus of $7 million. And we are told this morning that the new CEO, having been on the job 3 weeks for Washington Mutual, now purchased by J.P. Morgan, will keep—likely keep—the $7 million bonus signed 3 weeks ago, and 12 million additional dollars as a severance. Three weeks' work: $19 million.

Now, I was trying to figure out: Here are some folks at the top of the food chain on these big companies, how

much money they are making. Well, as I said, last year the CEO of a company that went belly up last night made $14 million, and the replacement, working 3 weeks, will make $19 million. What does $19 million equate to? Well, I figured at $50,000 a year for an average salary in this country, it would take 382 years for a worker to earn what this man is going to get in severance payments and bonuses for a 3-week stint in a failed company. Unbelievable. Absolutely unbelievable. But it is a hood ornament on a carnival of greed that has existed now for some while, unabated, in which people at the top have made massive quantities of money. Then the whole thing comes crashing down because they began creating exotic securities that were supported, in some cases, by worthless mortgages, placed by bad brokers and, in some cases, bad mortgage companies; sold up the chain to hedge funds and investments banks, all of them making massive quantities of money, and then it goes belly up and everybody wonders why.

So I asked the question: What do all of these folks make? How much money did they make as this was collapsing? Well, some of these, I am sure, are perfectly good people with good reputations. Stanley O'Neal, people tell me he is a good guy. Last year he made $161 million with Merrill Lynch. Lloyd Blankfein, Goldman Sachs, last year he made $54 million. John Thain, Merrill Lynch, he made $83 million last year. I am just talking about 2007 published compensation numbers. John Mack at Morgan Stanley made $41 million. James Cayne at Bear Stearns made $34 million. Poor Martin Sullivan down here at AIG, that went belly up, he only made $14 million, and we had to come up with $85 billion of the taxpayers' money to backstop this company. The CEO made $14 million last year.

I mentioned Washington Mutual went belly up last year; the biggest bank failure in the history of this country. What did the CEO make last year? Fourteen million dollars in compensation.

So the question is: What does all this mean? On Wall Street—on Wall Street alone—in the past 3 years—not salaries, bonuses—have represented $100 billion. Let me say that again. It is almost too big to comprehend. In the last 3 years on Wall Street, bonuses equaled $100 billion.

In 2007, the 500 largest businesses in this country, the CEOs averaged $14.2 million. That is about 350 to 400 times the salary of the average worker. Thirty years ago, the average CEO made 30 times what the average worker made.

Let me go back to ground zero and explain what caused all of this and then why I am concerned about what is happening around here. I have spoken on the floor many times, but I am going to do it again, because I want people to understand what is at the root of all of this. They say: Well, there are toxic securities being held by all of these institutions, and when you have toxic assets that have devalued and aren't worth anything, it threatens the lifeblood of the institution. Some of them go belly up, right? So how do they have all of these toxic mortgages, these securities? Here is what they did. A bunch of the smartest guys in the room, a bunch of high flyers, said: You know what let's do? Let's securitize things and then we can move them up the chain and sell them and resell them.

It used to be: You want to get a home mortgage? Go downtown. Go to the businesses that make home mortgages—a bank or a savings and loan—sit across from somebody who knows about it and negotiate it and sign a paper, and then they held your mortgage. And if you had a little trouble, you said: I am having a little trouble making this month's payment. That is the way it used to work. Kind of a sleepy industry that allowed people to get home mortgages in their hometown and that is where the mortgage paper was.

Now, if you go down and get a mortgage, or perhaps a broker will call you and solicit you to get a mortgage under this regime, and they will sell it immediately, and then they will sell it up and somebody will securitize it with a bunch of other mortgages. Then they will resell that, and pretty soon you have mortgage securities. As I have said often, it is like packing sausage in sawdust and slicing them up and selling them up the line. They didn't have the foggiest idea of what was in these securitizations.

So this is all about big yields. This is all about greed. Here is the origin of that greed. The biggest mortgage company in the country is bankrupt now, taken over by somebody else. In fact, the guy who ran this, Mr. Mozilo, escaped this with over $50 million, so he is sitting pretty well. This company, Countrywide, here is what they advertised. They said: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. We will give you a loan. Bad credit? Call us. Biggest mortgage banker in the country.

Mr. Mozilo, who grew this company, was given the Horatio Alger Award a couple of years ago, listed as one of the most respected top businessmen in America. The company is gone, of course, now.

Millennia Mortgage. I don't know who ran Millennia Mortgage. Twelve months, no mortgage payment. That is right; we will give you the money to make your first 12 payments if you call in 7 days. We will pay it for you. Our loan program may reduce your current monthly payment by as much as 50 percent and allow you no payments for the first 12 months. Call us today.

Here is the example that all of us have seen. Zoom Credit. I don't know who ran this company. Credit approval is seconds away. Get on the fast track at Zoom Credit. At the speed of light, Zoom Credit will preapprove you for a car loan, a home loan, or credit card. Even if your credit is in the tank, Zoom Credit is like money in the bank. We specialize in credit repair and debt consolidation. Hey, listen: Bankruptcy, slow credit, no credit, who cares? Come get a mortgage from us.

All over this country, people filled with greed, companies saying, Come and get a mortgage. In fact, I tell you what. We will allow you to get a mortgage from us with what is called a no doc loan. What does that mean? It means you don't have to document your income. It is called a no doc loan. We will give you a mortgage and you don't have to document your income. In fact, here is what you find on the Internet about that. No doc and low doc. Is that English? Yes, it is English. No doc. These mortgage companies said, We would like to give you a mortgage, a home mortgage, and you don't have to document your income for us. You just heard me say these companies say: You got bad credit, slow credit, no pay, been bankrupt? Come to us. They also say this: We will give you one without having to document your income to us.

Then they say this: You know what. You don't have to pay any principal—interest only. No documentation of your income and interest only. But they say, If that is not good enough, we will tell you what. You not only pay interest only, we will make your first 12 months payments for you, and then you pay interest only. But if that is not good enough, you don't pay any principal and you don't pay full interest; we will actually cut part of your interest and have no principal and add it to the back end of your loan after you have gotten a loan from us with no documentation of your income. Been bankrupt? Are you a bad credit risk? Come to us.

So now here is the trick, and here is how it all worked. Once they got you to do this, they locked in what was called prepayment penalties, and they said: If you get this mortgage, you should understand we are going to cut your monthly payment by a fourth. Are you paying $800 a month now? Get a mortgage from us, it will cost you $200 a month. That is a good deal. Now, it is going to reset with a new interest rate in 3 years. We want you to know that. We won't exactly tell you what that is going to mean; we will fuzz that up for you. But, of course, they never said you won't possibly be able to afford the payments in 3 years because the interest rate is going to go to 10 percent.

What they did is they put in a prepayment penalty that was very substantial which meant that when this reset with a much higher interest rate and a much higher payment, people could not repay it, they could not prepay it to get out of the mortgage. That is the basis on which they slice up these mortgages and send them forward because they said these have very

high yields with these prepayment penalties; we locked them into big interest rates in the outyears.

Two million Americans are going to lose their houses this year because of this kind of trash. This is not good business. This is not capitalism as we know it. This is unfettered greed.

Two million Americans will lose their homes this year. Think of that. Think of 2 million supper tables across this country, sitting around with the kids and the spouse saying: We are going to lose our house and there is not a thing we can do about it. Two million times this year?

In addition to that, which I think is the most important piece of this sad story, in addition to 2 million people losing their homes, then we see the consequences of all these bad, toxic securities, mortgage-backed securities lying in the bowels of these big investment banks and regular banks as well, whose deposits are insured by the Federal Government. When they turn sour, it goes belly up. Then we wake in the morning and we hear big firms whose names we have been accustomed to for years that have been beneficial to this country, providing investment capital for expansion of this country's economy, all of a sudden they have gone belly up. Why? Because they are laden now with these toxic mortgages.

I went to the Internet yesterday and I found 300 examples of companies that want to provide loans today; 325 examples under ''home loans with no credit check.'' Just today. Try it. Go to the Internet and see if you can find companies advertising: Come to us. Bad credit? Been bankrupt? No credit check. Hundreds of them are still doing it. The question is, Why is that being allowed? ''You have bad credit? Get approved today.'' These examples I have taken off the Internet in the last 24 hours.

Let me go back to one more part of the story. I wish to read something Franklin Delano Roosevelt said on March 12, 1933. I know with all the newfangled securitization, the new rules, new approaches, the growth of the investment banks and all that, what we have seen, I know it is probably oldfashioned to think this way, but here is what Franklin Delano Roosevelt did.

The banks went belly up during the Great Depression. He created a bank holiday and then reopened. But he wouldn't let them do what they used to do. The reason they went belly up is because banks were investing in real estate and securities and they were merging what has to be inherently safe and secure—that is banking, and it is not just being safe and secure with their balance sheet; it is having the perception of being safe and secure. If people think you are not safe and secure and they run on the bank, I don't care how strong your bank is, your bank is going to close its doors. A run on the bank and it is over. The perception of safety and security is critical.

What we had in the Great Depression is banks merging up with real estate. It was go-go time in the roaring twenties. We had banks with real estate and securities and so on. Back in the Great Depression, Franklin Delano Roosevelt created something called the Glass-Steagall Act. He said: No more. We are separating basic banking from risk. You want to gamble, I say go to Las Vegas. He didn't say it that way back in 1934. He said you can't gamble with respect to banks. If you want to do securities, buy, sell, make money, lose money, God bless you, you have the right to do that in this system. If you want to do real estate speculation, you have a right to do that. But no longer will anyone have the right to do that with respect to fundamental banking enterprises. He separated them.

In 1999, on the floor of this Senate, a financial modernization bill called the Financial Modernization Act came to this Senate. Senator Phil Gramm, Gramm-Leach-Bliley—we have to modernize the financial system. We are going to take apart Glass-Steagall. We are going to let financial homogenization occur. You can do one-stop shopping. Let everything happen under one big roof. We will create firewalls. It turns out the firewalls were made of thin paper.

Eight of us voted against that Financial Modernization Act that stripped bare the protections put in place in the 1930s that has served us 80 years. The Senator from Iowa voted against it. Eight of us voted against it. I voted against it.

I wish to show my colleagues what I said on May 6, 1999, during debate on that bill. I wish I had not been right. But here is what I said:

> The bill will also, in my judgment, raise the likelihood of future massive taxpayer bailouts.

I sure wish I hadn't been right. That is exactly the position we find ourselves in now.

I said during that debate:

> Fusing together the idea of banking, which requires not just the safety and soundness to be successful but the perception of safety and soundness, with other inherently risky speculative activity is, in my judgment, unwise . . .

I said on November 4, 1999, when the conference report came to the floor of the Senate:

> . . . we will in 10 years' time look back and say: We should not have done that because we forgot the lessons of the past.

As I say, I wish I had not been right.

What I see happening these days are proposals I call no-fault capitalism. Things go bad, things turn sour, things go under, you know what, we will have the taxpayer take care of that. That is not the way capitalism is supposed to work.

I am not interested in seeing this economy go down or seeing the wreckage of this economy, but I am interested in seeing if we can discover, even as we try to think through how we fix this situation, putting in place protections that will give us some notion of safety as we perceive it.

Here is what I think we should do:

Restore the firewalls that existed in Glass-Steagall in some form. We are going to propose a massive rescue fund of hundreds and hundreds of billions of dollars and not fix this situation? That is unthinkable to me, absolutely unthinkable. It makes no sense.

Address the wildly excessive compensation on Wall Street. I described the company that went belly up last night. The CEO of that company made $14 million last year. For what? The CEO they hired 3 weeks ago got a $7 million bonus for signing a new contract and has a $12 million termination contract. So working for 3 weeks in a company that is now failed, bought by an investment bank that is undergirded by the U.S. taxpayers, being able to go to the Federal Reserve bank window for direct lending, a guy who works 3 weeks is going to get $19 million. Does anybody think we have solved this problem of wild speculation and wild CEO salaries? I don't think so. At least it doesn't seem that way to me.

Next, we have to regulate speculative investments by hedge funds and investment banks. I have been talking about this for 10 years in the Congress, and we cannot get it done. If we are not prepared to regulate hedge funds and regulate the trading in derivatives, of which, by the way there is $46 trillion to $56 trillion of notional value of credit default swaps right now in this country—think of that—and nobody knows exactly where they are, nobody knows who has them all, nobody has the jeopardy of where they exist on someone's balance sheet. We don't know because we have had lots of people in this Congress willing to protect the institutions so they don't have to be regulated.

If we decide we are going to do something to provide stability to the financial system and decide we are not going to regulate hedge funds, we are not going to regulate the trading in derivatives, shame on us. Shame on us. Yet there is no discussion of that because, well, that is too complicated. Oh, really? That is more complicated than putting together $700 billion in a bailout or rescue package? I don't think so.

At the bottom of this discussion are the 2 million people who are sitting around the supper table talking about losing their homes. Wouldn't it have been smarter and would it not be smarter that while this repair is taking place that we decide to repair it at the bottom rather than pouring at the top, with respect to these toxic mortgages? How about working out family to family, by county, by city, working out the ability when a family can make payments, even at a lower interest rate, to keep that family in their house, to begin putting a floor under those mortgages? Wouldn't that make much more sense for everybody, including the American taxpayers, including the financial institutions for whom it costs much more to have an empty home

foreclosed upon, to dispose of that? Wouldn't it make sense, especially for the families who would like to find a way to work out their mortgage? It sure seems so to me.

The problem is, they cannot even find somebody to talk to because that mortgage has been put in these little pieces of security sausage, so exotic a lot of people don't understand them, and sold upstream three times, and they have all made a fortune. The problem is, the family is now going to get kicked out of their house, and all those folks who bought these now have toxic mortgages on their balance sheets, and we are told: You know what, we should bear the responsibility to solve that problem. I don't think so.

We ought to create a taxpayer protection task force to investigate and claw back the ill-gotten gains in this whole system. There has been no oversight. Regulators have been dead from the neck up for 10 years. We pay them. They are on the job, but they are woefully blind, and shame on them. We have a right, it seems to me, and an expectation of aggressive oversight to find out who cheated, who engaged in predatory lending, and who will be made accountable for it. Where is the accountability?

Finally, this Government has already done almost $1 trillion, let alone this $700 billion that is being proposed. Anything we do ought to make certain that the U.S. taxpayers share in the increased values of the very firms that have received the benefit of the backstop of the American taxpayers.

I see no discussion about these issues. All I see is a roundtable discussion about who is going to provide the money and when and can't we hurry up.

I will say one additional thing. It is curious that this administration and others spend most of their day talking this economy down and raising panic. The fact is, this country would be a whole lot better off talking about how we fix that which caused this problem, beginning with step 1.

What Franklin Delano Roosevelt did was not old-fashioned. In fact, it is exactly what we need to do now. We need to decide that we are going to get in some control of this financial system. Financial modernization, my eye. That is what they called it, financial modernization. It took apart the protection. It allowed an unbelievable carnival of greed to occur with massive money being earned by a few. We are not talking about a lot of people. But virtually all the American people now are being asked by some to pay for it. I think it makes no sense. I do not intend to support any plan that does not begin to address these issues.

Again, I am not somebody who thinks you ought to put water in the bathtub before you put the drain in the plug. That is exactly what we would be doing financially if we marched down this road and don't restore Glass-Steagall, don't regulate hedge funds and derivatives, don't deal with the wildly excessive compensation. If we don't do that, count me out; I am not part of this process.

Mr. HARKIN. Mr. President, will the Senator yield?

Mr. DORGAN. Yes, I will be happy to yield.

Mr. HARKIN. First, I thank the Senator from North Dakota for perhaps the most lucid and unencumbered description of where we are now and how we got here. So many times we hear these people from Wall Street and the investment firms and they talk in a language that not too many people understand. But when the Senator from North Dakota boils it down, he can get it down to its simple structures so people can understand. That is the great service that the Senator from North Dakota has done, to bring it down, as they say, get the hay out so the cows can have at it, eat it. That is what he has done. He has gotten it down so we can understand what we are talking about.

There is no real magic—''Harry Potter'' magic—in this stuff. This is basic finance that can be distilled down to its fundamentals. When we look at those fundamentals, then we can begin to understand what was going on. I thank the Senator from North Dakota for, again, a very lucid presentation.

I ask my friend from North Dakota, one of the issues they are talking about in this bailout is oversight. James Galbraith, an economist from the University of Texas, has suggested strongly that we should—if a bank or one of these investment firms is going to offer this worthless paper for the taxpayers to buy—and, by the way, I keep seeing this as a government bailout. I think we should call it what it is: a taxpayer bailout. The taxpayers have to fund this. But he suggested we should look and make sure we understand and get the internals.

It is like when a company is going bankrupt and it comes into a bank to get a loan. The bank doesn't just say: Show me your balance sheet; they want to know how you got there, what were your internals, what were your models you used to build all this up so we can understand what is going on. I suggested this to Secretary Paulson the other evening. Oh, he said, this is too involved, too difficult to understand. Well, we better understand it.

I ask the Senator from North Dakota if he doesn't think it would be wise to have some kind of an inspector general, a special kind of person set up to get expertise from outside of the industry, and to demand that if they want to have the taxpayers buy their worthless paper, we ought to at least look at everything to see how they got there and what are the models they used. Because I suspect—and this is only my suspicion—that one of the reasons they do not want us to see that is because, as the Senator from North Dakota has pointed out, there has been a lot of accounting fraud going on here.

It is like my buying something, then I sell it to the Senator from North Dakota, and he turns around and sells it back to me, and I sell it back to him, and everybody makes a profit along the way. Isn't that neat? So I ask the Senator from North Dakota if he doesn't think it would be wise, in order to protect the taxpayers now and in the future, to demand that we see all the internal operations of their company and how they got there?

Mr. DORGAN. Well, Mr. President, the Senator from Iowa makes a good point. I know Professor Galbraith. He also said we should regulate hedge funds. Certainly we must do that, he said, in the context of all this.

It is interesting. My dad said: Never buy something from somebody who is out of breath. There is a kind of breathless quality to what has happened to us in the last week, with the Federal Reserve Chairman and the Secretary of the Treasury saying, things are going to hell in a hand basket; you need to act in 3 days. And they send us a 3-page bill saying, we want $700 billion and we insist no one be able to review our work. There is a kind of a breathless quality to that, isn't there?

The Senator asked a question: If there is an investment—and we have already made a good number of investments, almost a trillion dollars—if there is an investment in public firms, shouldn't there be some responsibility for the Government and the taxpayer to have access to and to understand what is in the balance sheets of those firms? The answer is: Absolutely.

We don't even have a standard. You wouldn't give kids an allowance with the standard we have, would you? Almost every kid, in exchange for getting an allowance, has to own up to some sort of chores or some duties. This proposition is: Time is of the essence, we have a crisis, load up the money and deliver. That makes no sense to me. I know others are waiting to speak, but I started yesterday with a quote that I have used often, and somehow, at the end of every single major debate we have in this Congress, it ends up going back to that quote from Bob Wills and the Texas Playboys. Most of my colleagues know it, from my having used it so often, but it is:

> The little bee sucks the blossom and the big bee gets the honey. The little guy picks the cotton and the big guy gets the money.

It is always that way, it has always been that way, and it will always be that way, unless we decide to change it. The question is whether in the next days we will decide to do the right thing or we will rush off breathlessly to, one more time on behalf of the American taxpayer, bail out those at the top of the food chain—one of whom made $14 million last year as one of the largest banks in the country that he ran and was apparently headed right into the ground.

I tell you what: There is a right way to do things and a wrong way to do things, and the wrong thing for us at

this point is to decide that we have to meet a midnight hour and ignore the basics of what ought to be done—regulate hedge funds, regulate derivative trading, and reinstate some basic modicum of protection that existed from Franklin Delano Roosevelt forward dealing with Glass-Steagall and protecting our banking institutions from the riskier enterprises. If we don't do those things, we will be back again because we will not have solved the problems that caused this crisis.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First, before my friend from North Dakota leaves the floor, let me say there is a big problem out there, and I agree with a lot of the things he has said. I took a position. I waited 4 days to take a position against the particular approach that the Secretary of the Treasury is recommending, and I did so because I wanted to wait until I understood as much of it as I could.

One of the biggest problems I saw is that, first, the magnitude of $700 billion is awfully hard to get your arms around; secondly, who would make the determination as to which institutions we would be approaching, and within those institutions which assets, and how do you qualify those assets. Then I found out it would be asset managers. Now, would that be 500 asset managers, 5,000? Maybe it will be some of these same people who created the problem in the first place.

These are questions that I know people who have their hearts in the right place are trying to address. And I agree there is a problem looming out there and we need to correct it, but I am not in any hurry to correct it by doing the wrong thing. It is too big a problem.

Mr. DORGAN. If the Senator from Oklahoma will yield for a question.

Mr. INHOFE. Certainly.

Mr. DORGAN. I thank him for his courtesy in yielding.

I want to say one additional thing which I forgot to say, and ask a question while I do that.

No. 1, it may be that the cure that is being proposed is much worse than the potential that exists without it. Let me tell you what I mean by that.

On Monday of this week, we had the largest 1-day drop in the value of the U.S. dollar in history. We had the largest 1-day increase in the price of oil in history, accompanied by a 350-point drop in the stock market. The analysts say it was because they thought people were worried about the unbelievable amount of debt, our fiscal policy, our trade policy, and now the proposed bailout debt, but the unbelievable amount of debt that would erode the value of the U.S. currency.

If the electronic herd of currency traders goes after our dollar and collapses our dollar, the consequences for this economy can be far worse than that which is described by the Treasury Secretary and the Fed Chairman. And I am saying it occurs to me that if $700 billion plus tips the balance in terms of currency traders evaluating whether they want to come after the dollar, we face a greater peril than that which they suggest if we do nothing.

I appreciate the Senator for yielding, because I wanted to make the point about indebtedness. The Government is deep in debt, and we have to somehow put it back on track. This issue that is being proposed, as you know, increases to $11.3 trillion our indebtedness.

I appreciate the Senator's yielding.

Mr. INHOFE. That is true, and I think anytime you increase that debt, you are going to be selling to large purchasers somewhere, and those could be foreign countries and others.

Another thing I would observe is that things don't happen in a vacuum. The Senator from North Dakota mentioned it could result in a devaluation of the dollar. If that happens, one of the major reasons we have high gas prices at the pumps—the major reason is supply and demand, but the other reason is the devaluation of the dollar. So that would be affected also.

We need to consider all these things and we need to be deliberate. I know a lot of smart people are in rooms now trying to figure out some solutions, and I hope they come up with a good one and something I can support.

HONORING OUR ARMED FORCES

STAFF SERGEANT BRANDON FARLEY

Mr. INHOFE. Mr. President, the reason I came here today was to recognize and pay tribute to SSG Brandon Farley. He is from Haworth, in southeastern Oklahoma. Since April of 2007, he was assigned to the 1st Battalion, 26th Infantry Regiment, 3rd Brigade Combat Team, and 1st Infantry Division at Fort Hood.

Brandon died Thursday, September 18, of wounds sustained a day earlier when his patrol was attacked by enemy forces in Able Monti, Afghanistan. This was his third deployment, serving in Operation Enduring Freedom at Bagram Airfield, Afghanistan.

Brandon was born in Sulphur Springs, TX, and spent his teenage years in Haworth, OK, where he graduated from high school. Soon after graduating from high school, he joined the Marines and served 4 years. It was during those first 4 years in the military that he served his first tour in Iraq. So he was there first as a marine. Later, he was honorably discharged, went into the National Guard, and then he missed the regular services so he joined the Army. So he was stationed in Iraq and Afghanistan both as a marine and as an Army soldier, a truly outstanding young man.

His uncle William Gilpin is quoted as saying:

> It was his intention to retire from the army. He had a commitment to his country.

So he was going to stay there for a career; the kind of people we look for all the time.

Corey, Brandon's brother, also spoke about his brother's commitment and service to the military and our Nation. He said:

> He loved serving his country. He was a go-getter who had talked about joining the military ever since he was 16.

As Corey talked to him about his deployments, Brandon told him that although there were good and bad times, he reenlisted because he ''loved what he was doing.''

As the oldest of four, Brandon was committed to his family and enjoyed spending lots of time with them and his many friends. He leaves behind his father Wade and mother Sherry, and many others. He is also survived by a brother and sister-in-law, Corey and Brandy, sisters Ashlyn and Lauren, and two nephews.

Brandon loved being outdoors, four wheeling, and riding his motorcycles around. Brandon's brother Corey said:

> I can remember fishing down at the creek and being outside when we were like 10 or 12 years old. Usually it had something to do with a slingshot or a BB gun.

Brandon's sister Lauren left this heartfelt message to her beloved brother on his on-line guest book:

> Brandon, you are my brave big brother. I miss you so much—words cannot describe. I sit here thinking of you day and night. All the memories we had and all the memories that were cut short. I am so proud of you. You will always be my big brother. Thank you for all you have done for us. All my love, your little sis Lauren.

Lauren's expression of Brandon's bravery is clearly true. With bravery and courage he faced war and fought for our freedom. He willingly went into battle not only one time but three times. Brandon was a true patriot who gave the ultimate sacrifice—his life—for his country.

A friend wrote in his journal—and I will end with this particularly touching and revealing sentiment:

> You were truly amazing. A dear friend, a top-notch soldier, and a super human being. This is a great loss and it will be grieved greatly. I am so proud of you and bragged about your service all the time. I shed tears for you a little bit but I smile knowing that you believe in God and accepted Christ as your savior and that I will be reunited with you one day. Thank you Brandon.

It is kind of coincidental. We had three other Oklahomans who died in a helicopter crash that we visited about yesterday, and all three of them also knew the Lord. So you kind of look at that and you say: Well, this is a wicked time we are in right now, and we will be with you shortly. I say to Brandon's family: I pray you will feel God's peace and comfort and know that we appreciate you very much and the price Brandon paid for us. You will be together again soon.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

THE ECONOMY

Mr. SANDERS. Mr. President, earlier this week I placed on my Web site—

sanders.senate.gov—a letter to Secretary Paulson, and I asked people who shared the sentiments of that letter to sign a petition. Essentially, kind of boiling it down, what the petition says is that at a time when the middle class is shrinking, and millions of working people are struggling to keep their heads above water; at a time when Bush's economic policies have done so much harm to so many people—6 million people have left the middle class and gone into poverty; over 6 million people have lost their health insurance, millions have lost their pensions—it does not make a lot of sense for the middle-class and working families, who had nothing to do with causing this financial meltdown, to be asked to go substantially more in debt—to the tune of $2,200 per person or $9,000 for a family of four. It is not fair; and that, in fact, if a bailout is necessary, it should be the people who have caused the bailout, the people who have benefitted from Bush's economic policies, who should put their money at risk and not the middle class.

As you well know, since President Bush has been in office, there has been a massive transfer of wealth from the middle class to the top 1 percent. We have a situation where the top 400 individuals in America today, since Bush has been in office, have seen an increase in their wealth of $670 billion at a time when the middle class is shrinking. What the petition says in so many words is those are the people, not working families, who should pay the costs of the bailout.

I was amazed at the kind of response we received. As of now, we have over 37,000 signatures on a petition to Secretary Paulson and President Bush which says: Your friends, the people who have made out like bandits under your reckless economic policies, should pay for this bailout, not working families.

What I would like to do now is—in addition to these 37,000 signatures on the petition, my office has received thousands of e-mails and phone calls, mostly from Vermont but sometimes from other States as well. What I think would be appropriate and refreshing here in the Senate is, rather than people hearing my point of view, I think it would be a good idea just to read a few of the e-mails I have been receiving from the State of Vermont as to how ordinary people are responding to President Bush's bailout proposal.

Let me start with an e-mail I received from a small town in northern Vermont, Fairfield, VT:

Dear Senator Sanders, this e-mail and words themselves cannot express the dismay and disbelief I feel about the current Wall Street crisis and proposed bailout. After pulling down 6, 7, and 8-figure bonuses for flying their respective companies into the ground, these Wall Street geniuses then pulled their golden parachutes and leave it up to the taxpayers to clean up the mess and pay their bills. Unbelievable, just unbelievable.

And to make a bad situation tragic, due to the ever-escalating Federal deficit, the bill will be paid by my children and grandchildren.

I wish I had a solution to offer you but I don't. All my life I have strived to live within my means and pay my debts. I guess the joke is on me—except I feel more like crying, than laughing. Unbelievable.

This is from Springfield, VT, a town in southern Vermont:

Hold fast, Bernie. It took a long time for the banking crisis to develop; don't be pressured into capitulating to a half-baked solution. I'm among the Americans outraged at the undisciplined, arrogant, reckless nature of the markets. Many of us have been quietly toiling away on our workaday jobs and now our wages—our fiscal support of the Federal Government—are all that's between Wall Street and economic free fall. Keep reminding them of who is finally paying the price for that avarice.

This is from Chester, VT:

I may not always agree with you on every topic, but I most certainly agree with you on opposing the current (or any future) bailout for private corporations.

If I could ask you to share a message with your peers, it would be this: You do not have my permission to take any—any—not so much as a single near worthless penny—of my hard-earned money to reward the people who have mismanaged their businesses.

Senator Sanders, thank you for opposing this bailout package.

From Rupert, VT:

We are absolutely sickened by the prospect that honest, hard-working, fiscally responsible middle class Americans will have to foot the bill for the Wall Street bailout. While we realize that something must be done to prevent further damage, we have a problem knowing that the very people who caused the problem will literally sail off into the sunset on their yachts. Some type of strictly defined framework must be established to protect our tax dollars from being further pilfered by the greedy denizens that are at the center of this crisis. Also, what about some accountability for what has already been done? What about being forced to pay back the obscene bonuses and salaries earned in the course of this unprecedented example of unscrupulous pillaging.

So many Vermonters are struggling to provide their families with the basics right now. It's hard to imagine how something as far-reaching as this crisis could have happened. Yeah, let's hand over the Social Security next.

Please do what you can to insist that the bailout be done with strict oversight.

Waterbury, VT:

Senator Sanders, you and I may seem to be very different. You are the only one who calls himself a socialist in the Senate. I am in favor of free markets and capitalism. However, we can agree on one thing. The privatization of profits and the socialization of losses is immoral and wrong. To bail out the well-connected on Wall Street, those who thrive on government regulations and monetary policy, is unconscionable. I urge you to reject the bailout of Wall Street that Bush, Paulson and Bernanke propose.

From Richmond, VT:

Dear Bernie, my wife and I are both 65 years of age. We both retired this past January. For the past 8 years we have lived under one of the worst administrations in U.S. history. This administration is now asking Congress, just a few weeks shy of one of our most important national elections, to approve a massive financial bailout without strong protections for the American people.

As two people who have worked hard all of our lives and who have saved for our retirement, we strongly urge you not to get caught up in this panic attack and to ensure that you give taxpayers strong protections before approving Henry Paulson's bailout.

As always, we appreciate your support.

Newport, VT, right near, on the Canadian border:

Dear Bernie, thanks for all you do for Vermonters and the Nation. I am sure that you know that if this bailout plan is rushed through, it will make it that much more difficult for the next administration to address our already dire problems, such as education and health care.

Brattleboro, VT, which is the other end of the State, down in the south:

Please vote against any bailout of these investment concerns that have made risky, unwise actions and now expect us to cover their mistakes. The Bush administration began with the Enron debacle and it now seems that scheme to deprive hard-working Americans of their money is being applied to the country as a whole.

Congress has already given away sizable authority to the executive branch via the PATRIOT Act in the wake of 9/11. It has no right to give the White House and its Secretary of the Treasury the power to transfer the people's money to the richest bankers in the country. Vote no on the bailout legislation.

Burlington, VT, the largest city in the State, where I live:

We know that you are a leader in this and are very appreciative. We are very concerned about the Bush administration's proposed bailout legislation. We don't believe that extremely wealthy investment bankers who engaged in irresponsible, risky behavior deserve to be bailed out. We would like to see you craft the support legislation that provides relief to homeowners facing foreclosure and middle class people about to retire, for example. Please do not force middle class folks in general to pay for the efforts of the wealthiest people among us to further enrich themselves.

We hope Congress will not rush to pass legislation that it and the American people will regret for a generation.

St. Albans, VT, in the northern part of the State:

Senator Sanders, I know you are busy, but I just wanted to express my opposition to the latest bailout of the mortgage industry. While I don't want to see the economy crash and burn, I also don't want to see the banks and bankers responsible just be able to wash their hands and walk away while leaving generations of Americans paying for their mess. I feel if we need to purchase these bad debts, we should do so in true venture capitalist fashion and offer pennies on the dollar, just enough so that the banks don't fail but not enough for them to show any type of profit. In addition, there should be a proviso denying any officer of any of the banks that accept this bailout any sort of bonus.

Mr. President, these are just a handful of the e-mails my office has received. I know my office is not alone. I don't know how many hundreds of thousands of these e-mails have come to Capitol Hill, but the number is enormous. I think what most of them are saying—what the vast majority of them are saying—is that after 8 years of Bush's economic policies which have benefited the wealthy and the powerful at the expense of the middle class, it

would be immoral, it would be absurd to ask the middle class to have to pay for this bailout.

I hope Members of the Congress will be listening to their constituents, will show the courage to stand up to the wealthy financial campaign contributors who have so much influence over what we do here and to say to the upper 1 percent: You are the people who have benefited from Bush's policies. You are the people who are going to have to pay for this bailout, not the middle class.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SALAZAR.) Without objection, it is so ordered.

LOOKING AFTER MAIN STREET

Mr. ISAKSON. I have listened to so many speeches today—really yesterday, this week—about our problems and our plight in this country economically. I have listened to a lot of blame and, quite frankly, there is a lot of blame to go around, including on the shoulders of every one of us here.

But I think the American people are interested not in the past but in the future. As our leaders have appointed designees to negotiate what hopefully will be a successful package, I think it is now time to start talking about what can be rather than what was. And what can be is a return to prosperity and confidence in the United States of America.

I think there are four component parts that must be a part of this package I believe our leadership is working on. First and foremost, they need to understand we have to worry about Main Street and not Wall Street.

In my State, Main Street is Slappey Boulevard in Albany; it is Abercorn Highway in Savannah; it is Whitlock Avenue in my hometown of Marietta; and it is Peachtree Street in downtown Atlanta. The people who live on those streets, who have life savings and 401(K)s and IRAs, have concerns. Let's talk about the prospects for the future. The prospects for the future right now are quite grim without an arrangement, without an agreement in this Congress to deal with the current financial stress that is taking place in our financial institutions.

We are going to have some protracted, difficult times. But if we rise to the occasion, if we, in fact, do what things we need to do in the next 48 hours, we can change the future for the better. It is our responsibility, and it is our job.

First of all, in looking after those Main Streets in our home States and our hometowns, what we need to do is return confidence. We need to return confidence by, first of all, having our financial institutions strengthened. What Secretary Paulson proposed, what is now being currently debated in terms of a $700 billion authorization to purchase assets that are troubled from financial institutions is an important part of that solution.

It is also, and little has been said about this, an opportunity for the United States of America to stabilize the financial markets and over time to recover not only the cost of stabilizing them but actually get a return. For example, if the Treasury is authorized to purchase mortgage-backed securities that today are on the books at marked-down market value to zero, at 50 cents on the dollar, hold those to maturity. If those default rates on those mortgages hold, which today are somewhere between 9 and 12 percent, the margin could be as high as 25 to 38 percent in terms of held to maturity. In fact, as the market returns, those securities could, in fact, be sold by the Treasury at a margin above the 50 cents on the dollar that was paid for them.

It is an opportunity that can work and, finally, an opportunity that will make our financial markets much stronger. Will it bail out Wall Street? No. Wall Street has taken its hits. Lehman Brothers is broke. AIG is liquidated. The remaining investment bankers on Wall Street have asked to come under FDIC regulation. And Bear Stearns lost 90 percent of its value. Wall Street has taken a hit, and a significant one.

We do not want Main Street to take it. This proposal has the opportunity to solidify the balance sheets of the local savings and loan and of the local bank that your customers and your citizens on Main Street deal with every day, which right now are under stress.

The second thing we need to do is to ensure the American people understand we have the oversight over the Treasury during the disposition of these funds so that we know the funds are being handled in an accountable way. Our leaders are negotiating right now precisely that type of oversight, so the Congress knows, not on a quarterly basis but on a daily basis, what the Treasury is doing and how the program is working.

Third, it has to include and address the fact that a lot of CEOs in a lot of troubled companies have run away with large packages of money. That has been very offensive to the American people and, quite frankly, very offensive to me, the most recent of which took place last night with Washington Mutual.

It is appropriate if financial institutions come to the Treasury of the United States and the taxpayers of our country and ask for assistance in the purchase of these securities in order to stabilize their balance sheets, that there be accountability in terms of executive compensation to those taxpayers who are funding that bill.

Then, fourth, we need to start talking about the greatness of this country and the confidence we have that we can return. Our difficulties now are somewhat of a crisis of confidence in our country and in its financial system. As elected officials Republicans and Democrats alike, in these next 48 hours, it is critical for us to understand that nothing is more important in the financial markets than the confidence of the consumer. The American consumer is the person who resides on Main Street and is the person I was elected to represent and will.

We need to recognize also there is a second phase to this recovery. After we finally do get the financial markets stabilized—I think the proposal by the Secretary has the opportunity to do that—we need to understand three things have to happen. First, this country has to get its arms around our energy crisis and solve it.

I have enjoyed working with the Presiding Officer on programs such as that. When we return in January, our first priority must be to open all of our resources, lessen our dependence, and become independent from foreign imported oil and independent with our own sources of energy. Whether it is biodiesel, whether it is diesel, nuclear, whether it is coal-to-liquid, whether it is solar—it ought to be all of them. We are a great country with enough natural resources to be independent in terms of our energy. Second, we have to get a handle on our debt, and this package that is being negotiated has the opportunity to do that because a part of it should ensure that the proceeds we receive in return for the assets we buy at a discount in the beginning go not to the general fund but go to pay the debt of the United States of America.

In time, this exercise can in fact reduce our debt obligations rather than increase them. But we need to ensure that is part of the package. Then, finally, it is very important for us to understand it is not just our income in balancing your balance sheets, it is our out-go. We have been spending too much money as a Congress of the United States of America.

One of the more disappointing things I have experienced in the Senate has been our failure on many years to not do appropriations bills in an orderly fashion. We end up doing them as a combination, as a minibus or omnibus where instead of debating the finer points of a particular appropriation, we develop a gigantic piece of legislation that none of us knows every facet of when it comes to spending.

So as we look after Main Street today by finding a solution to bring stability to our financial markets, and we can do it, and do it in an accountable way, let's also recognize that when we return, as our markets solidify, let's do the things the people of America elected us to do: hold the Treasury accountable, find a solution to our energy dependence, make sure

we do not spend too much money, and restore to the American people the confidence in our budgetary process that they have in their own around the kitchen table.

We are a great country because we have always risen to the occasion. There may have never before been, domestically, a more difficult financial occasion than the one we face today. In the hours ahead, I hope we will rise and come to a conclusion that will benefit the taxpayers on Wall Street and will ensure the financial stability and the confidence of American consumers in this great economy and our great country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

H.R. 3999

Ms. KLOBUCHAR. I rise to speak about H.R. 3999, which is the companion bill to the bill that Senator DURBIN and I introduced in the Senate about bridges and bridge repair. Senator BOXER today asked that this bill be called up. It successfully was passed through our committee, the Environment and Public Works Committee. She asked that the bill be called up because, obviously, we are in the waning days of the session, and we believed this was an incredibly important bill for this country.

Unfortunately, the other side blocked this bill; they would not allow this bill to be heard. I would like to make some comments about the objection from the other side to this bill.

I do not understand it. I think everyone knows what happened in Minnesota. On August 1, our Nation was shocked to learn that this eight-lane highway in the middle of Minnesota, the I–35W bridge, collapsed. I have said many times after that terrible day that a bridge should not fall down in the middle of America, not a bridge that is an eight-lane freeway, not a bridge that is six blocks from my house, not a bridge that I drive my 13-year-old daughter over every day.

Now, as you know, there has been great progress in rebuilding that bridge. In fact, we have a new bridge. That bridge opened about a week ago, and that new bridge spans the river. We are very proud of the workers who worked on that bridge. But it is also a spot of great sadness as we remember the 13 people who died, the 50-some people who were injured, the 100-some cars that went into the river, and all of the rescue workers who saved so many lives.

We must still get to the bottom of why this enormous bridge fell into the middle of the Mississippi River. It did not happen because of an earthquake or a barge collision; something went terribly wrong. We need to get the answer. Evidence is accumulating that the bridge's condition had been deteriorating for years, and that it had been a subject of growing concern with the Minnesota Department of Transportation.

This was not a bridge over troubled waters; this was a troubled bridge over waters. Still, as a former prosecutor, like the Presiding Officer, I know we must wait until all of the facts and evidence are in before we reach a verdict. We will need to be patient as the investigation continues.

Mark Rosenker, the Chairman of the National Transportation Safety Board, said last month that the NTSB investigation is nearing completion, that a final report should be ready for public release very soon.

The chairman also said that photographs of the gusset plate, which were a half inch thick and warped, were stressed by the weight of the bridge and may have been a key indicator to the dangerous state of the I–35W bridge.

Now we know that this was most likely a design defect in the bridge, but the Chairman has said recently that these photographs show that there were some visible problems. So we will await the report to see what the NTSB thinks about that. But clearly there was some indication that there were problems with this bridge.

Finally, the bridge collapse in Minnesota has shown that America needs to come to grips with the broader question about our deteriorating infrastructure. The Minnesota bridge disaster shocked Americans into realizing how important it is to have a safe, sound infrastructure. Because we also have learned that another bridge in our State, and I think you have seen this across the country, had a similar design.

We have actually looked at all of our bridges in Minnesota. We have another bridge that is also closed down in the middle of St. Cloud, MN, a midsized city. This bridge has been closed down. And we look all over the country and we have problems with our infrastructure.

According to the Federal Highway Administration, more than 25 percent of the Nation's 600,000 bridges are either structurally deficient or functionally obsolete.

Unfortunately, it took a disaster such as the bridge in our State to put the issue of infrastructure investment squarely on the national agenda. Of the 25 percent of the Nation's bridges that have been found to be in need of repair—the 600,000—74,000 come into the category of structurally deficient. In my home State, that means 1,579 bridges are considered structurally deficient. There is virtually no way to drive in or out of any State without going over one of these bridges. When the average age of a bridge in the country is 43 years and 25 percent of all American bridges are in need of repair or replacement, it is time to act.

Recently, the Government Accountability Office released a study raising several issues regarding the Federal Highway Bridge Program. First, the program has expanded from improving deficient bridges to include funding criteria that make nearly all bridges eligible. Second, States are able to transfer bridge program funds to other transportation projects. Third, there are disincentives for States to reduce their inventories of deficient bridges since doing so would reduce their Federal bridge funds. Finally, GAO noted that the long-term trend is more bridges in need of repair and the cost of repair rising as well. In other words, the Highway Bridge Fund is not fiscally sustainable.

A few weeks ago, Transportation Secretary Peters announced that the Federal highway trust fund would not be able to meet its obligations. We replenished that fund, but that is not enough. We all know that is not enough. That is why Senator DURBIN and I introduced S. 3338, the National Highway Bridge Reconstruction and Inspection Act, which is a companion bill to H.R. 3999, the bill Congressman OBERSTAR successfully authored and moved through the House. In the House, there was much Republican support for the bill. It passed by a wide margin.

The reason I care about it is, after we looked at what happened with our bridge in Minnesota, we found out that about 50 percent of the Highway Bridge Fund, Federal funds, had not been used for bridge maintenance. It had been used for other things. This was all across the country. We found out they were used for a construction project, used to plant flowers, all kinds of things. We think if we have a Highway Bridge Program, that money should be used for bridge maintenance and bridge reconstruction.

At the hearing Chairman BOXER had on this topic, we actually had some interesting testimony from witnesses who talked about the fact that bridge maintenance is never a very sexy thing. People don't like to do that as much because it doesn't involve cutting ribbons and new projects. There are all kinds of actual reasons we have not been putting the money that we should into bridge maintenance.

What our bill does is require the Federal Highway Administration and State transportation departments to develop plans to begin repairing and replacing bridges that pose the greatest risk to the public. This triages it and says: Let's look at the bridges that are most in need of repair and let's put our money there first. I cannot believe my colleagues on the other side of the aisle would object to that kind of idea, that we should actually make sure we are repairing the most seriously problematic bridges first.

It would also require the Federal Highway Administration to develop new bridge inspection standards and procedures that use the best technology available. You wouldn't believe some of the old technology that is still being used. As time goes on, we have developed new and more advanced technology, and that technology is

what should be used in order to examine bridges and figure out what is wrong with them and which ones should be repaired. As I mentioned, because some of the States have been transferring their bridge repairs to highway maintenance programs to use for wildflower plantings or road construction, this bill also ensures that Federal bridge funds can only be transferred when a State no longer has bridges on the national highway system that are eligible for replacement.

Anyone out there, if they heard that bridge money was going to other things, it wouldn't make sense to them, when we have bridges falling in the middle of America.

Finally, this bill authorizes an additional $1 billion for the reconstruction of structurally deficient bridges that are part of the national highway system.

When you look at what we do here, we first improve the safety of these bridges. We do it by using a risk-based prioritization, a triage of reconstruction of deficient bridges. It has with it an independent review. It has with it a performance plan. It doesn't allow earmarking. It says: Let's look at where the most seriously deficient bridges are and go there first.

Secondly, it strengthens bridge inspection standards and processes. It requires the immediate update of bridge inspection standards. We had a lot of testimony on this as to why it is important because we have new information and reasons we want to update the standards. Certainly, the bridge collapse in Minnesota showed we want increased scrutiny of inspection standards. We are going to await that report. We do know there may have been some problems with the inspection. It was a design defect initially, but there may have been problems with the inspection. That is why we want to upgrade.

Third, we increase the investment for the reconstruction of structurally deficient bridges on the national highway system, $1 billion. If they are spending $10 billion a month in Iraq, it boggles my mind why the other side would block us from trying to spend $1 billion on bridges in America that are sorely in need of repair.

That is our plan. That is what we are trying to do. It is a start. We all know there is a lot more work that needs to be done and that will be done in the Transportation bill that our committee will be considering next year. We know work has to be done with funding with an infrastructure bank, to look at other ways to fund our transportation system. We know we need to do better with the increasing cost of gasoline, with public transportation and other ways of travel. We also know we have a burgeoning energy economy, which is exciting for the rural areas of my State, with wind and solar and geothermal and biomass. As we know from projects across the country, we will need better transportation systems to transport energy to market. Yet we have failed to improve our transportation system. If we are going to move into the next century's economy, we cannot be stuck in the last century's transportation system.

This bill will at least make sure our most seriously dangerous bridges are repaired and maintained. It is a start. That is why I am asking my colleagues on the other side of the aisle not to block this bill, not to add a bunch of amendments that have not gone through committee because we are in the waning days of the session. We only have the House bill now, because that is the easiest vehicle to use, even though the Senate bill was exactly the same. Then we don't have to have a conference committee. We just want to get this done. I am hopeful this will head us in the right direction toward action. As we learned that August 1 day in Minnesota, we cannot afford to wait. We have to get this done.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent that the order for the quorum call be rescinded.

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

SEC OVERSIGHT

Mr. GRASSLEY. Mr. President, 2 years ago I started conducting oversight of the Securities and Exchange Commission. I did it only in response to a whistleblower who came to my office complaining that the Securities and Exchange Commission supervisors were pulling their punches in their investigation of major hedge funds. Nearly a year and a half ago, I came to this floor to introduce an important piece of legislation based on what I learned from my oversight 6 months before. The bill was aimed at closing a loophole in our security laws.

Now, in light of all the discussion going on about the problems of our financial markets and Wall Street and a very unusual weekend session we are having, as people are attempting to work compromises to help on Wall Street in light of all this current instability, it is critical that Senators take another look at this bill I introduced. It is S. 1402, introduced a year and a half ago, not just because it has become clear that we have a lot of financial problems up on Wall Street. S. 1402 is called the Hedge Fund Registration Act. It is pretty simple. It is only two pages long. All it does is clarify that the Securities and Exchange Commission has the authority to require hedge funds to register so the Government knows who they are and what they are doing. In other words, a little transparency that seems to be lacking in our ability to quantify the instruments that are securitized mortgages that are creating problems. So if there was a little more transparency there, unrelated to the issue I bring before the Senate, transparency makes a difference. We know what is going on. We quantify it.

Given the Securities and Exchange Commission's current attempts to halt the manipulative short selling and other transactions by hedge funds that threaten the stability of our markets, I am disappointed the Senate did not adopt this legislation a long time ago. If it had, the Securities and Exchange Commission might have more of the tools it needs now in these very nervous markets.

One major cause of the current crisis is, as I have said just now, the lack of transparency. Markets need a free flow of information to function properly. Transparency was the focus of our system of securities regulations adopted in the 1930s. Unfortunately, over time, the wizards of Wall Street figured out a million clever ways of avoiding transparency. The result is the confusion and uncertainty fueling the crisis we are trying to solve this weekend on the helping of Wall Street financially and stopping a credit crunch in this country. This bill would have been one important step toward greater transparency on Wall Street, but so far it has been a lonely effort on my part from the standpoint of this bill I introduced a year and a half ago. Perhaps attitudes have changed in the last several months, so I would urge my colleagues to support this legislation and help me assure it becomes law.

Technically speaking, the bill would amend section 203(b)(3) of the Investment Advisers Act of 1940. It would narrow the current exemption from registration for certain investment advisers. This exemption is used by large, private pooled investment vehicles, commonly referred to as ''hedge funds.'' Hedge funds are operated by advisers who manage billions of dollars for groups of wealthy investors in total secrecy. They should at least have to register with the Securities and Exchange Commission, such as other advisers do.

Currently, the exemption applies to any investment adviser who had fewer than 15 clients in the preceding year and who does not hold himself out to the public as an investment adviser. The Hedge Fund Registration Act I introduced narrows this exemption and closes a loophole in the securities laws that these hedge funds use to avoid registering with the Securities and Exchange Commission and operate in secret. Hedge funds affect regular investors. They affect markets as a whole.

My oversight of the SEC has convinced me that the Commission and the self-regulatory organizations need much more information about the activities of hedge funds in order to protect the markets. Organizations that wield hundreds of billions of dollars in market power every day should be registered with the agency Americans rely on to regulate financial markets.

As I explained when I first introduced this bill 1½ years ago, the Securities and Exchange Commission has already attempted to do this by regulation. So bravo, SEC. In other words, they acted, and bravo to them. But Congress needs to act now because of a decision by a Federal appeals court. In 2006, the DC Circuit Court of Appeals overturned an SEC administrative rule that required registration of these same hedge funds. That decision effectively ended all registration of hedge funds with the SEC unless and until Congress takes action—hence, my legislation.

The Hedge Fund Registration Act would respond to the court decisions by narrowing the current registration exemption and bring much-needed transparency to hedge funds. Most people say the devil is in the details. Well, let's go over the details so I am not trying to hide something.

The bill would authorize the Securities and Exchange Commission to require all investment advisers, including hedge fund managers, to register with the SEC. Only those that meet all four of the following criteria would be exempt. No. 1, managed less than $50 million; No. 2, had fewer than 15 clients; No. 3, did not hold himself out to the public as an investment adviser; and, No. 4, managed the assets of fewer than 15 investors, regardless of whether investment is direct or through a pooled investment vehicle, such as a hedge fund.

The Hedge Fund Registration Act is a first step in ensuring that the SEC simply has clear authority to do what it already tried to do and the courts said it could not do. Congress must act to ensure that our laws are kept up to date as new types of investments appear. Unfortunately, this legislation, introduced more than a year and a half ago, has not had many friends. These funds do not want people to know what they do and have fought hard to keep it that way. Well, I think that is all the more reason to shed some sunlight on them, to see what they are up to so maybe a couple years from now we are not dealing with problems the hedge funds have caused.

I urge my colleagues to cosponsor and support this legislation, as we work to protect all investors, large and small. It does not prohibit anything. It just makes sure these folks are registered and that you know who they are and how many there are. That is something we ought to know. It does need to be emphasized that we ought to know that in this day, when we are dealing with the problems we are here on this Friday night and Saturday and Sunday and Monday to find a solution to, the Wall Street problems this country now faces.

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

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Will the Senator withhold his suggestion of the absence of a quorum?

Mr. GRASSLEY. Oh, yes. I am sorry.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Thank you very much, Mr. President.

THE ECONOMY

Mr. BOND. Mr. President, I commend our ranking member on the Finance Committee for the excellent job he has done. He has talked a good bit about what needs to be done for the future to make sure we do not get into another crisis such as this. I share his view, and I believe now this body will have to address, as soon as we come back after the elections, a wide range of articles and bills that have been introduced.

I sent a letter, about 2 weeks ago, to the Secretary of the Treasury, the Chairman of the Fed, and the Chairman of the SEC, with copies to the leaders of the Banking Committee, talking about some of these pieces of legislation.

One of the things the Senator from Iowa mentioned is the need to have more transparency—transparency in hedge funds. Transparency has been lacking. We have seen Wall Street develop many new products, derivatives. There is a new thing called a credit default swap, which I see that New York is regulating as an insurance product. Obviously, that has played a significant role in financial activities and could provide a problem if there is not proper oversight either as an option or as an insurance product. That is something we are going to have to address.

A couple days ago, I introduced legislation which had been recommended by the Secretary of the Treasury for a Mortgage Origination Commission. Essentially, right now, we have too many people who are offering mortgages that are not regulated under the existing systems. Banks and savings and loans, obviously, are regulated at the State level. But we have many people who are offering mortgages by fax and by e-mail. I cannot get good enough spam filters on my computer at home to avoid getting those mortgage offers. But I can tell by looking at them that they are too good to be true.

Many of these people offered subprime mortgages or alternate ''A'' mortgages, which essentially said: We will give you a mortgage, but we are not going to check your financial statement, we are not going to see if you are bankrupt or have a criminal record or even if you have a job. They issued these mortgages at very attractive rates, with a significant spike after the initial term and penalties for prepayment, and then they went out and the geniuses on Wall Street sliced them and diced them and they took these toxic products and spread the poison throughout our financial system and throughout the world's financial system. That is why we are in a major crisis.

Another major savings and loan went down last night. We have had too many toxic products out there that have not been regulated. The Mortgage Origination Commission would set up the primary Federal regulators of products such as this to set standards for State regulation.

Having been a Governor, I believe that where a State regulation can handle the protection of its citizens, it oght to do so. I hope my colleagues will consider the Mortgage Origination Commission bill I introduced and act on it because we cannot have unregulated mortgage originators going out and offering ''too good to be true'' deals to people who may be overly anxious to jump at too good a deal.

This and the emphasis on trying to get people in no downpayment home mortgages have been a significant part of the problem. As I have tried to say, taking a no downpayment mortgage sets you up to see your American dream turn into your American nightmare. Home ownership does not come without headaches. I know about those headaches. We had to have our basement pumped out a few weeks ago. I have had a furnace go down on me. We have to finance it. If you do not have the money to make a downpayment, you probably are not in a position to take on the responsibilities of a mortgage. Beyond that, before people take a mortgage, they need to understand their financial conditions.

When I traveled around the State of Missouri this spring, talking to homeowners, to housing advocates, to local officials who had seen the foreclosures sweeping across their State, they were using some of the money I joined with Senator DODD, the chairman of the Banking Committee, in introducing last year and passing last year to put $180 million in mortgage foreclosure counseling. They were making progress on helping people restructure their loans. But the most important thing: Every single one of those people said: We need to make sure every homeowner who is thinking about buying a home has appropriate financial counseling. Because if you go into a mortgage without making sure it is a mortgage you can afford, you are asking for terrible trauma, disappointment, possibly bankruptcy, ruining your credit by taking on a home you cannot afford or more of a home than you can afford. So there are a lot of things that need to be done.

I also urge stronger regulation of our government-sponsored enterprises. I also advocated that the Securities and Exchange Commission reinstate the uptick rule, meaning you can only make a short sale if the price is above the last price, preventing a group of hedge funds getting together and driving the price of the stock so low it causes commotion in the financial community and drives that stock down to a point where the company can no longer survive.

These are some of the steps that need to be taken. I trust we will put a high priority, when we return, of making

sure these regulations are tightened, that we get the kind of regulators for GSEs we need, that we enforce vigorously the ''no naked short selling'' rule that should have been enforced and was not.

But, as I said earlier, we are in the middle of a crisis, and right now we have some of our very best people working on coming up with an appropriate solution to this problem.

I came to the floor Tuesday morning and said we need to act, we need to act immediately, we need to act smartly and responsibly. That is what our leaders are doing. I said the three things that were missing from the Treasury Secretary's proposal were taxpayer protection, accountability, and transparency. Oversight is a very important part of that as well. If we do not act now, and act responsibly, we could find next week companies not able to make their payroll. Working families would find that the paycheck they are expecting does not come in, because I am hearing from people in our State and across the Nation that they cannot get credit. The credit markets are frozen. Possibly, that means no payrolls. It means for small businesses they cannot get the loans to continue to operate. They may be going out of business. Larger businesses may be put in a crisis state because they cannot get credit. If the family has home loans, and they want to refinance them, they may not be able to get them refinanced.

What this market crisis is doing to the value of retirement accounts is truly frightening. A neighbor told me that their 401(k) had dropped so much that they were going to have to work well past retirement. I said: If we can solve this crisis and get the liquidity into it that we need, you can expect that the markets will come back, you can expect that some of that which you have lost will be restored, and we will put the economy back on track to move forward.

Make no mistake about it, this isn't just talking about big Wall Street firms; this is talking about everybody on Main Street, whether it is businesses, whether it is families. For farmers in my country, in the heart of Missouri, most farmers get operating loans in the late winter so they can get the fertilizer, the fuel they need, the seeds they need to plant, or the operations they need to support their livestock industry to make sure they can take care of their cattle, their hogs. They are not going to be able to get it.

So we need to come together as a nation on a bipartisan basis and fix this crisis. We cannot fail. We cannot leave and go home without doing something; otherwise, we are going to see the implications of this credit crunch. We will see tremendous drops in the markets if we fail to do our job. Credit will not be available and this economy will come to a crashing halt. This is the kind of outcome we cannot afford.

I was very pleased that both Presidential candidates came back to meet at the White House, taking time off from the Presidential campaign, and that shows they are serious and they understand. We need to get this job done.

I believe most people have heard now that each body has appointed one Republican, one Democrat to sit down and negotiate with the Secretary of the Treasury. On our side, I am very pleased that the distinguished ranking member of the Budget Committee, JUDD GREGG, is a negotiator. He is a former Governor. He understands the budget implications. I think he is working to make sure the money that is recovered on the loans that are bought is paid back into a debt-reduction fund. I hope that will come out.

We need to have, as I said, accountability, transparency, and stability, and that is going to be a major part of taxpayer protection.

Purchasing the assets at the right value is going to make a big difference. I have talked to people from banks that are operating in a sound manner, and they say: Well, why are you helping the people who misbehaved? I said: We are not helping them when we pay 50 cents or 60 cents on the dollar for mortgages they hold for which they paid $1. What we are doing is putting liquidity back in the system.

People said: Well, haven't there been criminal violations? I have noted on the floor previously that the FBI started some 1,300 investigations, as reported in the press. I don't have that fact of my own knowledge, but it was reported in the press that there are 1,300 criminal investigations. I hope some of these people who are peddling bad paper actually, if they did it with criminal intent, are prosecuted. Also, there will be civil and criminal investigations of the people who are operating the companies that went under. I think people want to know there is going to be a very thorough check, to see that if there is any criminal activity, it is appropriately punished. My constituents want to know that.

My constituents want to make sure there are no golden parachutes, that there are no bonuses for executives who caused their companies to crash. I believe there has been agreement among the parties and with the administration that those provisions will be included as well.

People want to see the economy get moving again. When people initially heard about this, they worried: What are we going to pay $700 billion for? We are not paying out $700 billion without getting something back for it. We ought to be buying it at a price where we can recover most, if not all, of what we paid.

I hope we will get equity in the form of warrants or preferred stock from companies to cover any shortfall that may occur if we are not able to realize the value from the securities we purchased of the amount we put into them.

All of these things are being worked out. If it sounds complicated, if my description is complicated, it is because this is a complicated piece of legislation. We are having to act in a manner that is going to demand the very best of all of us in this Chamber and in the other body to make sure we get it right and we can agree on it. I hope we will be able to take what our negotiators have presented and not try to pick it apart because if we pick it apart, we are likely to see the whole thing fall and not get it done.

So we have JUDD GREGG on this side. On the House side, my constituent and good friend ROY BLUNT is leading the way. The House Republicans wanted to make sure they had their views heard. I know ROY BLUNT will represent them well. When we went through the effort to get the House to pass the Foreign Intelligence Surveillance Act amendments that I worked hard to pass on this floor, ROY BLUNT, as the assistant minority leader, did an outstanding job helping us negotiate with both Republicans and Democrats to make sure we got the kind of bill that could pass that body and our body. As a result, it did. So I have great confidence in JUDD GREGG and ROY BLUNT.

I know also that the fine Democratic leaders from the heads of the banking committees will do a good job. I hope they do it promptly because we need to have a solution. We need to take responsible action. We need to make sure there is oversight.

I understand they have set up an oversight board that will watch what the Secretary of the Treasury is doing. We will have suggestions for the Secretary of the Treasury on how to make sure he uses the marketplace fairly to get a good value and to use the best information that is available to determine the value of these nonperforming loans, provide homeowners relief, where possible, so they can continue in their homes, and still pay back enough to make sure the taxpayers are compensated for the Federal dollars that are put up for it.

We need transparency, finally, to make sure Americans know their money is safe, know that the companies in which they have invested, have stock, or have accounts are protected.

This is a critically important mission. I don't think anybody wants to be working on the weekend, but we are going to be working this weekend. I just hope we do it and do it well and do it in a bipartisan fashion. After it is over, if you want to throw brickbats at each other, we do that well, and there will be plenty of brickbats to throw and everybody will take part and we will have a healthy, spirited debate before November. But until we get this solved, this has to be ''job 1'' for every one of us who is elected to represent people in the Congress. We must do it, and we must do it right.

I urge my colleagues to give their good ideas to the negotiators for each party on each side of the body and follow what they are doing so we can adopt this measure in time to get the

credit markets functioning again, to see that our economy gets going.

So it is going to be a long, tough weekend, particularly for the negotiators. I am jealous that I don't have the opportunity to stay up all night with them and help them, but we have selected good Members to do that job. I wish them well, and I hope they have divine guidance because it is going to require a little bit of that, along with their other skills. It is important we get it done.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise today to also speak about the turmoil in our financial markets and the urgent need for a legislative solution. If people around here are looking a little frazzled, it is because we have been putting in long hours trying to get a solution to this problem, and it is getting closer.

As everybody knows, on Wednesday Secretary Paulson and Chairman Bernanke wrapped up their sales pitch to Congress on how to best rescue our economy. The fact remains that there are many questions today, as many as there were before they got here—maybe even more. The U.S. Treasury continues to ask Congress for a $700 billion check with as little accountability as possible about how to spend it. Secretary Paulson and Chairman Bernanke have opposed oversight transparency, protections for taxpayers, and everything else, except a check and an envelope to deliver it in. We owe Americans more than just a rubberstamp on this proposal. Each American is going to loan $2,300 for this plan. For that price, they want to know why it is necessary, where their money is going, and if the investment is going to work. Unfortunately, I am completely disappointed with the answers so far.

Members and staff have worked through the week to address these questions to present a workable solution. Some have found ideas that deserve serious consideration. Others are the same old ideas wrapped in new packaging.

The best plan has to rely on three simple principles: accountability to the taxpayer, transparency to the Government function, and a clear plan of action. The worst plan would be to weigh down a bill with pet projects and special interests that Members were unable to get in the last housing bill.

Accountability to the taxpayer means protecting them against unexpected and unjustified costs. This is a serious concern of the Treasury's plan because no one knows the actual value of the assets the taxpayers are buying, except the seller. The seller dictates the purchase price. To protect taxpayers from getting bilked, Treasury should take an equity stake in the companies that participate in this plan. If these assets are worth what Treasury buys them for, the option will never be exercised. But we must send a message to investors that American taxpayers come first. Years of big firms' unconscionable lending has sent our economy into a spiral, and recovery cannot be a free ride for the banks that put us there in the first place.

Transparency of Government function is the second necessary principle for an economic fix. Treasury's original plan prohibited agency or judicial review of any kind. This provision would have granted complete immunity to the Treasury Secretary and any future Secretary in the operation of this $700 billion slush fund. Good governance demands transparency, including proper oversight of this asset portfolio. I support ideas that insulate the managers of these assets from political influence and create an independent entity with a chairman who is accountable to the taxpayer. Congressional oversight must also be vigorous. Congress should expect regular reviews of Treasury's actions, and Treasury should not expect mismanagement of the taxpayers' money to go unseen or unpunished.

Finally, Congress needs a clear plan of action. The Treasury's original proposal was only three pages long. It has since grown in complexity. Secretary Paulson was unable to provide detailed answers to essential questions during the hearing at the Senate Banking Committee on Tuesday. What is the process for hiring asset managers that ensures no conflicts of interest? How will the price of assets be set so that they are not too low, causing more bank failures, or too high, crowding out private market investment? Perhaps the most important question is, Will it work?

Secretary Paulson calls this proposal an experiment. I am very uncomfortable passing a bill to give Secretary Paulson $700 billion in taxpayer money for an experiment.

I understand the urgency of this problem, but our markets and the American public need the confidence of a clear plan with measurable results.

I again caution my colleagues that this crisis is not an opportunity for Members to pass pet projects they were unable to attach to the last housing stimulus package. In fact, I think there are some problems with what was done in the last housing stimulus package. Proposals for financing housing trust funds and authorizing bankruptcy judges to renegotiate mortgages will not correct our markets or restore confidence. These are old ideas with a new coat of paint. Members trying to attach them to this legislation will only serve to politicize a bipartisan issue and slow our progress toward finding a solution.

As I work with my colleagues on a solution to this economic crisis, I will keep three principles in mind: accountability to the taxpayers, transparency of Government function, and a clear plan of action.

We are talking about a fundamental change in our Nation's free market system. This change will come at a high price and with a considerable amount of pain to Wall Street and to Main Street. However, apprehension about the pain of recovery is no excuse to push a hastily written proposal through Congress without blinking. Now is the time these three principles are needed the most.

Our best economic experts state it is not just Wall Street facing this problem. If this economic slide continues, businesses in Wyoming and other States could shut down. People could lose their jobs. In the worst case scenario, people would have less money to buy goods and services, forcing more businesses to shut their doors and unemployment to increase. Banks could bar the gates on credit, effectively halting business growth. Even people who have established excellent credit, who have paid their bills on time and kept their financial houses in order may not be able to get the financing they need. Students might not be able to get loans for college. Renters might have to stay renters because no one will loan them the money to buy a house. If no one is buying cars because they cannot get loans, then car dealerships will not be able to sell cars and automakers will not make any. Unemployment in this country could skyrocket.

These are some of the concerns on my mind as I seek to get a clearer idea of the scope and details of what we are dealing with. I have laid out the principles that I think are essential. It is my understanding that most of those, in the discussions I have been a part of, are in the package. I appreciate the efforts of those who are working on this legislation, working toward a solution. I appreciate the thoughts and information I am getting from people in Wyoming.

I wouldn't say the majority party leadership said we are likely to postpone today's scheduled adjournment of the Senate and come back next week. I say we have to work until we have an acceptable solution.

I hope everybody will keep track of what is happening, and I hope the principles where we have taxpayers' protection and executive compensation limits wind up in the legislation so people who got us into this mess feel the pain of getting us out. That means no golden parachutes, taxpayers need equity sharing, and I believe any profits gained from this package must be used to reduce the national debt.

As the money comes flowing back in from the $700 billion—and there will be money coming back in from it—it has to be used to reduce the national debt. Oversight and transparency—a congressional oversight board has to be in charge of administering these funds. We need Government accountability. We need office audits. We need an independent inspector general. Perhaps an additional idea that might be included would be that Congress would first provide Treasury with $250 billion, then

$100 billion, and then another $350 billion as the oversight shows that it is working and it is needed.

This is a critical time in the life of our country. We need to come together and find a solution, and we need to make sure we are watching out for the people who are paying the bills—the American taxpayers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, we are all wrestling with what is a real economic challenge and crisis for America. We have a situation where credit, even in good companies and with good individuals in States such as Alabama, is becoming more difficult to come by and it has the potential to slow down development and economic growth. So I do not deny that there is a real problem out there.

The President of the United States and the Secretary of the Treasury at some point made a decision that strong action was needed, and since that point their rhetoric has changed from concern and separate and distinct actions to make the situation better, to basically a bold threat to Congress that this economy is in grave danger and that if we don't pass the bill they propose, things could get even worse. That is a powerful thing. When the President of the United States and the Secretary of the Treasury, who are very responsible individuals, make such a charge, all of us should take it seriously. And as I said, I am aware of the definite slowdown, particularly in housing, in my State, and I don't dismiss that.

I will say that in recent days some of the comments made on television and other places, to me, are a bit alarmist. It seems once a decision has been made by the Wall Street crowd that this is the right thing to do, they use whatever excuse they can find or whatever argument they can make and propound that dramatically to ''force a recalcitrant Congress'' to do what they would like to have us do.

Well, I have been around. I didn't just fall off the turnip truck. You can turn on the TV and see all of this and get a feel for it. So I think it is a matter of great seriousness, and I respect my colleagues who are working on it, some of whom have been selected, in some way or another, to represent us all; to go and meet with House Members, and I guess the administration officials and gurus, and they are going to tell us what all we need to do. And on the eve of the election, a big fat bill is going to be finally put together and we are going to be asked if we are for it or against it. I suspect it may well pass, because I think people would rather vote for something and go home.

Maybe our Secretary can save us. Maybe the master of the universe that he is, he can figure out a way to take $700 billion, with very little control—he has always said what he wanted was ''maximum flexibility.'' What does that mean? It means freedom to do whatever he wants to do. Well, I understand now that at least somebody came up with the idea to have an independent group to have oversight over this, or at least have the ability to say no at some point. So that is better than where we were, I think. But I am troubled about this for a lot of reasons. I wish the administration had been more constrained, more targeted in their relief, seeking to provide relief in a way that has the minimal precedential value for some major incursion into the economy the next time we have problems in our economy. I am worried about that, and others are too.

I also wish to take a moment to express my admiration for the senior Senator from Alabama, who in 2005 chaired the Banking Committee, and he pushed through, I think on a straight party-line vote—all the Republicans, I believe, voted for it—a bill that would have put strict controls and oversight over Fannie and Freddie. At that time, Alan Greenspan, who was the chairman of the Federal Reserve Board, made a powerful statement saying that our financial markets were at risk if we didn't do something in 2005 about fixing the Freddie and Fannie problem. It was a strong statement. Going back and looking at it today, it was a cause for concern. So they were able to pass it out of committee, but there wasn't enough support on the floor to pass it.

I was told recently that Freddie and Fannie, in one quarter, had more paid lobbyists than any other group in town, and they are supposed to be a quasi-government operation. But at any rate, they were able to block the reform. So we didn't do it, and now we are in a crisis.

I know Senator SHELBY has expressed his concern, as one who has been on top of this issue for some time, that this legislation is not a good way to handle it. He has made some suggestions. I wish they had given serious consideration to those. I think it would be a position better for our country.

But the momentum is going forward, and I am not here to try to delay any votes. It is time for us to put up and shut up and cast our vote. I point out a letter written to the Speaker of the House of Representatives and the President pro tempore of the Senate. Two hundred or so economists question this plan. They make three points: First, they question its fairness. They consider it a ''subsidy to investors at taxpayers' expense. Investors who took risks to earn profits must also bear the losses. Not every business failure carries a systemic risk.''

No. 2, they question its ambiguity, noting:

Neither the mission of the new agency nor its oversight are clear.

I think that is still true. We made some progress but it is still true.

They say purchases of opaque assets from troubled sellers must be on such terms that are ''crystal clear ahead of time and monitored carefully afterwards.''

But the most important point, at least to me as a Member of the Senate, which is supposed to be the thoughtful body, the institution that gives consideration of the long-term implications of what we do, the third part is particularly impactful to me and struck a nerve with me. The third paragraph expresses concern for its long-term effects.

If the plan is enacted, its effects will be with us for a generation. For all their recent troubles, America's dynamic and innovative private capital markets have brought the nation unparalleled prosperity. Fundamentally weakening those markets in order to calm short-term disruptions is desperately shortsighted.

They close their letter by saying:

For these reasons we ask Congress not to rush, to hold appropriate hearings, to carefully consider the right course of action, and to wisely determine the future of the financial industry and the United States economy for the years to come.

I just would say about those things, there are a lot of matters we can discuss. I argued in committee and on the floor in opposition to a plan that some of my Democratic colleagues offered some time ago, and then again recently, that would give a bankruptcy judge the right to rewrite the terms of a mortgage and, in fact, would allow a person who goes into bankruptcy to cram down what they owed on a mortgage, to rewrite it and reduce it, for example, from $150,000 to $100,000 based on the judge's evaluations, and just let them pay that amount.

I remember arguing that when you do not honor contracts, very pernicious things tend to happen. So if a bank is going to loan you money and they think somebody might rewrite the contract and you would not have to pay it back, then they may decide they have to raise interest rates on everybody they loan to, to guard against that potential, or require an even bigger downpayment than they otherwise would require.

I believe removing that provision was the right thing to do. But from a moral position, I think it is a good deal harder for a Senator or Member of this body who deals with that issue to say it is a dangerous precedent to allow a mortgage to be rewritten, but it is OK for a big business with a CEO, paid $100 million a year—they can have their contracts rewritten, they can get bailouts from the Government, they don't have to pay the consequences of adverse economic fortune that we say the individual has to pay.

I would say no one should doubt that the American commitment to an allocation of wealth in a market economy will be eroded dramatically if this bill passes—I ask unanimous consent for 1 additional minute.

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

Mr. SESSIONS. We should make no mistake that this is a weakening of it. I would note the article in the Wall Street Journal quoted people around the world for seeing the irony in the United States bailing out companies while we have been advocating to them that when their companies get in trouble, their governments should not bail them out as a matter of principle.

For those reasons, with due, great respect for my colleagues who see it differently, with full acknowledgment that this is an extremely tough decision and we do not know how the economy is going—and many do believe this step will help it—I will not be able to vote for it because I think it goes too far. I think it could have been more narrowly drawn and should have been. It is a precedent that will come back to haunt us in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

NATIONAL BIBLE WEEK 2008

Mr. AKAKA. Mr. President, I rise today to celebrate one of the most significant books in human history, the Bible. As Senate cochair of National Bible Week 2008, it is my honor to join the National Bible Association in promoting the nationwide recognition of the Bible's importance in our daily lives.

One of the many important verses in the Bible that applies to us as leaders is found in Proverbs 21, verse 1:

> The king's heart is in the hand of the Lord. Like the rivers of water, He turns it wherever He wishes.

Our Nation has always recognized the power of an unseen hand guiding our fortunes and destiny, and during this important and critical crossroads, our Nation will do well to turn once again to the Bible for strength.

This year, from November 23 to November 30, communities, churches, and leaders across America will celebrate National Bible Week by reading and reflecting on the Bible's teachings and how it can help us lead better lives.

It is our responsibility as leaders to remind all Americans of the importance of the Bible to individuals and to our history, life, and the culture of our Nation. We gain much inspiration from the Scriptures, and the light of God will shine through us if we hold fast to the Bible's principles and apply them to our daily lives.

I join my voice with my fellow National Bible Week cochair, TODD AKIN, and the National Bible Week chairman, J. Willard Marriott, Jr., in urging all Americans to celebrate National Bible Week 2008.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I join with my colleague from Hawaii in celebrating National Bible Week. I get together every Wednesday morning with a group of our colleagues for our weekly prayer breakfast, and he is always such an inspiration. He is our song leader while we do, except for he and the Chaplain, some of the worst singing that can be done. He is a great inspiration for all of us, and I commend him for bringing this resolution forward.

THE ECONOMY

Mr. CHAMBLISS. Mr. President, we all know that our country has seen better economic times. Across the United States and around the world, businesses and individuals are feeling the effects of this financial turmoil—not only on Wall Street, but at home on Main Street as well. I don't need to remind this body of the volatility of our financial markets. Evidence of this market precariousness has been splashed across the front pages of newspapers and television screens everywhere, causing panic and further instability.

As the conversations in Washington continue over how to address our Nation's financial crisis, and as the details of the problems in our financial sector are revealed daily, I am convinced that something must be done and done soon.

But I want to be clear about congressional action: we must act because inaction could well cause serious harm to American families, farms, and small businesses as well as community banks and other lenders, and we must do our dead level best to make the right decisions, because action for the sake of expediency could put our Nation at further risk. Nevertheless, I oppose to the old saying of just do something, even if wrong. We should not follow that logic.

Since last Thursday, I have talked to numerous bankers, economists, academicians, as well as business leaders and owners who have told me that doing nothing would lead to irreparable harm to our economy. And I have heard from and talked to hundreds of Georgia taxpayers, virtually all of whom are opposed to the plan as originally presented. Everyone is concerned about doing the right thing. Georgians are furious at the current situation and for good reason.

I am angry and upset that the oversight supposed to be afforded by the regulatory bodies was not provided the way it should have been. The American taxpayers should never find themselves in this situation again, and that is why there must be confidence that what Congress passes will work—not for Wall Street but for Main Street, Georgia.

Before I give my support and work to pass legislation, it will have to have strong safeguards with accountable oversight. The plan must provide that any revenue earned by the treasury on this effort will be used 100 percent to retire the debt and not one penny used to expand Government. I will fight any legislation that proposes to use one cent of these funds for pork barrel projects. Furthermore, I want to make sure that if fraud or other illegal acts took place that the people responsible are tried and punished. And while much of the focus has been on assisting larger banks and lenders, I am working to make sure that neighborhood banks and lenders are protected too. I intend to see that every single American has access to his or her money at all times, and that Americans who need credit have it available to them.

As the Senate debate unfolds, any proposed legislation must protect the citizens and taxpayers of Main Street, their savings, their retirement funds, their small businesses, their careers, their homes, and economic well being. This financial debacle on Wall Street must not be allowed to infect Main Street anymore than it already has.

We have to clean up this mess and keep America on track. We must be certain that those responsible do not profit from this legislation and, where appropriate, necessary compensation control policies be instituted. Golden parachutes for any plan participants must not be allowed. And civil and criminal penalties should be levied and pursued when and where appropriate.

During these next critical hours and days, I will carefully review the details of whatever package emerges, and I will fight for Georgians in this process. I will have my say. I am prepared to work through the weekend and into October and beyond—I will not vote for just any proposal—I will work for and vote for the proposal that I truly believe is in the best interest of Georgians and Americans, and I pledge to work on this as long as it takes to get the job done right and to make sure we do this in a bipartisan way.

The fundamental necessity of a strong financial market is transparency, liquidity and confidence. The tools to provide further clarity and integrity in our financial system are already available to our regulators. We need to ensure that these instruments are properly applied, so that we protect investors from deceptive practices.

Faith in the market is vital to its success. Security and soundness must, and will, return to our financial system through more effective oversight and guarantees of legitimate transactions. In turn, this security will restore certainty and faith in performance of the market.

It is important to recognize the connection and significance of a strong financial system in a capitalist society. We are still targets of terrorism because our freedoms enable us to be among the most prosperous, most powerful nations in the world. Recent economic shakeups will not alter these freedoms. Through the renewed faith and trust of the American investor, we will return to the height of prosperity, and as a beacon of fundamental fiscal strength throughout the world.

I look forward to the package that we hope will be forthcoming from our bipartisan, bicameral group that is

working now as we speak to draft the legislation—to negotiate the legislation that will ultimately be committed to a draft. I hope, as we return tomorrow, we see positive signs of a conclusion to the drafting of that legislation and that this body can have an opportunity to study it in as much detail as necessary, proceed to debate, and I am hopeful it is the kind of legislation that we can all rally around, support, pass, and tell the American people that we are doing everything possible from a policy standpoint to protect them, to protect their communities, and to protect the financial institutions of this country.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

TRIBUTE TO SENATOR WARNER

Mr. WHITEHOUSE. Mr. President, we are all awaiting efforts of the negotiating teams who are working on a rescue plan to the current financial crisis. Many of us—as I know the distinguished Senator from Montana has—have lobbed in our thoughts and ideas, now we are waiting anxiously to see how they have fared in the negotiations.

And I would like to take this time while we wait to address another subject because a few months from now our colleague, JOHN WARNER, will retire from the Senate after 30 years of service to the people of Virginia and the people of America. His work in this Chamber and all these halls has made our country stronger. And in a place where partisan rancor too often rules the day, his is a legacy of honor and dignity that will stand long after he has gone. So I wanted to take a few moments to salute this man.

When JOHN WARNER's country called, he answered. In 1945, at 17 years of age, he enlisted in the U.S. Navy and was sent to fight in World War II. When the war was over, JOHN attended a great Virginia institution, Washington and Lee University, on the GI bill. And in 1949, he entered law school at my own alma mater, the University of Virginia. But America called again, and JOHN answered again, interrupting his studies to serve as a ground officer with the 1st Marine Aircraft Wing in Korea. He returned home again, went back to UVA, and received his law degree in 1953. I would graduate almost 30 years after him. JOHN continued to serve in the Marine Corps Reserves after the war, attaining the rank of captain.

JOHN WARNER's mother once said she hoped he would one day become the Secretary of the Navy. Well, in 1972 he fulfilled that hope, serving until 1974, during the challenging years of the Vietnam conflict. In that office, he succeeded his dear friend John Chafee, a fellow marine, later to become a U.S. Senator. It is John Chafee's seat that I am now privileged to hold.

During his first campaign for the Senate, Senator WARNER told the Washington Post:

> When I was Secretary of the Navy I drove the admirals crazy. When I went to visit a ship I liked to go all over it and talk to sailors.

He is, in the words of ADM Mike Mullen, ''a man whose love of country is matched only by his love [of] those who defend it.''

In the Senate, JOHN WARNER's commitment to the men and women of America's armed services is evident in nearly everything he does. Alternating as chairman and ranking member of the Senate Armed Services Committee with his dear friend CARL LEVIN of Michigan, he has fought to ensure that those who serve this country receive the best possible health care and benefits. In 1999, they achieved for our troops their first major pay increase in 16 years—and this year, did it again.

In his 30 years in the Senate, JOHN WARNER has dedicated himself to helping his constituents and keeping our Nation secure. He has supported the hundreds of thousands of members of the military who are based in Virginia and serve at more than 90 installations throughout his State. He has helped keep Virginia's storied shipbuilding industry strong, preserving jobs and sustaining communities on Virginia's Atlantic coast.

In my home State of Rhode Island, on top of our State House dome is a statue of the Independent Man. The statue represents a spirit of liberty and freedom that has been cherished in Rhode Island back to the days of Roger Williams. Well, JOHN WARNER is Virginia's Independent Man. Over and over again, he has put his country first and done what he thought was right no matter what the politics.

Senator WARNER saw the need for a change of course in Iraq, and he has worked for real, urgent solutions to the threat of global warming. As part of the Gang of 14, he sought middle-ground answers to the challenging, controversial topic of judicial nominations. He refused to support President Reagan's nomination of Robert H. Bork to the Supreme Court in 1987—a principled stand with a political cost.

In 1994, when the Virginia Republican Party endorsed Oliver North for the State's junior Senate seat, JOHN WARNER refused to support the candidacy of a man who had been convicted of a felony. He said then:

> I do not now, nor will I ever, run up my white flag and surrender my fight for what I believe is in the best interest of my country, my State and my party.

His relationship with our colleague, our fellow freshman in the Senate, Senator JIM WEBB of Virginia, is a model for the rest of the Senate of collegiality, enabling them together to extract from the difficult logjam of judicial nominations talented judges to serve Virginia.

Former Virginia Governor Linwood Holton paid Senator WARNER what I'd call the ultimate compliment around here:

> He wants to solve problems.

We will all miss JOHN WARNER when he leaves the Senate this January. His hard work and independent spirit have enriched Congress for the past 30 years. And I count myself very fortunate to have served with him.

On a personal note, I thank JOHN WARNER for his exceptional, I daresay even avuncular kindness to me in my first term. From the vantage point of 30 years' seniority, I am a mere speck in the sweep of his tenure here. He has served with 273 Senators, I believe, and yet he has made me feel so welcome. In that kindness, I am the beneficiary of his friendship of many years with my father, a friendship that lasted as long as my lifetime to date. My father was a fellow World War II veteran, a fellow marine, a fellow public servant, and a man who I remember today as I express my affection and gratitude to the distinguished senior Senator from Virginia.

Reporters interviewing JOHN WARNER have noted his tendency to close his eyes and lean back in his chair while answering questions. It's not a sign of disrespect, they know, but rather a sign of deep concentration. I've seen him concentrating that way myself in deliberations behind the heavy steel doors of the Intelligence Committee.

I envision sometime, when the press inquiries, staff updates, legislative proposals and constituent requests have slowed, that Senator JOHN WARNER will take a moment to close his eyes, lean back in that chair, and reflect on what an extraordinary career his has been. I hope he remembers all the good he has done and all the goodwill and admiration he has earned among those who have been privileged to serve with him. Senator WARNER, I wish you, your wife Jeanne, and your family Godspeed and best wishes in all your future endeavors.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

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

CONSOLIDATED SECURITY, DISASTER ASSISTANCE, AND CONTINUING APPROPRIATIONS ACT, 2009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the

House with respect to H.R. 2638, the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

H.R. 2638

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2638) entitled ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.'' with an amendment to the Senate amendment.

AMENDMENT NO. 5660

Mr. REID. I move to concur in the amendment of the House to the Senate amendment to H.R. 2638 with an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment with an amendment numbered 5660.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end, add the following: The provisions of this Act shall become effective 2 days after enactment.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5661 TO AMENDMENT NO. 5660

Mr. REID. I have a second-degree amendment that I ask to be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The Senator from Nevada [Mr. REID] proposes an amendment numbered 5661 to amendment No. 5660.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In the Amendment, strike ''2'' and insert ''1''.

CLOTURE MOTION

Mr. REID. I now send a cloture motion to the desk on the motion to concur.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment with an amendment No. 5660 to H.R. 2638, the Department of Homeland Security Appropriations Act/Continuing Resolution for fiscal year 2009.

Evan Bayh, Debbie Stabenow, Benjamin L. Cardin, Byron L. Dorgan, Barbara A. Mikulski, Jeff Bingaman, John F. Kerry, Herb Kohl, Sherrod Brown, Jon Tester, E. Benjamin Nelson, Richard Durbin, Patrick J. Leahy, Amy Klobuchar, Robert P. Casey, Jr., Claire McCaskill, Bernard Sanders.

Mr. REID. I now ask that no motion to refer be in order during the pendency of the message.

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

ORDER OF BUSINESS

Mr. REID. Mr. President, in the morning we will likely come in at 9:30, and we will have a half hour of debate prior to the vote at around 10 o'clock, and that will be in the wrap-up closing papers this evening.

I would also say to all Members, there are negotiations going on regarding the financial bailout. We are hopeful and confident something can be reached in this regard, but we will see. Now all parties are negotiating. We have had some concern today if that, in fact, was going to take place, and it has, and it is now going forward. So we would hope that if agreement can be reached, we will do it this weekend sometime. Therefore, we are going to have to be in session on Monday. If we have a vote on Monday, it will be very early, as early as possible. That is to complete whatever work the negotiators had done over the weekend.

We understand that at sunset on Monday night there is a Jewish holiday. We will honor that every way we possibly can. We would not consider being in session on Monday but for the fact that we have been told by Secretary Paulson and the Chairman of the Federal Reserve that there is a financial crisis out there, and that is what is being done in S–116 downstairs in the Foreign Relations Committee room today and will go on throughout the night.

We are going to complete, before we leave here, the Defense Department authorization bill. It is important we do that. We have that from the House. We are going to complete that. Rail safety, Amtrak—we will complete that before we leave. I have had a number of conversations with the White House. We are going to complete the India nuclear agreement before we leave.

Now, with all these things we are getting cooperation of Senators. If we do not get cooperation, we can get them done anyway, it just takes a lot longer—a lot longer. So I would hope the people who have objections to these pieces of legislation will be considerate, as I am sure they will be, to the schedules of other Senators. We have an election on November 4. We have tried mightily to finish our work on this Friday, today. But circumstances have weighed against us doing that with the financial problems we have had.

The largest bank failure in the history of our country was yesterday. The bank that failed had more than 2,000 separate branches. So we are going to have to continue our work here. We just cannot leave with all the work we have to do.

The vote in the morning is an important vote. I hope we will have good attendance at that vote. We will talk more in the morning to see if something has happened during the night that will change the statement I made today. That will be the only vote tomorrow, the one we will have at or around 10 o'clock in the morning. We hope we don't have to have a vote on Sunday. This is a cloture vote. There are 30 hours that runs, and we would hope that everyone would understand, if cloture is invoked, there is not much to be gained by waiting and making everybody come back and vote. But we will see what happens.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Thank you, Mr. President.

FINANCIAL CRISIS

Mr. COLEMAN. Mr. President, a man well acquainted with crisis, Abraham Lincoln, said this:

I am a firm believer in the people. If given the truth, they can be depended upon to meet any national crisis. The great point is to bring them the real facts.

I rise to affirm this confidence and lay out some of the basic facts and principles we face in this unprecedented financial crisis.

Fact No. 1: We live in a world which is very different from the realities of a decade ago. The financial world is interconnected and reacts at the speed of digital transactions. There are no borders to hide behind or cooling off periods in which to contemplate at our leisure. Problems arise quickly and solutions must be found quickly yet responsibly.

Fact No. 2: This crisis we face today touches each and every American. As the recent market events have proven, the crisis has entered a new and critically dangerous phase in which our entire financial system and economy hangs in the balance. The crisis we face today is as serious as any I have faced in my 32 years of public service. When the Secretary of the Treasury talks about the possibility of a collapse of the American financial system, that gets your attention, as it should.

Money market accounts, retirement savings, college and small business loans, and home mortgages are all at stake. This is not about Wall Street but about Main Street. It is about every street on which American families live.

Just think of what you have to tell your son or daughter if they got accepted to some great school, and you are about to get that loan that you need to pay for that education, and then all of a sudden it is not there.

Credit has dried up. Capital is not available. You are going to have to say: By the way, you can't go there now. I am sorry. Mom and dad cannot afford it.

Small business owners depend on credit to stock their shelves, to supply the goods we buy. If this system collapses, freezes, how are they going to go about providing both goods and services to families, as well as the jobs of folks who work there? This is about every street on which American families live.

Fact No. 3: This crisis, not unlike energy or health care, is too big for one party to solve. We must work together—Democrats, Republicans, House and Senate, administration and Congress. There was a moment of opportunity yesterday with the White House, Senator OBAMA and Senator MCCAIN, and the leadership of both sides of the aisle from both Houses. After the debate tonight, we have to get back, as Americans, to figure out how we put this together to provide the stability this economy needs.

People have asked a lot of questions about how we got there. Outright greed and mismanagement, coupled with an outdated financial regulatory system, have all been part of bringing us to this point. People were sold loans they could not afford. In some instances, I heard of ninja mortgages: no income, jobs, or assets, and yet they got packaged and securitized and passed on and sold to investors throughout the country and the world. Now it seems these securities are not worth what was paid for them. It has not only put companies in dire straits but our entire financial system as well.

Our obligation now as Americans is to come together and do the right thing, and to do it now.

Fact No. 4: The American people are watching. I have already heard from over 11,000 Minnesotans who have called or written to my office who have expressed their deep concerns about what is happening and what is being proposed. They say: Don't bail out Wall Street. My calls are running 10,000 against and maybe 100-and-something for. They say: Don't bail out Wall Street. Unfortunately, the way this stabilization plan was presented was such in which the public watched and saw it that way.

Secretary Paulson proposed a $700 billion plan to rescue our financial system. People are concerned the plan did not provide for clear transparency, it did not provide for clear oversight. The consensus is, it amounted to a bailout of Wall Street. This is not what the American people want nor should they have that.

While I share the administration's sense of urgency to act, I share the concerns of Minnesotans from all across the State and certainly Americans all cross the country. So I want to assure folks back home I am not going to move forward on a plan unless it puts taxpayers first and holds Wall Street accountable. But I also want to tell my citizens that it is our obligation and responsibility, before we get out of here—before we get out of here this weekend—to in fact put in place a plan that puts taxpayers first and holds Wall Street accountable. We need to get there. We must get there. We need a plan that provides effective oversight and transparency. We are not going to give the Treasury Department a blank check.

There is talk about taking some of the options that have been put on the table and been discussed in the last days, that instead of $700 billion as a blank check, that there are X dollars put up first, with the obligation to come back for further approval, with very clear and specific oversight, very clear and specific transparency. We must get there with a plan that holds Wall Street executives accountable for the terrible mistakes they made getting us into this mess—no golden parachutes. We are going to have to deal with executive compensation. If there is going to be Government assets involved, if they use the Government credit card, folks are going to have to comply with the terms and conditions.

We must look into other individuals who enrich themselves on mortgage-related assets while fully knowing of their dangers. There is going to be a lot of looking back. In the long run, shareholders have to have a greater say about executive pay. We must get there with a plan that gets taxpayers the best value for their dollar. If we, ultimately, go forward with the Treasury's plan—or a variation of the plan because we are not going to go forward with that plan—this will be a plan in which the concerns of my colleagues in the House—they have expressed concerns; my colleagues in the Senate have expressed concerns. We need to go forward in a way that assures that distressed assets are bought—and when I say ''bought''—that distressed assets are acquired—I want to be clear about that—acquired at prices that are fair to the taxpayer and any returns that we get as assets come back into this fund after expended, that they have to go to debt reduction.

We are talking about increasing the national debt from over $10.6 trillion to over $11 trillion. As assets come back, as distressed assets regain value over time, as folks get back on their feet, we have to make sure those assets then are put into debt reduction, not more Government spending, not deepening the mess we are in already in this country.

Over the long term, we cannot go back to business as usual. We need to aggressively undertake fundamental financial regulatory reform. First and foremost, any reform must include stronger regulatory oversight over the entire financial system. The sad reality is that some of our current system goes back to the Civil War era. It is like trying to fight a fire today with a bucket brigade. It is marked by ineffective coordination among regulators and redundant oversight in some areas and lack of oversight in others. Greater transparency and accountability must be factored in. We must ensure that market participants have a direct stake in their own actions so that taxpayers are not left holding the bag.

In many ways, it has been described to me as almost a 9/11 kind of moment—that before 9/11, in the area of security, we were not able to think the unthinkable, and we did not have in place a system that allowed us to see and understand that the unthinkable was about to happen. In the situation we face now with this economy, we did not have the regulatory oversight, the transparency to deal with the complex financial instruments that are being used today, so we both did not think the unthinkable and we had no capacity to know that the unthinkable was about to happen. The unthinkable now stands in the shadows, as we talk about the potential meltdown of the American economic system. That cannot happen, and we will not let that happen.

At the same time, we must put more cops on the beat to better detect possible threats to the financial system, such as conflicts of interest that could undermine the integrity of the system. And, finally, we must ensure greater regulatory flexibility in order to keep up with market innovations. Regulators should have the ability to intervene before a crisis reaches critical mass.

What happens after the opening bell rings on Wall Street every day affects the folks in Hibbing, MN, just as much as the people in New York City. Wall Street executives must shoulder a great deal of responsibility for this crisis. If taxpayers are being asked to sacrifice, Wall Street too must share in the cost of rescuing the financial system.

Hardworking Americans deserve to have the peace of mind that their stake in the financial system is appropriately safeguarded and that they are not put on the hook for the mistakes of corporate America.

Times are tough. Folks are having a hard enough time dealing with high energy costs and making ends meet. In the short term, we need to act for the sake of our economy. In the long term, we need major reform that protects the American taxpayer and works for our economy. Maintaining a viable and robust financial system is critical to each and every American's future.

We have to recognize there are a lot of questions out there, even at this hour on Friday night, as we are moving toward what I hope will be putting in place a system that protects the taxpayer, that holds Wall Street accountable. We are talking about assets, and there is a discussion about Government buying assets. At what price? If we buy it above market price, are taxpayers being ripped off to protect shareholders and bondholders? That should not be

allowed to happen. If we are to buy assets, then what kind of system do we need to have in place to evaluate and oversee those assets? Are we creating more bureaucracy, more cost, for which, in the end, the taxpayers will suffer? Could we avoid that, while looking at loans—secure loans, of course, being preferable—but even in cases where there are not enough assets to secure the loans, moving forward from a loan perspective?

These are the kinds of questions I know those at the table right now need to answer. They need to answer them with a first and foremost principle that the taxpayers must be protected.

Finally, I wish to say that even as we move forward—as we have to move forward to provide stability to the American economic system—we must understand that this is not getting us out of the woods; that, in fact, those challenges to our economy are still there, including the threat of the recession, or the reality of the recession, and I think the economic numbers from this quarter will demonstrate that it is, in fact, where we are today. But greater danger lies ahead in our financial system, so the expenditure of Government resources now must be done in a way that keeps in mind that there are going to be some major issues that are going to have to be confronted in the near future. There may have to be some further action by this Government to provide stability in order to keep this country moving forward. Those considerations cannot be blocked out as we look at the crisis of the moment. We need to recognize that there are challenges that still await us.

The American people throughout our history have come together at every crisis that has threatened our national or economic security. We, in Congress, working closely with the administration, must protect their interests by working quickly, in a bipartisan way, to help secure a better, safer, and sounder tomorrow. Now is the time for statesmanship, not partisanship. Now is the time for leadership. Now is the time to come together to generate confidence in the American body politic and in the people that will then reflect confidence in our economic system, that will give the opportunity for a better and brighter future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. LANDRIEU. Mr. President, I understand that Members can come to the floor to speak for up to 10 minutes in morning business. I ask unanimous consent to extend that to 15 minutes.

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

CONTINUING RESOLUTION

Ms. LANDRIEU. Mr. President, as people who have been following this debate know, the Senate is working into the weekend to try to finalize some very important pieces of legislation. As a member of the Appropriations Committee, I am disappointed in some way that we were not able to pass 13 individual appropriations bills, because that would be the normal course of business. Because so many of our States and counties depend on this Congress to get these bills done in a quick and efficient manner, it is disappointing to me as a member of the committee, despite how hard we have tried and despite the great efforts of our chairman, Senator BYRD, who has worked tirelessly to try to make that happen. It, unfortunately, does not look as though that is going to happen as we come to an end of this session.

What we are debating tonight is a continuing resolution that will keep the Government operating until, according to the date in the continuing resolution, I understand, March 6. Also through that continuing resolution we have attached to it the Defense appropriations bill, the Homeland Security appropriations bill, and the disaster package which I, along with many other Senators, worked very hard to shape as we witnessed and participated in—in terms of rescue, help, and support—several of the last few disasters, starting with Hurricane Fay that hit Florida but literally dropped feet of rain throughout many parts of the country, including Louisiana and other Southern States. Then, only a few weeks later, we witnessed and participated and tried to help as Hurricane Gustav—another category four, then three, and as it went inland a category two—a very powerful storm, delivered hurricane force winds through all of Louisiana—all 64 parishes. Even for a person such as myself, who is now sort of battle tested by hurricanes, it still is shocking that a hurricane could deliver such forceful winds all the way up to the northern boundary of a State that is over 400 miles. That is quite a storm. Then the winds were hardly down, and the electricity not even turned back on, and Hurricane Ike came roaring out of the gulf and hit Texas. Unfortunately for us, being on the east side of Texas, a great deal of damage was done as those very powerful winds and tidal surges again hit Louisiana.

So the people of my State, needless to say, are very weary and very tired and in great need of disaster assistance. So are the people of Texas. And let me say, I was pleased to be able to find time, even this week, to host a hearing in my subcommittee, along with my ranking member, Senator DOMENICI. We had four other Senators join us, for a total of six Senators, to listen to the very moving testimony of the mayor of Galveston, the mayor of Houston, the Lieutenant Governor from Louisiana, the Lieutenant Governor from Texas, and other key officials, as they came to this Congress seeking our help and our support to deal with an unprecedented number of disasters that have happened along the gulf coast.

I don't want to forget the floods that happened in the Midwest or the great fires out in California. It has been quite a year for disasters in the heartland, and I know this Congress has given a great deal of time and focused on Iraq and winning the war there. I understand we are focused, as I have urged, on more resources for Afghanistan. We have droughts and starvation and problems in other parts of the world, and we will do what we can to address that. But right here in the heartland, right here in our homeland, we have had many disasters that need our attention. So I was pleased, along with the other Members, Republicans and Democrats, to try to fashion a disaster relief bill that will actually make it to the President's desk so it can be signed. There was some debate earlier as to whether that should be attached to a stimulus, which was not passed today. That would have been a disaster in itself, because it would have gone down, as our stimulus package did. But I and others leaned on the leadership to have this disaster relief attached to something that was a must-pass, and I am very happy that was accomplished and attached to the continuing resolution because this resolution has to pass in some form or fashion prior to October 1, which is only a few days away, or of course the Government will shut down.

For the people of Louisiana, Texas, Mississippi, and Arkansas, my neighboring States, they breathed a sigh of relief that at least $23 billion in this bill was headed their way. There was some $2-plus-billion set aside for the Corps of Engineers, because levees broke everywhere. Luckily, the levees in New Orleans for Gustav and Ike held—barely held—but levees broke everywhere and thousands of people in urban areas, in suburban areas, in exurban areas, in rural areas, and farmers in the field are underwater. This is not enough, but at least it is something. I will come back to that.

We have $6 billion for community development block grant disaster special aid. We laid this precedent down in 9/11, when this Congress rallied to New York's aid and sent a block grant of money. I believe that might have been the first time, in 2001, following that disaster, to help New York City stand up. And when Katrina hit and when Rita hit, we sent a similar block grant, although the money did not get divided according to damage and appropriately, but at least we got a block grant for disaster assistance. The Congress has decided again that the damage was so bad for Gustav and Ike to send another $6.5 billion for these States to share. It is more than just the States of Texas and Louisiana. And that is the good news.

But the bad news is that the number alone requested by Texas, preliminary

number—and this is before the mayor of Galveston got one person back in her city, because they came back yesterday—these numbers were submitted last week, so these are very preliminary numbers that came from the State of Texas—was 6.5 by itself. There is only 6.5 in the bill. I am going to predict the numbers and the need for Texas is going to go up exponentially in the next few days. And of course, with the needs in Louisiana, in Iowa, in Missouri, in Arkansas, and in Mississippi, 6.5 is a start but there is going to need to be a great deal more assistance, particularly for the States of Texas, Louisiana, and some other States hard hit by these storms.

But this is a start, and we are going to make it work. And this money has some flexibility. We can use it for a variety of projects that are important—building non-Federal levees, perhaps some support to our farmers in our rural areas who are in great need. Then the bill goes on to provide some money for the Small Business Administration for disaster loans. We have streamlined that process. I am proud of the work I did in that area. Hopefully, this time it will work better.

There is some emergency highway relief money. I wish to show a picture of one of our highways, if we can get that. This is how our highways looked after hurricanes came through.

There is money for the social services block grant of $600 million. We still, after asking for 4 years, have yet to receive, after Hurricane Katrina, any Federal funding to help the four hospitals that stayed open for that storm. There have been three since then, and these hospitals are using their own surpluses to take care of the injured and sick along the gulf coast. So we hope that included in this $600 million for the whole country that we will find the money to reimburse those hospitals, which amounts to about $100 million to $150 million.

Then there is, luckily, $75 million for fisheries. Because while these cameras focus a great deal on the buildings, as people are on their rooftops, and there are homes that are flooded and pictures of urban areas, what the cameras don't often catch, particularly in the gulf coast and particularly in Alabama, Mississippi, Louisiana, and Texas—America's working coast, America's energy coast—is the hundreds of fishing boats, trawlers, commercial fishermen and sports fishermen whose boats, even though they try to protect them in these storms, end up as a pile of rubble, like matchsticks. And the Federal Government acts as if this is not a business. This is a multibillion dollar business. These fishermen deserve our help.

This is the picture of Highway 1. I am sorry it is a little grainy, but people would be shocked to know this is the highway that goes down to the very tip of Louisiana, with the gulf being out here. It is completely under water. This is not a minor highway. This is a major energy highway—Highway 1—that runs from the tip of Louisiana all the way to Canada. So this is not a farm road. It is not a gravel road. This is a main U.S. highway that we have been trying to build in Louisiana for the last 20 years, trying to get a few dollars here and a few dollars there. Most of the offshore oil and gas that comes out of the gulf finds its way in and around this road.

I finally got Senator MURRAY to designate this as a Federal priority highway a couple of years ago, as the chairman of the appropriations subcommittee. We have been pushing money to this. If we had revenuesharing, this would have been built already, but that is another story.

But this is what south Louisiana looks like, and the fishermen need more help. This is Fort Fourchon. Again, this is a major oil and gas hub. When the tidal surge comes up—because we are not investing in the infrastructure—and when the refineries shut down and the oil rigs shut down, these are the conditions they are shutting down in.

To end this part, I hope I have demonstrated that while we are grateful for this $23 billion, and we had unprecedented cooperation from the Governors of all of the States, Republicans and Democrats, and unprecedented cooperation putting this package together, this is only a downpayment on the disasters we have to face. So in the continuing resolution there is the DOD appropriations bill, the Homeland Security bill, Military Construction, and luckily we were able to get in a $22 billion disaster relief bill.

But the reason I am on the floor tonight—and let me ask how much time I have remaining.

The PRESIDING OFFICER. One minute.

Ms. LANDRIEU. I ask unanimous consent for 5 more minutes.

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

Ms. LANDRIEU. The reason I am on the floor tonight is to call attention to the fact that despite this good help—and it is good help, and I am very appreciative—we have left out a very important segment of our population in disaster aid, and that is direct aid to our farmers.

This is a farmer from Louisiana, in Cheneyville, LA. He is standing in his rice field. You know, rice can be grown dry or in water, but too much of it is a problem. And if it has salt in it, that is a problem. The tidal surges that have come into Louisiana, and the floods, have been so great in central and north Louisiana, that even though some of our rice had been harvested, a great deal was in the fields when Gustav and Ike struck. So Fay came over the south and dumped a tremendous amount of rain just as southern agriculture was preparing for the harvest. Fay came in the early part of August, as we prepare for the harvest in September and October.

Mr. President, you most certainly, being a rancher yourself, can appreciate what goes on over the course of a year, where farmers work hard and hold their breath and say a lot of prayers. They roll up their sleeves and get up early and see that the crop looks good; that the weather has been great. They have corn in the field, cotton out there, and they have soybeans. And corn is at a great price. The prices are good for the first time in a long time. The farmers are thinking: Oh, my gosh, we are going to have a great year. We have had a couple of bad years lately. Well, all of a sudden, these storms come out of the gulf, and before you know it, they are barreling down on Mississippi, Louisiana, and Texas again, dumping huge amounts of rain, flooding the fields, and at the worst possible time.

I wish to put up another picture of our farms from another part of our State. As the staff does that, I wish to read some of the damages, in terms of numbers. Whether it was rice or sugarcane or cotton or soybean, it has been a disaster. I will get to that in a moment.

Let me read to you Mr. Harwick's story. Mr. Harwick is a farmer from Newellton, LA. He produces 7,000 acres of cotton, corn, and grain. He is a very successful farmer. He is diversified. He uses the best risk management practices. He also produces wheat. He is Vice President of the National Cotton Council.

During Gustav, his family farm received more than 20 inches of rain. Mr. President, I know you are from Montana. I don't think you had 20 inches of rain in several years. So our problem in Louisiana is managing an abundance of water. I know in the West you all struggle with managing too little of it. Our problem is we drain two-thirds of the continental United States. So if it rains in Arkansas, it is not just a problem for Arkansas, it is a problem for Louisiana. When it rains in Missouri, that water eventually finds it way down the Missouri and Mississippi Rivers, so this has been a constant battle for our farmers for hundreds of years. Despite that, we have very productive farming.

This is what the cotton crop looked like on Jay Harwick's farm. The specialist from the University of Louisiana estimated that the cotton crop will be reduced by $125 to $137 million; anywhere from a $52 to $57 million decline in farm-gate value.

It is also estimated that more than 80,000 acres of cotton will not be harvested in Louisiana, and on the remaining acres, the yield losses will be dramatic. That is just cotton.

My time is running out tonight, but I will be back tomorrow morning at 10 o'clock, as we vote, and then speaking for most of the day and night on this subject. I do not most certainly have to take up anymore time tonight as I try to call attention to the tremendous devastation in the South and in other

parts of this country and the need for this Congress, before we leave, to do something more significant for agriculture and to do it in a way that provides direct assistance to farmers now.

I will conclude with this. The reason we cannot wait is the credit crunch is real and now. No. 2, there is nothing to wait for because the new farm program, the rules and regulations that we passed recently, will not even be finished being written, let alone to be able to receive applications for aid, until next year. That will be too late.

So for Jay Hardwick, the farmers I represent, the farmers in the South, I am going to stand here for quite a while and talk about their situation and say that, most certainly, if we can spend a few weeks trying to figure out how to save the financial markets and Wall Street, we can spend a little bit of time and a little bit of money trying to help farmers who did not take out subprime loans, who managed their risk well and got caught in circumstances well beyond their control that were not manmade but were of nature's making.

The facts of Wall Street and the financial crisis were not natural disasters. We all had a part in, I guess, making that happen. I am not here to point fingers or to blame anyone else. But for these farmers, this was not manmade. The men who grew these crops did everything they were supposed to do, their families did everything they were supposed to do, and the rains came. If we do not give them help, they will not make it until the spring.

I will be speaking about this for quite some time this weekend. We are grateful for the aid we received but there needs to be some changes before we leave, and I am going to do what I can to make that possible.

I yield the floor.

AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT

Mr. REID. Mr. President, I rise to mark the enactment of the Americans With Disabilities Act amendments Act, S. 3406. Passed with overwhelming, bipartisan support in the Senate and House of Representatives, this important bill was signed into law this week. I am proud and honored to celebrate the occasion with my colleagues, particularly Senator HARKIN and Senator HATCH, who worked so hard to craft the legislation and help guide it through Congress. The disability, civil rights, and business stakeholders behind this legislation deserve our recognition as well.

We are all part of a nation built on the promise of equal rights, justice, and opportunity for everyone. Eighteen years ago, we took a historic step toward fulfilling that promise with the passage of the original Americans with Disabilities Act. Unfortunately, we didn't expect then that Supreme Court decisions would narrow the law's scope contrary to congressional intent. As a result, the lower courts have now gone so far as to rule that people with amputation, muscular dystrophy, epilepsy, diabetes, multiple sclerosis, cancer, and even intellectual disabilities are not disabled. The Supreme Court decisions further imposed an excessively strict and demanding standard to the definition of disability, although Congress intended the ADA to apply broadly to fulfill its purpose.

The ADA Amendments Act finally rights these wrongs. For one, the new law directs the courts toward a broader meaning and application of the ADA's definition of disability. More major life activities will also be included in the definition of disability, so that more people with disabilities will be covered by the ADA. The amendments further clarify that the ADA covers people who use ''mitigating measures,'' such as medications or prosthetics, to treat their conditions or adapt to their disability. Otherwise, they will continue to be in a catch-22 that forces them to choose between managing their disabilities or staying protected from job discrimination. No one should have to make that choice.

Thanks to the newly enacted amendments, the ADA's focus can return to where it should be—the question of whether the discrimination occurred, not whether the person with a disability is eligible in the first place. Simply put, the ADA Amendments Act restores the landmark Americans with Disabilities Act to the civil rights law it was meant to be.

Mr. President, we cannot rest on our laurels as we look ahead to the future. Today we reaffirm the principle that discrimination based on disability doesn't belong in the workplace, but we cannot ignore the low employment rates for people with disabilities who want to work. They want to achieve to the best extent of their potential and enjoy economic self-sufficiency, but this piece of the American dream remains just beyond their reach. Clearly, there is still much work to be done if our Nation is to realize the ADA's vision of full inclusion and acceptance of all people.

So let us renew our commitment to the goals and ideals of the Americans with Disabilities Act. I look forward to continuing this effort on behalf of the American people, including all those in Nevada and throughout the country celebrating the enactment of the Americans with Disabilities Act Amendments Act.

110TH BIRTHDAY OF SEARCHLIGHT, NEVADA

Mr. REID. Mr. President, I rise today in honor of a very special event—the 110th birthday celebration of my hometown, Searchlight, NV. My colleagues have heard me speak often of Searchlight, and they all know how proud I am to call it home.

On July 20, 1898, Searchlight was established like many towns across the West were—as a mining district. George Frederick Colton had struck gold the year before, bringing a rush of miners to the area. Over the next 10 years, Searchlight provided millions of dollars of gold to the world and grew to be one of the most populated areas in southern Nevada. During the mines' most prosperous years, Searchlight was one of the most modern, well-appointed towns in the State.

While Searchlight's mining boom may have ended 100 years ago, the pioneering spirit lives on in our small community. And on Saturday, October 4, 2008, the residents of Searchlight will commemorate the passing of the town's 110th year with a BBQ dinner and various activities. I join the community in thanking the Searchlight Museum Guild for organizing this celebration.

In particular, I would like to recognize my friend Jane Overy, curator of the Searchlight Historic Museum. Jane was instrumental in the founding of the museum, and she continues her work as Searchlight's resident historian in the planning of this year's birthday celebration program, ''Sharing Searchlight's Historic Memories.'' In addition to her work with the museum, Jane is involved with many town activities and is a well-known and well-loved figure in our community. She is a Navy veteran and she and her husband Carl, an Air Force veteran, have been very active members of Nevada's proud military community. Jane currently serves as the Department Commander for Nevada Disabled American Veterans. She has been a dedicated collector and preserver of Searchlight's history, and I am grateful for her contributions to the community.

In my office in the Capitol, I keep a picture of my childhood home in Searchlight. It serves as a reminder of how my hometown has shaped my work on behalf of Nevada throughout my career in Congress. I am proud to recognize the historic occasion of Searchlight's 110th birthday, and I wish its residents a successful and enjoyable event.

TRIBUTE TO SENATORS

Mr. AKAKA. Mr. President, today I wish to make a few comments about some of our departing colleagues who will no longer be with us next year. I have known some of them for just a little while, others I have known for a long time. And, to all of them I bid a fond farewell and mahalo for their service to their State and to this country. They are dear colleagues and friends of mine and I know that even if they leave this fine establishment, our friendships will continue long into the future.

The Senators that I am referring to are Senator JOHN WARNER from Virginia, Senator PETE DOMENICI from New Mexico, Senator LARRY CRAIG from Idaho, Senator CHUCK HAGEL from Nebraska, and Senator WAYNE ALLARD

from Colorado. Please allow me just one moment to reflect on my service with each of these valuable members.

I want to extend my deepest appreciation and warmest mahalo to my friend and colleague, Senator JOHN WARNER. His lifetime of devoted public service is truly admirable, and his integrity and dedication to duty make him a role model for all Americans. Few that have ever held the position of U.S. Senator have been able to combine his graciousness, intelligence, and absolute commitment to the public good that have allowed him to be such an effective bipartisan leader.

His experiences as both a sailor and a marine during a time of war, combined with his executive responsibilities as former Secretary of the Navy, have given Senator WARNER the ability to tackle complex policy issues during his time in the Senate. His leadership and experience on the Armed Services Committee, as well as his ability to reach across the aisle to get vital legislation passed, will be irreplaceable. He is a gentleman of impeccable character, and will be sorely missed by us all. I am honored and humbled to serve with him.

Another good friend and colleague, the senior Senator from New Mexico, Senator PETE DOMENICI has been serving the people of his home State and this Nation for 36 years. Like Senator WARNER, Senator DOMENICI also works beyond party lines to address controversial issues and the concerns of stakeholders. He is truly an exemplary role model for all members of Congress.

Senator DOMENICI is a man of his word and has respectfully worked with members on both sides of the aisle. As a dedicated advocate he has helped encourage informed debates in the Senate. He has been a passionate advocate for many causes and has sought workable solutions.

I have had the distinct pleasure to serve with Senator DOMENICI as a member of the Senate Energy and Natural Resources Committee, as well as the Senate Indian Affairs Committee. Senator DOMENICI has played an integral role in overcoming difficult challenges and meeting our country's energy needs. As a member of these committees I have witnessed his genuine concern and commitment to improve the well-being of and increase opportunities for indigenous communities in Hawaii, across the Nation, and extending to our Insular areas.

Senator DOMENICI has been one of the leading advocates for mental health care in our country. He and Senator Paul Wellstone were great partners in trying to bring about mental health parity. Since Paul's death, Senator DOMENICI has led this initiative and worked with all of us in a continued effort to ensure that individuals can access essential treatment.

Senator DOMENICI is a statesman and a gentleman. It has been a pleasure to work with him in the United States Senate. I am going to miss Senator DOMENICI and I extend my warmest aloha and heartfelt well wishes.

I would be remiss were I not to mention the retirement of another of our colleagues, my friend LARRY CRAIG. Senator CRAIG and I served together on the Veterans' Affairs Committee, which he chaired in the 109th Congress. I will not forget Chairman CRAIG's willingness to bring the committee from Washington to my home State of Hawaii, to hear the concerns of Hawaii's veterans first hand. Under his leadership, the committee held an unprecedented series of field hearings on the needs of veterans living in Hawaii, the Nation's only island State. My colleague made this possible, and I will not forget his generosity.

Senator CRAIG and I have not always agreed, but I am proud of the relationship he and I maintained as counterparts on the Veterans' Affairs Committee. His willingness to find workable compromises, and to work with, rather than against, those with opposing views, are both qualities in great need here in Washington. I wish him well as he returns to his native Idaho. Surely he will now be able to have more time with his wife, Suzanne, their three children, and their nine grandchildren. I wish him happiness and the best with his future endeavors.

Another veteran that is leaving the Senate and a dear friend of mine is Senator CHUCK HAGEL. While he has elected to leave the U.S. Senate after serving two terms, his service to this country started long before he became a U.S. Senator. In 1968, he and his brother served in Vietnam, where he earned multiple military decorations and honors, including two Purple Hearts. His long career in public service began during his tenure as an administrative assistant to Congressman John Y. McCollister from Nebraska in 1971 until 1977. In 1981, he was nominated and confirmed to be deputy administrator of the Veterans Administration where had the privilege and honor to work for our Nation's veterans. Senator HAGEL has served the State of Nebraska with great distinction and will be missed by all.

And, lastly, I wish a fond farewell to Senator WAYNE ALLARD. For 18 years, the people of Colorado and have benefitted from the leadership of Senator ALLARD. Through his service on numerous committees including Appropriations, Budget, Banking and Urban Affairs, our nation has benefitted as well. I applaud his commitment to energy and science as the founder of the Senate renewable energy and energy efficiency caucus as this is an issue that is also vitally important to me. On this 50th anniversary of the National Aeronautics and Space Administration, I should note that Senator ALLARD has been a champion of space science and technology research and I would like to thank him for his leadership in this arena. From his time as a Representative of Larimer and Weld Counties to his current position as the Senator from Colorado he has been a dedicated and capable public servant and I wish him all the best.

(At the request of Mr. REID, the following statements were ordered to be printed in the RECORD.)

PETE DOMENICI

● Mr. KENNEDY. Mr. President, I regret that I am not able to be in the Senate today to pay tribute to my friend and colleague, Senator PETE DOMENICI of New Mexico.

Throughout my years in the Senate, I have been honored to serve with some of the brightest, most committed elected leaders in our Nation. But Senator DOMENICI stands out in particular. He has the unique ability to rise above partisanship and find real solutions to real problems.

He comes to every issue with a deep knowledge and desire to improve the lives of the people of New Mexico and the Nation. It has been a special honor to work with him for nearly 36 years, including many years on mental health issues. We both share a deep commitment to those issues because we know the immense toll that mental illness has taken on beloved members of our families, his daughter Clare and my sister Rosemary.

PETE and I are on opposites of the aisle in the Senate, but he has never approached mental health issues in a partisan way. Instead, he thinks of himself as an advocate for mental health reform and basic fairness for all our citizens.

Through PETE's skillful guidance and leadership, Congress has made major progress in breaking down the walls of discrimination against the mentally ill, especially in the judicial system and in education. On reform in mental health care, it has been a long, difficult battle for over a decade, but Senator DOMENICI's will and dedication has never wavered.

Years ago, young PETE played baseball for the Albuquerque Dukes, which was part of the old Brooklyn Dodgers farm system. Back in those days, disappointed Dodger fans coined the phrase, ''Wait 'til next year'' after coming up short of a championship season so often.

Now, at last, because of PETE, Americans suffering from mental illness may not have to ''wait 'til next year'' any longer. We are now closer than ever to finally passing mental health parity and putting an end to the longstanding shameful practice of discrimination in health insurance against persons with mental illness. On this issue, Senator DOMENICI has been absolutely relentless and absolutely brilliant. We could never have made it this far without him.

My only regret is that at the signing ceremony, when President Bush signs this landmark bill into law and looks up and hands the signing pen to Senator DOMENICI, we will all be sad that PETE is retiring from the Senate this year. He has been a continuing source of hope and inspiration to me and to

millions of other people and their families across the Nation. He has made a truly extraordinary difference in the lives of families struggling with mental illness. It has been a great honor to serve with such a talented and dedicated public servant as Senator PETE DOMENICI. I will miss him very much in the years ahead.

JOHN WARNER

Mr. President, I wish very much that I could be here in person today to pay tribute to the extraordinary career of my friend JOHN WARNER. I know that when we return to the Senate in January, all of us on both sides of the aisle will miss the decency, thoughtfulness, commitment, and friendship of our outstanding colleague from Virginia.

We often speak about the high value of friendship in the Senate, about the importance of sustaining it despite the strong political and philosophical differences that often erupt between Senators, and about the way it sustains us in times of personal and political crisis. I know that many of my colleagues feel the same way, and I am sure we all cherish our friendship with JOHN WARNER.

The Senate will not be the same without him. In many ways, he epitomizes the words of Shakespeare, that we should ''do as adversaries do in law, strive mightily, but eat and drink as friends.''

JOHN's life is proof that individual persons make a difference for our country, if they have the will to try. From the time he enlisted in the Navy at the age of 17 during World War II, to joining the Marine Corps in 1950 after the outbreak of the Korean war, to his service as Secretary of the Navy, and to his brilliant career as a Senator representing the people of Virginia, JOHN WARNER has demonstrated a commitment to public service that few people in the history of this Nation can match.

As my brother, President Kennedy, once said: ''Any man who may be asked in this century what he did to make his life worthwhile, I think can respond with a good deal of pride and satisfaction, 'I served in the United States Navy.' '' It is been a special privilege, as a member of the Armed Services Committee, to serve with JOHN WARNER, particularly during his years as chairman or ranking member of the committee. JOHN deserves immense credit for his contributions to our country, and America is a stronger and better Nation today because of his life's work.

Perhaps more than anyone I know, Senator WARNER understands that we are Americans first and members of a political party second. Throughout his 30 years in the Senate, he has consistently demonstrated an all-too-rare willingness to reach across the aisle to achieve results for the American people.

When the partisan passions of the day become heated in this Chamber and threaten progress on fundamental issues, we always know that JOHN WARNER is available to help find the way forward—even if it costs him politically. President Kennedy would have called him a profile in courage, and I agree.

It is no secret that John and I don't agree on everything, but even in times of disagreement, I have never questioned that his position was the result of deep thought and his special wisdom and experience. Our Founders would regard the Senate career of JOHN WARNER as a shining example of the type of person they envisioned should serve in this body of our Government.

I am sad to see him leave, but as John and his wife Jean look to the future and the new challenges and possibilities that lie ahead, we know that he will always be available to answer the call of service, and we are very grateful for the opportunity to have served with him. We will miss him very much.●

WAYNE ALLARD

Mr. HATCH. Mr. President, I rise to speak today regarding the retirement of my esteemed colleague from Colorado, Senator WAYNE ALLARD. I have known Senator ALLARD since he joined Congress in 1991 and have worked closely with him in the Senate since 1996. Today, I am sure that I am joined by many of my colleagues in saying that his service, his work ethic, and his friendship in this institution will be missed.

A native of Colorado, Senator ALLARD was born in Fort Collins in 1943. Using the skills he learned while growing up on a ranch, Senator ALLARD obtained a doctorate of veterinary medicine at Colorado State University. Soon after, he and his wife Joan opened the Allard Animal Hospital. Over the years that followed, Senator ALLARD successfully built his practice and raised his family. He even continued his practice while serving in the Colorado State senate for 17 years. Ever the citizen-legislator, Senator ALLARD brought this same attitude to the U.S. Congress in 1991 and more specifically to our Senate legislative body in 1996.

It was in 1996 that Senator ALLARD was elected to the Senate with a promise to only serve two terms. Not being one to back away from that commitment, Senator ALLARD declared early in 2007 that he would not seek a third term because it would have gone against his word. It was then that he declared it was a matter of integrity and of keeping his commitments. And it is now, that I can say nothing could be truer about the character of my good friend, Senator ALLARD. Born and raised in the West, he understands what it means when he shakes your hand and gives you his word. His integrity is of the character of which we need more of and his commitments are of the nature of which we will surely miss.

Indeed, for the last 17 years I have observed Senator ALLARD working tirelessly for the good people of Colorado. Throughout his tenure, the demands placed on Senator ALLARD have been great, yet he always manages to find the time to listen, to engage, and to talk to Coloradans about the things that are most important to them. Impressively, Senator ALLARD has held over 700 townhall meetings since he began his service in the Congress.

From his work on the Contract with America to his instrumental role in working with me to craft the current law promoting and regulating the development of oil shale and tars sands in the United States, which was passed as part of the Energy Policy Act of 2005, Senator ALLARD has always done the work of the people and he will be missed. I wish him and his lovely family the best and thank him for the years of service he has provided to this body.

To my friend Senator WAYNE ALLARD, I convey my highest admiration and respect for what he has been able to accomplish while here in the Senate. As with any new chapter in our lives, our feelings are always mixed as we continue turning the pages that finish the tale of one story while we hurriedly rush to the next. Yet the story of Senator ALLARD's journey in the Senate would not be complete without the support of his wife Joan and the love of his children and grandchildren. Without question, our loss is their gain. It is to them that I extend my deepest gratitude for the sacrifices they have made while their husband, their father, and their grandfather has served so well these many years. I am certain they are excited to have Senator ALLARD back, but somehow I have a feeling that he will not be resting for long.

LARRY CRAIG

Mr. President, I rise to speak today regarding the retirement of my friend and colleague, the senior Senator from Idaho. At the conclusion of this Congress, Senator LARRY CRAIG will end a political career that has included over three decades of service to the people of his State. I am sure many of my colleagues will agree, Senator CRAIG's presence in the Senate will be missed.

Senator CRAIG is a lifelong citizen of Idaho, having been born in Council, ID, and growing up on a ranch in Washington County. He attended college at the University of Idaho and later served in the Idaho National Guard. These close ties to his home state, I believe, I believe, informed almost every decision he made while serving in Congress.

LARRY's career in public service began in 1974 when he was elected to the Idaho State Senate. Six years later, he was elected to the House of Representatives, where he served five terms. In 1990, he was elected to his first of three terms in the Senate, where his devotion to the people of Idaho continued.

During his time in the Senate, Senator CRAIG became involved in a number of efforts to serve the people of his State and the country as a whole. He has held prominent positions on the

Appropriations, Veterans' Affairs, and Energy and Resource Committees. He also had a brief stint on the Senate Judiciary Committee when I was serving as chairman. Although his time on the Judiciary Committee was short-lived, Senator CRAIG was always an active member of that panel, pursuing immigration reform to help the farmers from his State and throughout the country and vigorously supporting legislation to protect civil liberties.

In recognition of these efforts, he was inducted to the Idaho Hall of Fame in 2007.

Of course, no discussion of Senator CRAIG would be complete without mentioning ''The Singing Senators,'' the now famous barbershop quartet that featured Senator CRAIG along with my good friends Trent Lott, John Ashcroft, and James Jeffords. I think we all enjoyed the exploits of The Singing Senators during their brief moment in the limelight. Sadly, with the departure of Senator CRAIG, there will be no Singing Senators left. I still have my copy of their album, ''Let Freedom Sing,'' and I can only hope that LARRY will be taking home with him his copies of the albums I have recorded. If not, I am sure I can dig up some new ones for him.

Mr. President, I want to close by saying that I have greatly admired Senator CRAIG for his devotion to the people of his state and his efforts to improve our country. I want to wish him and his family the best of luck in any future endeavors.

PETE DOMENICI

Mr. President, I rise today to pay tribute to my very dear friend and colleague, Senator PETE DOMENICI. Other than the members of the Utah congressional delegation, Utah has had no better friend in the Senate than the senior Senator from New Mexico. My State of Utah is made up mostly of public lands, and we have often relied on this good Senator for the support and expertise of solving some of our most difficult natural resource problems. Senators who understand the complexities of living in a public-land dominated State are few and far between, especially here in Washington. Having Senator DOMENICI in a leadership on the Senate Committee on Energy and Natural Resource Policy has been my State's salvation many times over.

In my personal view, Senator DOMENICI's crowning achievement was the passage of the Energy Policy Act of 2005. This was one of the most comprehensive and bipartisan energy proposals ever passed by Congress. I have no doubt that this summer's energy crisis would have been dramatically worse had EPACT 2005 not been passed when it was. It was a matter of dread and grave disappointment for some of us in the Senate to watch as the leadership of this Congress pursued efforts to turn back some of the most important steps that legislation took toward securing a better energy future for our people. And it is fitting that before this Congress ends along with Senator DOMENICI's Senate career, we have voted to reinstate and to extend many of the provisions established in EPACT 2005.

In particular, I praise Senator DOMENICI for his unfailing vision and leadership in working with me to establish the possibility in this country of developing our Nation's gigantic untapped oil shale resources. A lot has been said in the media about how oil shale development has not been proven yet and therefore not likely to be successful. However, what these critics fail to consider is that the Government has long had a policy to not develop its oil shale. We should keep in mind that the United States controls about 72 percent of the world's oil shale and that 73 percent of our resource is on Federal lands.

Without Senator DOMENICI's leadership, we would not have been able to pass the Oil Shale and Tar Sands Development Act as part of EPACT 2005. We would not now have a large, tri-state environmental impact statement on oil shale, a voluminous task force report on oil shale from the Department of Energy, a research and development lease program ongoing at the Bureau of Land Management, and the soon-to-be released final regulations on commercial oil shale leasing on Federal lands. He has maintained the vision of oil shale's potential benefit to our Nation's future and has never relented. I will ever be grateful to Senator DOMENICI for that.

My friend from New Mexico is not flashy. And I mean that as a high compliment. Where some Senators fight with rhetoric, Senator DOMENICI relies on reason. Where others search around for wedge issues, Senator DOMENICI finds solutions. Where others in the Senate seek to widen the aisle that divides us, Senator DOMENICI reaches across to bring us closer. The Senate is a better place because the people of New Mexico have sent us their senior Senator, and we will miss his presence here. As this Congress comes to a close, I say to my friend, arrivederci, ti voglio bene.

WAYNE ALLARD

Mrs. HUTCHISON. Mr. President, Senator ALLARD has spent many years working for Colorado.

He came to the Senate in 1996 after serving three terms in the U.S. House.

As Colorado's senior Senator, he worked diligently to cut taxes, eliminate wasteful spending, return power to State and local governments, and assure the security of America both at home and abroad.

Consistent with his belief that elected officials should be citizen legislators, Senator ALLARD conducted more than 700 town meetings across Colorado, visiting each of Colorado's 64 counties.

He was one of only two veterinarians in the Senate and provided leadership on small business issues from his practical experience.

He also led by example, returning more than $4.2 million in unspent office funds to the U.S. Treasury.

As the Republican leader of the Interior Appropriations Subcommittee, Senator ALLARD worked to shape the Nation's spending priorities.

His work on the Internet Tax Nondiscrimination Act helped keep access to the Internet tax-free.

He also worked to increase military benefits, including legislation to increase the death benefits for families of fallen heroes from $12,000 to $100,000.

I will miss working with him in this Chamber, and I will miss his friendship and support on the issues that matter most to America.

LARRY CRAIG

Mr. President, LARRY CRAIG has a long history of service to the people of Idaho.

In 1974, he was elected to the Idaho State Senate, where he served three terms before winning the 1980 race for Idaho's first congressional seat.

He was re-elected four times before winning a U.S. Senate seat in 1990.

As chairman of the Veterans' Affairs Committee, he assured that the health care needs of our Nation's veterans were addressed, and he helped increase the number of claims processors to try to help veterans receive the benefits they deserve, with fewer delays.

Throughout his career, Senator CRAIG has been a forceful advocate for commonsense, conservative solutions to our Nation's problems.

He has been a leader in the battle for lower taxes, private property rights, and greater accountability in government.

He has been recognized by national groups, including Citizens for a Sound Economy, Citizens Against Government Waste, Watchdogs of the Treasury, and the National Taxpayers Union Foundation.

He is also one of America's foremost defenders of the second amendment.

I wish Senator CRAIG well in his retirement.

CHUCK HAGEL

Mr. PRESIDENT, I have really enjoyed working with CHUCK HAGEL.

Senator HAGEL honorably served our country by enlisting in the U.S. Army during the Vietnam war.

While in Vietnam, he received the Vietnamese Cross of Gallantry, Purple Heart, Army Commendation Medal, and the Combat Infantryman Badge.

After working as Deputy Administrator of the VA, he became a successful entrepreneur and business leader.

In 1996, CHUCK HAGEL was elected to the U.S. Senate.

Six years later, he was overwhelmingly reelected with over 83 percent of the vote, the largest margin of victory in any statewide race in Nebraska history.

His knowledge and experience building a business and creating jobs was invaluable to the Senate.

He was a leader on the Foreign Relations Committee and represented the

U.S. Senate admirably as chair of the Senate Global Climate Change Observer Group.

On a personal note, he always sent me a souvenir from the College World Series in Omaha when the University of Texas or Rice University was in the Finals, which I am proud to say was almost every year.

I will miss CHUCK HAGEL, and I wish him well.

JOHN WARNER

Mr. President, JOHN WARNER is a Senator who has served his country heroically.

During World War II, at the age of 17, he enlisted in the U.S. Navy. At the outbreak of the Korean war in 1950, Senator WARNER interrupted his law studies and started a second tour of Active military duty.

Senator WARNER's next public service began with his Presidential appointment to be Under Secretary of Navy in 1969. He served as Secretary of the Navy from 1972 to 1974.

Following his work there, JOHN WARNER was appointed by the President to coordinate the celebration of America's bicentennial.

Beginning in 1978, Senator WARNER has been elected to the Senate five times. In 2005, Senator WARNER became the second-longest serving U.S. Senator from Virginia in the 218-year history of the Senate. Now serving in his 30th year in the Senate, Senator WARNER rose to become chairman of the Senate Armed Services Committee. In that capacity, and throughout his career, he has shown unwavering support for the men and women of the Armed Forces.

Every time I am with JOHN WARNER, I learn something new, valuable, insightful or humorous. He is truly a unique blend of a military leader, country gentleman, historian, great storyteller and statesman. His hard work and devotion will be missed by all his friends in the Senate.

PETE DOMENICI

Mr. President, last, but certainly not least, I would like to speak about my great friend, Senator PETE DOMENICI of New Mexico.

The longest serving U.S. Senator in New Mexico history, PETE has been a respected leader on some of the most important issues of our time, including energy security, nuclear proliferation, and fiscal responsibility.

PETE was first elected to the U.S. Senate in 1972 and is serving his sixth term.

PETE is the ranking member of the Senate Energy and Natural Resources Committee, having previously served as its chairman following a long tenure in charge of the Senate Budget Committee.

When he became chairman of the Energy and Natural Resources Committee in 2003, PETE put his years of legislative experience to work to craft the first major comprehensive Energy bill since 1992.

Many thought that the task was nearly impossible, but Senator DOMENICI gained bipartisan consensus and passage of the Energy Policy Act of 2005. This new energy law created incentives to accelerate U.S. development of its own energy resources—including solar, wind, and nuclear power.

Then, in late 2006, DOMENICI engineered the enactment of a new law that will open areas of the Gulf of Mexico for energy exploration. This could yield 1.26 billion barrels of American-owned oil and 5.8 trillion cubic feet of natural gas in the near future.

Senator DOMENICI's commitment to America's prosperity is also exemplified in his work to make the U.S. more competitive in the global marketplace. He is a coauthor of the America Competes Act, a landmark bill that will force substantial changes to promote science and technology education and ensure that the United States does not lose its place as the world's innovation leader.

Senator DOMENICI is a nationally recognized advocate for people with mental illness, having written the 1996 Mental Health Parity law to ensure fair insurance coverage for people who suffer from that disease.

PETE has also been a champion in promoting New Mexico's economy. He has worked to ensure equal opportunities for women and minorities. He has worked to find consensus on difficult environmental issues. It has been a true honor to serve with him. The Senate will truly miss his leadership, and I will miss his friendship. Indeed, we will miss all our departing friends. I wish them well.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

LILLY LEDBETTER FAIR PAY ACT

• Mr. KENNEDY. Mr. President, in addition to the many other vital matters the Congress has considered this year, the issue of pay equity remains of critical importance. The Lilly Ledbetter Fair Pay Act would restore a fair rule for filing claims of pay discrimination based on race, color, gender, national origin, religion, disability, or age. This measure, which passed the House last year, has broad public support, and I hope the Senate will pass it as soon as possible. I ask unanimous consent to include in the RECORD a series of letters of support for the bill which I have received from civil rights and workers' organizations.

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

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington DC, April 16, 2008.

Dear SENATOR: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest and most diverse civil and human rights coalition, representing persons of color, women, children, labor unions, individuals with disabilities, older Americans, major religious groups, gays and lesbians and civil liberties and human rights groups, we urge you to co-sponsor and vote for the Fair Pay Restoration Act (S. 1843) to correct the Supreme Court's misinterpretation of Title VII regarding when a pay discrimination claim is timely filed.

S. 1843 whose companion measure, H.R. 2831, passed the House of Representatives July 31, 2007, is necessary to ensure that victims of workplace discrimination receive effective remedies. Title VII requires individuals to file complaints of pay discrimination within 180 days of ''the alleged unlawful employment practice.'' In Ledbetter v. Goodyear Tire & Rubber, decided on May 29, 2007, the Supreme Court held that the 180-day statute of limitations should be calculated from the day a pay decision is made, rather than from when the employee is subject to that decision or injured by it. The Court's decision in this case was a sharp departure from precedent and would greatly limit the ability of pay discrimination victims to vindicate their rights. Moreover, it has implications beyond Title VII, including for pay discrimination claims brought under the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act. Congress must make clear that a pay discrimination claim accrues when a pay decision is made, when employees are subject to that decision, or at any time they are injured by it, including each time they receive a paycheck that is reduced as a result of the discrimination.

As Justice Ginsburg pointed out in her dissent in Ledbetter, Congress has stepped in on other occasions to correct the Court's cramped interpretation of Title VII. The Civil Rights Act of 1991 overturned several Supreme Court decisions that eroded the power of Title VII. As Justice Ginsburg sees it, ''[o]nce again, the ball is in Congress' court.'' We agree and urge you to act expeditiously and reaffirm that civil rights laws have effective remedies,

Thank you for your time and attention to this important matter. If you have any questions. please feel free to contact Nancy Zirkin at (202) 263–2880 or Zirkin@civilrights.org, or Paul Edenfield. LCCR Counsel, at (202) 263–2852 or Edenfield@civilrights.org.

Sincerely,

WADE HENDERSON,
President & CEO.
NANCY ZIRKIN,
Executive Vice President.

NATIONAL WOMEN'S LAW CENTER.
Washington, DC, January 24, 2008.

DEAR SENATOR: On behalf of the National Women's Law Center, I am writing in support of S. 1843, the Fair Pay Restoration Act. S. 1843 would reverse the Supreme Court's decision in Ledbetter v. Goodyear Tire & Rubber Co. and help to ensure that individuals subjected to unlawful compensation discrimination are able to effectively assert their rights under the federal anti-discrimination laws. The bill would reinstate prior law to make clear that pay discrimination claims accrue whenever a discriminatory pay decision or practice is adopted, when a person becomes subject to the decision or practice, or when a person is affected by the decision or practice, including whenever s/he receives a discriminatory paycheck. A companion bill, H.R. 2831, has already been passed by the House of Representatives, and we urge you to enact S. 1843 without delay.

The Supreme Court's Ledbetter decision severely limits workers' ability to vindicate their rights by requiring that all charges of pay discrimination be filed within 180 days of the employer's originally discriminatory decision. The Court's decision upends prior precedent and is fundamentally unfair to those subject to pay discrimination. Under

the Ledbetter rule, victims of pay discrimination have no recourse against—and employers are immunized from liability for—the discrimination once 180 days have passed from the employer's initial decision, even when the discrimination continues into the present. The Ledbetter decision thus creates incentives for employers to conceal their discriminatory conduct until the statutory period has passed. As Justice Ginsburg noted in her dissent, after that time the Ledbetter rule renders employers' discriminatory pay decisions ''grandfathered, a fait accompli beyond the province of Title VII ever to repair.''

The decision also ignores fundamental workplace realities. Pay information is often confidential, and few employees have concrete information about the decisions underlying their own compensation, let alone the compensation of their coworkers; in fact, many employers explicitly forbid their employees from discussing their wages. And unlike other forms of discrimination, pay discrimination is not manifested as an adverse action against the employee. As a result, an employee may experience compensation discrimination for a long time before he or she is aware of it. In addition, while employees may be reluctant to challenge wage disparities that are small at the outset, the disparities can expand exponentially over the course of an employee's career, as raises, bonuses, and retirement contributions are calculated as a percentage of prior pay.

The Fair Pay Restoration Act responds to each of these problems in a modest and targeted way—and indeed is the only legislative approach that will fully address the obstacles created by the Ledbetter decision. The Act will promote voluntary compliance with the anti-discrimination laws; because each discriminatory paycheck, rather than simply the original decision to discriminate, triggers a new claim filing period, employers have a strong incentive to eliminate any discriminatory pay practices. The Act will also ensure that employers do not benefit financially from discrimination; while under the Ledbetter decision, employers whose compensation decisions are not challenged within 180 days get a windfall from continuing this discrimination, the Act will hold employers accountable for ongoing discrimination.

The Act also responds to the ways in which pay discrimination is manifested in the workplace, as well as to its impact over time. And it allows employees to assess the validity of their claims before challenging compensation discrimination. Under the Ledbetter rule, employees who wait to challenge suspected pay discrimination run the very real risk of forfeiting their right to any relief whatsoever. Ledbetter thus creates the incentive for employees who suspect that they have been subject to pay discrimination to immediately file a charge with the Equal Employment Opportunity Commission. The Act will remove the incentive to file preemptive charges and litigation—a result that serves neither employees nor employers.

Moreover, the Act will restore a clear and familiar way of evaluating the timeliness of compensation discrimination claims. Far from imposing a new or unfair rule on employers. the Act simply reinstates the law that had been applied by the EEOC and nine of the twelve federal courts of appeals before the Ledbetter decision. Accordingly, most courts and the EEOC, as well as most employers, are already familiar with the rule. In addition, both employers and employees benefit from the certainty created by the rule, which ensures that both plaintiffs and defendants will be able readily to determine the timeliness of claims.

Finally, the Act will in no way lead employees to delay challenges to pay discrimination. To the contrary, employees will continue to have every incentive to challenge pay discrimination as soon as possible. For one thing, the Act leaves unaltered Title VII's two-year limitation on the recovery of back pay. As a result, a plaintiff who delays filing a pay discrimination claim will continue to sacrifice the recovery of any pay s/he is owed for periods that predate the two years preceding her charge.

More than four decades after Congress outlawed wage discrimination based on sex, women continue to be paid, on average, only 77 cents for every dollar paid to men. This persistent wage gap can be addressed only if women are armed with the tools necessary to challenge sex discrimination against them. And it is critical that Congress reaffirm that civil rights laws have effective remedies, and that all those subject to pay discrimination are entitled to challenge continuing discrimination against them.

We urge you to enact S. 1843, the Fair Pay Restoration Act, without delay. Please feel free to contact Jocelyn Samuels, Vice President for Education and Employment, with any questions.

Sincerely,

MARCIA GREENBERGER,
Co-President.

NATIONAL PARTNERSHIP FOR
WOMEN & FAMILIES,
Washington, DC, April 17, 2008.

Re Fair Pay Restoration Act, S. 1843.

DEAR SENATOR: On May 29, 2007, the Supreme Court issued a decision in Ledbetter v. Goodyear Tire & Rubber Company reversing a well-established legal standard and weakening severely protections against pay discrimination that have been critical for women in the workplace. We write to urge you to support the Fair Pay Restoration Act, S. 1843, which would correct this decision by restoring the timeliness standard used to determine whether pay discrimination claims have been filed in a timely manner. Without this legislation, protections against pay discrimination are little more than an empty promise and equal employment opportunity becomes an unattainable ideal.

BACKGROUND

Lilly Ledbetter, the only woman supervisor in her division at the Goodyear plant, sued Goodyear for sex-based pay discrimination under Title VII of the Civil Rights Act of 1964 (Title VII) after learning that she was paid substantially less—15 to 40 percent—than her male colleagues. A jury awarded Ms. Ledbetter over $3.2 million, which was later reduced to $360,000 ($300,000 in compensatory and punitive damages and $60,000 in backpay) due to Title VII's damages caps.

A sharply divided Supreme Court ruled that Ms. Ledbetter's claim was time-barred because she waited too long to file her claim. Title VII requires employees to file within 180 days of ''the alleged unlawful employment practice.'' The Court calculated the deadline from the day that Goodyear allegedly made a discriminatory pay decision, rather than—as decades of precedent recognized—from the day Ms. Ledbetter received her last discriminatory paycheck. Because Ms. Ledbetter filed her charge more than six months after the pay decision, the Court concluded that her claim must fail, even though she continued to make less money due to her sex for many years after that decision and within 180 days of when she flied her charge.

RESTORING THE TIMELINESS STANDARD FOR PAY DISCRIMINATION CLAIMS

The Fair Pay Restoration Act (FPRA) would amend Title VII to make clear that an unlawful employment practice occurs (1) when a discriminatory compensation decision or other practice is adopted, (2) when an individual becomes subject to a discriminatory compensation decision or practice, or (3) when an individual is affected by the application of a discriminatory compensation decision or other practice, including each time compensation is paid. This legislation thus would reinstate the rule that had been in place for decades—the paycheck accrual rule—which provides that the 180-day time limit for filing a charge of discrimination with the EEOC begins to run anew after each discriminatory paycheck is received.

A STEP BACKWARD

The Ledbetter decision is a step backward for women and for any employee alleging pay discrimination under Title VII. Despite Title VII's guarantee of equal employment opportunity, the Court's ruling would leave many victims of pay discrimination without an effective remedy, even when their rights have been violated. If allowed to stand uncorrected, this decision authorizes employers to violate Title VII's bar on pay discrimination with impunity as long as they do not get caught within 180 days. Now employers will have every reason to try to avoid liability simply by keeping pay disparities hidden during the Title VII charge-filing period.

THE DECISION DISREGARDS WORKPLACE REALITIES AND DISCOURAGES INFORMAL RESOLUTION OF DISPUTES

The Supreme Court's decision ignores the realities of the workplace and the realities of pay discrimination. Because pay information is often confidential, employees are rarely able to uncover such discrimination and file claims quickly. In addition, pay disparities can start small but grow in significance as the impact of raises—often set as a percentage of prior pay—accrues over time. Employees might be reluctant to raise a pay discrimination claim at the outset over a minor salary discrepancy, when they have incomplete or insufficient information. Now they must assume discrimination in every situation and file claims preemptively—and potentially prematurely—to preserve any ability to challenge discriminatory pay decisions.

The Ledbetter decision, therefore, likely will have the unintended consequence of encouraging an immediate adversarial response to any questions regarding pay. Employees who take the time to ask questions and gather accurate information to determine whether they have a claim, under Ledbetter, risk having their claims rejected as untimely. Many claims that might otherwise be resolved informally will be raised in a more adversarial setting and create a greater potential for protracted litigation. As a result, Ledbetter actually undermines one of Title VII's primary goals—informal resolution of disputes.

IMPACT ON WOMEN'S WAGES AND CLOSING THE WAGE GAP

Although the Court paints the discrimination that Ms. Ledbetter faced as long past, the pay discrimination that Ms. Ledbetter and so many others have endured is current and very real. Many women are all too painfully aware that there is nothing ''long past'' about the consequences of discriminatory pay practices—they have a present-day impact as they accumulate and grow over time. A woman loses ground every day she is paid less pursuant to a policy of discrimination. Unfortunately, this decision effectively disregards the real economic impact of pay discrimination. Further, pay discrimination is responsible for a significant portion of the wage gap experienced by women and people of color. The Supreme Court's decision makes it even more difficult for women workers and employees of color to close the wage gap.

The decision in this case is not merely about sex discrimination. Rather, it has broader implications for all pay discrimination claims under Title VII, which bars discrimination in compensation not only on the basis of sex, but also on the basis of race, color, religion, and national origin, and other antidiscrimination laws, including the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act. Accordingly, this bill amends the timeliness standard for pay discrimination claims under those laws as well.

RESTORING THE LAW IMPOSES NO UNFAIR BURDEN ON EMPLOYERS

Prior to the decision in this case, the EEOC, the majority of lower courts, and the Supreme Court each allowed pay discrimination claims to proceed on the basis of the issuance of a paycheck that paid an employee a discriminatory wage. The Court's decision in Ledbetter marks a reversal in the law. The proposed FPRA would restore the previous legal standard without placing an unfair burden on employers.

Although employers have suggested that a decision in favor of Ms. Ledbetter would have left them defenseless against an onslaught of pay discrimination suits going back many years, this rhetoric strains credulity. There is no evidence that employers were inundated with stale pay discrimination lawsuits prior to Ledbetter, and there is no reason to believe that a return to the state of the law pre/Ledhetter would cause such a result now. Moreover, not only would undue delay make it that much more difficult for a worker to prove a claim of pay discrimination, but it also could provide an employer with a defense—called laches—to challenge unreasonably delayed claims.

CONCLUSION

The Court's unduly restrictive interpretation of Title VII effectively guts the law's protection against pay discrimination, leaving many victims of pay discrimination without a remedy. Legislation is necessary to insure that all workers receive a fair, nondiscriminatory wage and the opportunity to participate in the workforce on equal ground.

Sincerely,

DEBRA L. NESS,
President.

NATIONAL WOMEN'S POLITICAL CAUCUS,
SEPTEMBER 23, 2008.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, DC.
Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY AND SENATOR SPECTER: Thank you for your continued leadership on H.R. 2831, the Lilly Ledbetter Fair Pay Act. I am writing on behalf of the National Women's Political Caucus (NWPC) to endorse this important piece of legislation and to support the analysis contained in a letter sent to you by Sue Johnson, President of the Alaska Women's Political Caucus, one of our state affiliates.

The National Women's Political Caucus was founded in 1971 on the principle of achieving and protecting equal rights for women, and this includes equal economic rights for women. One fundamental tenet of our organization is fighting all forms of discrimination, and this especially includes fighting pay discrimination in the workplace. The Lilly Ledbetter Fair Pay Act provides a way to ensure equal pay for equal work and to equip women with a vital tool to combat pay discrimination. With so many women heading up their households and being the sole income earners, it is all the more important that their work is fairly and equally compensated so that they may provide for their families.

The National Women's Political Caucus and I appreciate your steadfast work on issues of fundamental importance to women, and stand behind your efforts in the passage of H.R. 2831.

Sincerely,

LULU FLORES,
President.

ALASKA WOMEN'S POLITICAL CAUCUS
Anchorage, AK, September 23, 2008.

Hon. EDWARD KENNEDY
U.S. Senate, Washington, DC.
Hon. ARLEN SPECTER
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY AND SENATOR SPECTER: On behalf of the Alaska Women's Political Caucus (AWPC). I write to thank you for your continued leadership on H.R. 2831, the Lilly Ledbetter Fair Pay Act. The AWPC is an affiliate of the National Women's Political Caucus (NWPC), a bipartisan multicultural organization dedicated to increasing women's participation in the political field and creating a political power base designed to achieve equality for all women. NWPC and its hundreds of state and local chapters support women candidates across the country without regard to political affiliation through recruiting, training, and financial donations. AWPC focuses on wining equality for women and supporting candidates who support AWPC's goals. Of the upmost importance to breaking the glass ceiling restricting women, is making certain that women can assert their right to remain free from pay discrimination at work.

H.R. 2831 IS THE RIGHT SOLUTION FOR ALASKA'S WORKING WOMEN

Alaska is part of the Ninth Circuit, which for years (along with a majority of the other federal circuits), recognized the ''paycheck accrual rule'' in employment discrimination cases. Under Title VII of the Civil Rights Act of 1964, an employee has 180 days a discrimination act to file a claim. Before the Ledbetter v. Goodyear decision, if an employee in Alaska brought a federal claim for pay discrimination, the courts recognized that each new paycheck started a new clock because each paycheck was a separate discriminatory act. This meant that our workers in Alaska were able to bring a timely claim as long as they could show that they had received a paycheck lessened by discrimination in the required time period. This had been the law in Alaska's federal courts for years: See Gibbs v. Pierce County Law Enforcement Support Agency, 785 F.2d 1396 1399 (9th Cir. 1986) (''The policy of paying lower wages . . . on each payday constitutes a 'continuing violation'.'') (internal quotation omitted).

Unfortunately, in May 2007, in Lebetter v. Goodyear, the Supreme Court overturned this common-sense practice that plaintiffs and employers in Alaska had come to rely upon. Now, if an employee does not know about the discrimination within just a few months of the employer's illegal behavior there is nothing that can be done—she can't have her day in court or ever get her hard-earned wages back.

Certainly, in tough economic times, workers should be able to earn and keep their fair wages. The Lilly Ledbetter Fair Pay Act, H.R. 2831, would reinstate this common-sense paycheck accrual rule. H.R. 2831 merely clarifies that pay discrimination is not a one-time occurrence starting and ending with a pay decision, but that each paycheck lessened due to discrimination represents a continuing violation by the employer. It is a very modest bill and is the right answer for Alaska's working women.

SENATOR HUTCHISON'S LEDBETTER ''ALTERNATIVE'' IS NOT THE RIGHT APPROACH

The clear, measured approach taken in H.R. 2831 is the only way Congress can reverse the effects of the Ledbetter decision. A newly-introduced bill from Senator HUTCHISON (R–TX), S. 3209, purports to offer a solution for victims of pay discrimination. But, in reality, Ms. Hutchison's legislation would fail to correct the injustice created by the Ledbetter decision, would create new, confusing, and unnecessary hurdles for those facing discrimination, and would flood the courts with premature claims and unnecessary litigation.

The approach of S. 3209 fails to recognize the basic principle that as long as discrimination in the workplace continues, so too should employees' ability to challenge it. It is the wrong approach for working women, who depend on every rightfully-earned dollar. Every time an employer issues a discriminatory paycheck, that employer violates the law, and victims of that discrimination should be afforded a remedy.

Moreover S. 3209 would create new legal hurdles for employees by requiring employees to show they filed their claims within 180 days of when they had—or should have had—enough information to suspect they'd been subjected to discrimination. This ''should have'' known standard would encourage employees to prematurely file discrimination claims based on mere speculation or office rumors of wrongdoing just to preserve their rights within the 180-day time frame. This novel standard is not just bad for employees, but also for employers who would be burdened with unnecessary litigation and increased costs. Far from creating a new legal standard, in contrast, H.R. 2831 would merely restore the law prior to the Ledbetter holding and fairly protect employees' day in court.

The AWPC commends you for helping to help make equal pay for equal work a reality by supporting H.R. 2831 as the best solution for the problems created by the Ledbetter decision.

Sincerely,

SUE C. JOHNSON,
President, Alaska Women's Political Caucus.●

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

DC GUN LAWS

● Mr. KENNEDY. Mr. President, I strongly oppose H.R. 6842. This bill would be a disastrous blow to gun safety in the District of Columbia. For almost three decades, the District's handgun and assault weapon ban has helped to reduce the risk of deadly gun violence. City residents and public officials overwhelmingly supported the ban, and courts have upheld it—until the Supreme Court's recent misguided decision in the Heller case in June. Now, we are facing an orchestrated assault that jeopardizes public safety. It is hard to understand how the increased availability of handguns and assault weapons in our Nation's Capital will make residents and visitors safer.

Introducing more guns onto the streets and into the community will only increase the number of violent deaths in DC, including homicides, suicides, and accidental shootings. The increased availability of firearms will

make it more likely that deadly violence will erupt in our public buildings, offices, and public spaces.

This bill will have dangerous consequences for residents and visitors alike. It removes criminal penalties for possession of unregistered firearms. It legalizes the sale of assault weapons in the District. It allows handguns and assault weapons to be kept legally in the city's homes and workplaces. It hobbles the authority of the Mayor and the City Council to deal with gun violence. Absurdly, this bill even prevents the City Council from enacting any laws that ''discourage'' gun ownership or require safe storage of firearms.

As Congresswoman ELEANOR HOLMES NORTON has emphasized, this bill sets no age limit for possession of guns, including military-style weapons. It permits a person who is voluntarily committed to a mental institution to own a gun the day after the person is released. It prevents gun registration, even for the purpose of letting police know who has guns and tracing guns used in crimes. It prevents the DC government from adopting any regulations on guns, leaving only a bare Federal statute that would leave DC with one of the most permissive gun laws in the Nation.

This bill is a frontal assault on the well-established principle of home rule. It is an insult to the 580,000 citizens of the District of Columbia. It tramples on the rights of its elected leaders and local residents to determine for themselves the policies that govern their homes, streets, neighborhoods, and workplaces. Congress wouldn't dare do this to any State, and it shouldn't do it to the District of Columbia.

Congress has consistently opposed giving the residents of the District the full voting representation in Congress they deserve. Many of our colleagues have frequently attempted to interfere with local policymaking and spending decisions. This bill is a blatant interference with DC law enforcement by denying the right of the City Council to regulate firearms and firearm ownership.

I commend Senator FEINSTEIN and Senator LAUTENBERG for their leadership in opposing this shameful legislation, and I urge my colleagues to oppose this reckless, special-interest bill that will endanger the safety of the District of Columbia's residents and visitors.

The solution to DC's gun crime problem lies in strengthening the Nation's lax gun laws, not weakening those in the District. The tragic and graphic stories of gun violence that capture front-page headlines in the District show that current gun-safety laws need to be strengthened, not abolished. I have long been committed to reasonable gun control laws, and I am concerned that the Supreme Court's decision on the DC gun ban opens a Pandora's box. Much of the progress we have made in making Americans safer by placing reasonable restrictions on the possession of firearms is now in doubt. It is a bitter irony that this gross setback comes in the name of a right to self-defense, and I urge the Senate to oppose it.●

NATIONAL HIGHWAY BRIDGE RECONSTRUCTION AND INSPECTION ACT

Mr. INHOFE. Mr. President, I would like to explain why there are objections to bringing up H.R. 3999, the National Highway Bridge Reconstruction and Inspection Act of 2008. As has been mentioned by several of my colleagues on the floor today, the Highway Bridge Program in its current form needs to be reformed to make it more useable for States. Unfortunately, H.R. 3999 hinders, rather than strengthens, States' abilities to address their greatest bridge priorities. It would force States to follow a risk-based system developed in Washington to prioritize the replacement or rehabilitation of bridges. There is great concern that this one-size-fits-all approach would not allow for important local factors, such as seismic retrofit. This legislation also forces States to spend scarce resources on new procedures that will provide little or no new information to State bridge engineers.

SAFETEA–LU will expire on September 30, 2009. Any major policy changes at this point in the process will distract from the overall goal of completing a comprehensive bill on time. For that reason, a policy change of this magnitude should be handled in the context of reauthorization. Furthermore, it is counterproductive to attempt to fix our crumbling infrastructure through piecemeal efforts. Comprehensive reform is necessary and should be addressed in a holistic approach in the reauthorization bill the Environment and Public Works Committee will work on in the coming months.

There has been a lot of press about the poor condition of the nation's bridges in the wake of the Minnesota tragedy. Our bridges are certainly in need of additional investment, but the roads on the National Highway System, NHS, are actually in greater need. According to the Federal Highway Administration, FHWA, the Nation's bridges receive an average of 15 percent less funding from all levels of government than the maximum amount that could be economically invested. In contrast, the roads on the NHS receive 78 percent less funding than the maximum economic level.

This is not to say that there are not enormous bridge needs. These are simply 20 year averages, and much more could be economically invested in the short term. According to the same study by the FHWA, $62 billion could be invested immediately in a cost-beneficial basis. It is critical, however, to view investment in the Nation's highways and bridges in a comprehensive fashion.

The authors of H.R. 3999 tout one of the benefits of the bill is that it prohibit transfers from the current bridge program to other highway programs. I would like to take a few minutes to explain that while that sounds good, it will not accomplish what the authors of the bill want. Many States rely on the flexibility allowed under the Federal highway program to transfer money in between core highway programs as an important cash and program management tool. This flexibility in the bridge program is needed by States as bridges are enormous, ''lumpy'' investments and it often becomes necessary for States to wait a few years between major bridge replacements. If they did not do so, bridges would consume too much of their highway resources to address nonbridge needs. This bill would prohibit all transfers from the bridge program on the incorrect assumption that all transfers are bad.

Many States find the bridge program requirements too bureaucratic and prefer to replace or rehabilitate structurally deficient bridges using more flexible programs. These States transfer money out of the bridge program and then obligate those same dollars to structurally deficient bridges. Also, when bridges are being replaced or rehabilitated as a part of a larger project, States frequently transfer money into a single category of funding that can be used on the entire project. Because of the narrow eligibility of Highway Bridge Program funds, the flexibility to transfer funds is oftentimes necessary and does not necessarily detract from the goals of the Highway Bridge Program.

H.R. 3999 incorrectly assumes that all bridge construction and reconstruction is done through the bridge program. In fact, only about 55 percent of obligations on bridges are through the Highway Bridge Program. The remaining obligations of funds on bridges, about $2.4 billion, are done using other categories of funding. By prohibiting transfers, H.R. 3999 would effectively punish States that are spending more on bridges than is provided in bridge funding, by denying them an important cash and program management tool.

In addition, H.R. 3999 requires States to follow a risk-based system developed in Washington to prioritize the replacement or rehabilitation of bridges. Many fear that this will produce a ''worst first'' approach to replacing and rehabilitating our bridges an approach that is widely criticized among economists as it costs far more money than a targeted approach. In many aspects of government this is a prudent method to make decisions, but the approach set forth in this bill lacks the cumulative factor analysis required to make the most cost-beneficial and safety-driven bridge investment decisions. Under H.R. 3999's risk-based system, a lower rated bridge that is rarely used and poses no public safety threat could be prioritized ahead of a slightly higher

rated bridge with more traffic, greater relative importance to the rest of the system, and overall more need for investment. This bill would create yet another level of bureaucracy to a bridge program over-burdened with red tape, as State risk-management plans will have to be approved by the Department of Transportation.

The requirements for the risk management system set forth in H.R. 3999 are vague and unspecific. However, there is a wide concern among State departments of transportation that they will be interpreted by FHWA to force one-size-fits-all Federal standards that ignore local considerations and variations in risk factors across the country, such as seismic retrofit.

States are already using a highly effective bridge management system to address risk when making State-wide bridge investment decisions; this bill will disrupt these efforts.

In closing I will reiterate that I fully agree that the current Highway Bridge Program needs work, but so does the entire Federal Highway Program and I believe we need a comprehensive solution. I look forward to working with my colleagues to that end.

CENTRAL AND EASTERN EUROPEAN DEMOCRACIES

Mr. SCHUMER. Mr. President, almost two decades after the fall of the Berlin Wall, democracy and the rule of law have become firmly entrenched in many Central and Eastern European nations. We must be forthright and firm in our support for the continued independence and territorial integrity of the still fledgling CEE democracies.

The political and economic transformation of the region is nothing short of breathtaking. After years of untold suffering under Soviet rule, these countries have boldly embraced common transatlantic values of liberty and democracy with profound and positive consequences.

Internal reforms, including increased government accountability and efforts to eradicate corruption, have spurred economic transformations reaching deep within each country. Respect for human rights and democratic reforms have invigorated civil society. The progress and achievements in the region are inspirational, and I join with the 22 million Americans of Central and Eastern European heritage in taking great pride in the democratization of these former Soviet bloc countries.

But the great strides in freedom and democracy in the region are under threat. Russia's recent military incursion into the neighboring country of Georgia was a dramatic wake-up call. Some have suggested the incursion is a harbinger of Russian desires to limit the sovereignty and pro-Western orientation of vulnerable neighboring countries. I hope that is not the case.

Just last month, the leaders of Poland, Lithuania, Latvia, Estonia, and Ukraine stood together with Georgian President Mikheil Saakashvili to demonstrate solidarity in the face of Russia's incursion. The United States pledged its support for the democratically elected Government of Georgia and for Georgia's territorial integrity and sovereignty. European leaders helped broker a cease-fire agreement. The United States, Europe, and the CEE nations must continue to stand together in the face of Russian aggression and interference in the region.

Nevertheless, as disturbing as Russia's behavior has been, we must we must find a way to step back from the path of confrontation with Russia. It makes better sense to find common ground than to engage in confrontation. This does not mean indulgence of Russia's recent actions. On the contrary, we must find a way to work with Russia without ceding freedom and democracy in the region.

Let me be clear. I am deeply committed to the continued freedom, democracy, and independence of the Central and Eastern European nations. At the same time, I fully support the democratization of Russia. Ultimately, we need to find a way to improve relations with Russia, but the effort cannot be one-sided.

It is in Russia's own economic interest to step up to the plate and be a positive member of the international community. Our relationship with Russia may be complicated, but we can find common ground in working together to strengthen global security, economic stability, and democracy. Moreover, the United States needs Russia as a partner in building a peaceful and prosperous Europe.

The United States does not have to choose between the Central and Eastern European countries and Russia. We should be able to form real partnerships with both.

DOMESTIC INFRASTRUCTURE GAPS POST 9/11

Mr. FEINGOLD. Mr. President, it has been more than 7 years since al-Qaida attacked us at home. There are many lessons those attacks should have taught us, many things we should have been doing as a nation since that date which we have yet to do. These post-9/11 gaps in our efforts and strategies need as much if not more attention today as they did on September 12, 2001. The largest gap we face is a strategic gap between what we should have done and what this administration elected to do in response to the tragic events of 9/11. The administration chose to attack Iraq rather than complete the mission in Afghanistan—where the 9/11 attacks were hatched—and address al-Qaida's expanding influence in northern Africa, Southeast Asia, and beyond. Those threats are real and have the continuing potential to manifest themselves again in disastrous ways here at home and around the world.

There are other gaps—failures by this administration to address the real challenges of our post-9/11 world. We have created a gap in the readiness of our military. Our National Guard, an integral part of any large disaster response, has been severely strained. We continue to have insufficient intelligence and information resources posted abroad. We have insufficient diplomatic personnel, with insufficient language and other cultural experience, to cover the many places in the world where our national security interests require that we know more—and interact with those who know us least. And while I applaud the efforts of this administration to encourage more of our citizens to engage in international volunteer programs, there is room for much more to be done to strengthen our image and our impact abroad through citizen outreach and private diplomacy. In a post-9/11 world, these continuing gaps pose real threats to our security at home, and we cannot ignore them at the expense of a strategically misguided and perilously expensive ongoing military presence in Iraq.

Closer to home, we are now beginning to suffer serious challenges to our economic stability and longer term economic outlook. We are squandering our wealth and failing to invest in our economic future and our domestic security. Osama bin Laden's stated goal was to bankrupt America. Well, the cost of our presence in Iraq may ultimately exceed the massive cost proposed to bail out our failed financial systems. And what do we have to show for the hundreds of billions spent in Iraq? What do Americans have as a return on their investment? A more perilous world in which al-Qaida has a safe haven in Pakistan, our power and influence are diminished and our military might is badly overextended.

So where do we go from here? We go where Americans have always gone in times of challenge. We will take up the challenge we face head-on and work to close the gaps we face in the fabric of our domestic security.

Here at home, we continue to have critical gaps in our domestic security, in our infrastructure, in our first responder systems. We still have not deployed an effective system to prevent the smuggling of radiological materials through our ports. We have not done everything we can to secure chemical facilities that could be the source of materials for domestic car bombs like the ones we have seen cause so much damage in Baghdad. We have not fully implemented the command system needed to ensure that first responders know how to work together across federal, state and local government.

We have also failed to establish the military forces needed to conduct medical triage, search and rescue, and decontamination in the wake of a WMD incident at home. I tried to offer an amendment to the 2009 Defense authorization bill that would have mandated that these forces be established by the end of 2009 and that they be maintained at the highest levels of readiness. This

amendment would have addressed what the Commission on the National Guard and Reserves characterized as an ''appalling gap'' in our domestic defenses. I was unsuccessful, but I will continue to press for enactment of this legislation. It is time that we get our priorities straight and put the defense of the American people first.

State and local authorities will always be the first to defend the American people in any disaster, whether manmade or natural. We need to ensure that we give them the resources they need to fulfill their responsibilities. That is why I have long supported adequate funding for homeland security and emergency management grants. I opposed the administration's proposal to reduce funding for these grants this year and am pleased that 2009 Homeland Security appropriations bill, which we should vote on shortly, includes increased funding for these and other important State and local grant programs.

The security of our borders is another critical priority. While I had serious concerns about some provisions of the Comprehensive Immigration Reform Act of 2007, the bill took some steps toward tightening border security that I strongly supported, such as requiring the Department of Homeland Security, DHS, to develop a national border security strategy and border surveillance plan. The bill also required DHS to develop a schedule for implementing the US-VISIT exit-entry program, created new criminal penalties for constructing border tunnels, provided grants to law enforcement agencies to address criminal activity along the border, and required the Government to work with countries south of the border to combat human smuggling and drug trafficking.

While that bill ultimately failed, I have supported other measures to enhance border security which have been signed into law, including funding to hire 23,000 new Border Patrol agents, put in place vehicle barriers along the border, install 105 radar and camera towers, remove and detain undocumented aliens, construct barriers, and purchase ground and aerial surveillance devices. Congress must take a practical approach to securing the borders and provide the resources necessary for our Government to carry out that important responsibility.

From our borders to the first responders in our communities, we face tremendous challenges. As we work to close those security gaps, we must also draw on America's boundless capacity for innovation and creativity. We need those talents more than ever as we face unprecedented challenges in our energy sector and elsewhere. We remain hostage to foreign oil sources, yet we have not invested adequately in the necessary alternatives. We face huge challenges in our transportation systems, which consume the largest proportion of our petroleum resources. We are beginning to understand that fresh water may be the next oil and that we have to use, conserve, and manage it as the scarce resource that it is. And where do these alternatives necessary to rebuild and sustain the economy of our future come from? Our history tells us they come from what President Eisenhower, in his farewell address to the Nation, called the ''solitary inventor, tinkering in his shop''—the entrepreneurial small businessperson.

So we must invest in our skilled workers and our infrastructure. We must find ways to invigorate our creative and entrepreneurial small businesses so that we can not only drive innovation and employment but strengthen our own security in the process.

Two programs—the Small Business Innovation Research and Small Business Technology Transfer Programs—are prime examples of how we can encourage innovation to improve our security. These highly successful programs not only need to be reauthorized, they need to be substantially increased and targeted at the key challenges of our time. Our domestic security, our innovative and entrepreneurial opportunities, our country's longer term employment prospects, and our economic future are all directly benefited by these programs, which provide Federal money for small business innovation. And the National Research Council, after an exhaustive study of the SBIR Program, tells us that Congress could effectively increase funding of this effort. This is the kind of investment we need to be making in our national security and in our economic future.

As we make that investment, we should make security-related innovation a stated priority of SBIR, not simply a byproduct of some SBIR-supported research. There are few, if any, Government programs better positioned to develop technologies to protect the American people than SBIR. I have introduced legislation to make domestic security, water security and quality, transportation, and energy top SBIR priorities. By focusing SBIR innovation and research in all of these areas, but especially domestic security and water security and quality, we can do a great deal to address the security challenges we face.

Today there are many technologies addressing areas such as first responder emergency responses, detection of radioactive materials, cargo scanning and cybersecurity, that demand more research and innovation to meet our security needs in a post-9/11 world. Recent reports from the Government Accountability Office and the National Academy of Sciences, for instance, identify troubling gaps in first responders' ability to deal with hazardous releases in urban areas or our ability to better track and detect radioactive materials. SBIR can fund the research that can close these security gaps, and that program—and most importantly the small business innovators themselves—deserve our full support in Congress.

Mr. President, as this administration comes to a close, we have an opportunity to revisit how best to address the gaps that have arisen in our national security both before and since 9/11. Our need to act is no less urgent now than it was 7 years ago, except that we have squandered time and great resources in the intervening period. I urge those of us who will return in the next Congress to work with the next administration to address these gaps with a renewed perspective on the sense of urgency they deserve.

FIREARMS AND SUICIDE

Mr. LEVIN. Mr. President, a recent article in the New England Journal of Medicine examined the link between the presence of guns in the home and the chance of suicide. The article, written by Dr. Matthew Miller and Dr. David Hemenway, entitled ''Guns and Suicide in the United States,'' illustrates a direct correlation between having a loaded firearm in a home and the success rate of suicide attempts.

According to the article, in 2005, the most recent year mortality data are available, suicide was the second leading cause of death among Americans 40 years of age or younger. More than half of all suicides in the United States are carried out by a firearm. An average of 46 Americans per day committed suicide with a firearm in 2005, accounting for 53 percent of all completed suicides.

Many of the attempts made at suicide are both impulsive and fleeting. There is often a very short window between the time a person decides they are going to attempt suicide and the time they follow through with the attempt. These attempts are often made drastically, in reaction to a specific event. However, as the initial reaction to the event subsides, so often does the urge to attempt suicide. This is illustrated by the fact that more than 90 percent of the people who survive a suicide attempt, do not go on to die by suicide. Unfortunately, those attempt suicide using a firearm are rarely fortunate enough to survive and thus have an opportunity for reconsideration. Suicide attempts that involve drugs or cutting have a much lower mortality rate.

The article cites over a dozen studies that have found that there is between a two and ten times greater risk of suicide in a home with a firearm than without. These risks do not only increase for the gun owner but also for the gun owner's spouse and children.

The simple fact is that guns increase the chance of suicide. Suicide prevention is a national problem that demands our attention and commitment. Congress must do its part by taking such steps as ensuring gun manufacturers supply trigger locks and closing the loopholes that allow young people easy access to guns.

OVARIAN CANCER

Mr. CARPER. Mr. President, ovarian cancer, the fifth most fatal cancer among women in the United States, is a serious and underrecognized threat to women's health.

This year alone, there will be an estimated 21,650 new cases of ovarian cancer in the United States and it will cause more than 15,000 deaths. In Delaware, there were 322 cases of ovarian cancer between 1999 and 2003—the most recent data—and 211 deaths during that time.

Unfortunately, there is no screening test currently available for the early detection of ovarian cancer despite the fact that it is highly treatable when detected early.

Increased public awareness of this disease, its risk factors and its subtle symptoms can save the lives of women across Delaware. Moreover, women's doctors must learn to recognize the warning signs of ovarian cancer, which are often the only early indication of illness.

Throughout this past September, the Delaware Chapter of the National Ovarian Cancer Coalition has promoted ovarian cancer awareness activities and encouraged every Delaware woman to become educated about the symptoms and risk factors of ovarian cancer.

More ovarian cancer research will help to develop reliable diagnostics, better therapies and prevention strategies, offering women in Delaware and throughout the United States an opportunity to win their battle against this tragic gynecologic cancer.

It is time for all women and their doctors to become more aware of the warning signs of ovarian cancer and to become better educated about early treatment options, because lives depend on it.

RENEWABLE ENERGY AND JOB CREATION ACT

Mr. ROCKEFELLER. Mr. President, I am pleased to support the Renewable Energy and Job Creation Act of 2008, which includes a provision that extends a credit under section 45 of the Tax Code to ''steel industry fuel.'' Steel industry fuel is a feedstock for the production of coke that is important to our Nation because it provides significant energy, environmental, economic, and financial benefits.

The energy and environmental benefits include utilizing a high Btu content hazardous waste in a fuel product that is created using a process that has been approved by the Environmental Protection Agency. The use of steel industry fuel makes our domestic steel industry economically more competitive by lowering production and operational costs. This in turn provides national defense benefits from a stronger domestic manufacturing base. It also provides financial benefits to steel company employees and retirees who all gain from a more competitive steel industry.

The addition of steel industry fuel to the section 45 credit is intended to promote the use of the steel industry fuel process to manufacture a feedstock for the production of coke that recaptures the Btu content of ''coal waste sludge.'' Coal waste sludge is the tar decanter sludge and other byproducts of the coking process. These materials have generally been treated as hazardous wastes under applicable Federal environmental rules (and in the past have been stored in the ground and in lagoons). Coal waste sludge has an energy content ranging from 7,000 Btus to 16,000 Btus per pound.

Coal waste sludge can generally be disposed of by one of several methods—use as part of a fuel product, steel industry fuel, incineration, or foreign land-filling. The most favorable method, from an energy resource and environmental perspective, is to use a process that liquefies the coal waste sludge and combines the liquefied coal waste sludge with coal to create steel industry fuel for use as a fuel product in steel producers' coke batteries. This method recaptures the significant energy content of the coal waste sludge and can be performed onsite at the steel producers' coke operations. The disposal of coal waste sludge in this manner has been approved by the Environmental Protection Agency. See 50 Federal Register No. 120, June 22, 1992.

The alternative methods of disposal are to transport the coal waste sludge offsite for incineration or to foreign countries for landfilling. Offsite disposal has significant drawbacks, including the need to physically convey a hazardous waste, which is a dangerous, cumbersome, and expensive undertaking, and the failure to recapture the energy content of the coal waste sludge if it is incinerated or landfilled in a foreign country. Incineration of coal waste sludge also requires the utilization of energy resources to burn up another energy resource, the coal waste sludge.

Steel industry fuel is produced using a facility that liquefies and distributes on each ton of coal approximately one-quarter to one-half gallon of coal waste sludge. Liquefied coal waste sludge in these amounts avoids operational and equipment problems with the coke batteries that use steel industry fuel as a feedstock to produce coke. An excessive amount of coal waste sludge in the coke battery causes adverse and irreparable damage to the coke battery. Steel industry fuel facilities include a facility that is comprised of one or more batch tanks and/or one or more storage tanks, steam and spray pipes, processing pumps, variable speed drives, a flowmeter, and related electrical equipment.

Explanation of Credit: The refined coal credit for steel industry fuel in the act is intended to provide an incentive for the expanded production of steel industry fuel. This expanded production is intended to provide energy and environmental benefits by promoting the use of an alternative fuel that recaptures the energy content of a byproduct of the coking process, coal waste sludge, which would otherwise be treated as a hazardous waste. Accordingly, a credit is provided for the barrel-of-oil-equivalent production of steel industry fuel. The steel industry fuel provision the Senate approved would modify the current credit under section 45 with regard to the amount of the credit and the time period for the availability of the credit. This is necessary to differentiate the refined coal product that becomes steel industry fuel from the refined coal product currently eligible for a credit under section 45. Without the distinctions passed in this legislation, steel industry fuel would continue to be denied the tax treatment that will enable the steel industry to continue to produce coke domestically and prevent having to bury toxic waste into landfills.

To reflect differences between the refined coal currently eligible for a credit and refined coal credit that is steel industry fuel, such as higher coal costs for the metallurgical coal used to manufacture steel industry fuel, the steel industry fuel provision modifies Section 45 with regard to the amount of the credit, the placed in service period, the credit period, and other items.

The steel industry fuel provision in the act is drafted to provide greater certainty to steel industry fuel producers that their fuel production is eligible for the credit by providing specific definitions for both ''steel industry fuel'' and ''coal waste sludge.'' This greater specificity is designed to attract the outside investment that is needed to finance steel industry fuel projects and expand the use of the steel industry fuel process.

IMMIGRATION REFORM

Mr. ENZI. Mr. President, I rise today to talk about an important issue for the people of the state of Wyoming. It is one that this body has attempted to address several times over the last three years, but never successfully: immigration reform.

Last year I introduced a ''Ten Steps to Health Care'' plan. This plan set forth 10 pieces of legislation that enacted as a group or individually would make positive changes in America's health care situation. I believe this approach will work well for the topic of immigration reform so I created a principles document of six steps to address this issue. This is not intended to be a comprehensive list—we have tried comprehensive approaches in the past and it doesn't work. This is a proposal of six reasonable items, based generally on proposals and ideas in other pieces of legislation.

Amnesty for illegal immigrants is not a part of this proposal. Amnesty rewards people for breaking the law and sends the wrong message to those

wishing to immigrate to our country legally. It puts illegal immigrants at the head of the line, in front of those who are following the rules in order to gain citizenship.

These six steps address border enforcement, interior enforcement, temporary worker programs, the employer verification system, English as our national language, and a merit-based permanent alien program.

The first step is what I have always said must be the top priority of any immigration reform proposal. Our Nation must have control of its borders. The enforcement of our laws is constitutionally the responsibility of the executive branch. Congress can ensure that we have adequate authorization and funding for continuing to hire and train border agents and they must have the proper authorization and funding to do their jobs. Congress already enacted the Secure Fence Act to increase the security along our Southern border. The enactment of this law, however, has hit a number of snags. Congress should increase oversight over the construction of the physical barriers and the development of the elements of the virtual fence. To ensure that congressional intent is clear, any future legislation must include specific construction and acquisition goals. We should also include mandates for the administration to report regularly if those goals are being met and if not, detailed explanations of why.

Interior enforcement is also the responsibility of the executive branch and our law enforcement. Congress should use our authority to clarify the ability of local law enforcement to assist in the detention of illegal immigrants and the reimbursement of those costs from federal agencies. As a former mayor, I understand the burden placed on sherriff's departments, police departments, and highway patrols when their already strained budgets are impacted by the delays in receiving reimbursements. Congress should also close loopholes that allow so-called sanctuary cities to avoid and ignore enforcement of Federal immigration laws. When these cities blatantly disregard Federal laws, they put their own citizens at risk by harboring those with no driver's licenses. These community leaders increase the burden on their taxpayers when social services are provided to illegal immigrants. We also should look at increasing the penalties for employers who knowingly and willingly, and especially those who repeatedly, hire illegal immigrants. Employers must have adequate protections, but we need to show that no business can pay a simple fine and continue to hire illegal workers.

One of the best ways to help our businesses is by enacting some commonsense changes in our temporary worker system. The current system is serving as a deterrent for following our country's laws. The problems with this system are not about a policy debate in Washington, they are about the ability of a small business owner to operate, stay in business, and provide for their family. In Wyoming, I have heard from hospitality businesses under the H–2B program, ranchers under the H–2A program, and high-tech businesses under the H–1B program. American workers would always be the preference, but the reality is that some businesses and industries are not getting the workers they need from our domestic labor pool. Businesses must first look for domestic workers—that is a fair requirement and I have not heard from any business in my State that disagrees with that. I want to work with the business community on this proposal to create language that truly addresses their workforce needs.

Some ideas we should consider for an updated temporary worker system include requiring uniform procedures at all consular offices so that both employers and prospective employees understand their obligations, requirements, and the process. We could also reduce the amount of paperwork required for businesses going through the temporary worker process. We must reexamine the congressionally mandated caps on the visa numbers. The reality is that the need is much greater than what the caps currently allow. Congress can raise the caps by reasonable levels and then allow for market needs and usage to permit reasonable fluctuation in the numbers. Above all, Congress must listen to the businesses in our Nation and work with them to create a realist program that meets security and economic needs. We cannot afford for even more small businesses to close or for large businesses to move overseas.

Another area affecting business is the employer verification system or E-Verify. I am hopeful that before the 110th Congress adjourns for the year, we will address the expiring authorization. As we look to the future, we need to consider making this program permanent. I understand there are some who are concerned about the accuracy of the program. We need to encourage usage of the system to determine what shortfalls may exist and how to fix them. I am pleased that the President has directed that all Federal Government contractors use E-Verify. We should enact this requirement into law. We also need to give employers the option to verify the status of all employees and not just new hires. The U.S. Citizenship and Immigration Service, USCIS, should also be providing monthly reports to Immigration and Customs Enforcement, ICE, with information that merits investigation. In order for this system to work, information must be shared between federal agencies. Finally, I support USCIS creating a pilot system to provide small and rural businesses with the opportunity to use E-Verify.

One of the most common comments I have heard from the people of Wyoming is support for English as our national language. My proposal contains two elements addressing our national language. First, we should declare English as our national language. Currently, 30 States have laws in place doing so. A common language for our government unifies our citizens. We have a great Nation made up of immigrants and I encourage everyone, whether a new citizen or a 10th generation American, to keep their family's traditions and cultures thriving in their homes and lives. This effort is about government documents and ensuring all citizens know what to expect from their government. The second part of this proposal eliminates an Executive order that may have been well intended, but has costly consequences. Executive order 13166 was designed to help those with limited English proficiency have access to government documents and services, but the fact that there were no reasonable limitations set forth make this order effectively require that every document and every service be ready for access in every possible language.

The final step in this plan is creating a merit-based permanent alien program. This concept is based on permanent alien programs of other industrialized nations like Canada, Germany, the United Kingdom, and Australia. The United States should have a similar program in place. This concept does not eliminate permanent alien programs for families or those with refugee status but would allow our Nation to ensure that a larger portion of green cards are going to those individuals who are contributing to our economy.

Canada's point system allows for approximately 60 percent of permanent resident aliens to qualify based on their skills and their benefit to the Canadian economy. The remaining 40 percent of permanent resident grants are based on family relations or refugee status. Current U.S. law allows about 70 percent of our annual 1 million permanent resident admissions be based solely on family relations and only about 13 percent to be based on employment with the rest going to refugees and diversity visas.

These six steps reflect ideas and concepts from a host of legislative proposals already introduced by my congressional colleagues. We could enact any one of these sensible proposals today and produce results tomorrow. I encourage my colleagues to listen to their constituents over the next several months. We need to get the message that Americans want our country's borders secure and our laws enforced. We need to hear the needs of our businesses and the financial concerns of our communities. The message has not gotten through that there are ways to improve our immigration system and make positive changes without amnesty. The people of America want Congress to improve our immigration system and we have not yet listened to them.

ANTIBIOTIC RESISTANT INFECTIONS

Mr. BURR Mr. President, I rise today to speak about legislation passed by the Senate yesterday, S. 3560. Antibiotic resistant infections are a serious and growing threat to public health in the United States, and I am pleased that S. 3560 contains a provision to address this threat.

The Institute of Medicine and the Infectious Disease Society of America, among others, have been warning us about antibiotic resistance for decades. We all know the therapeutics that work today against infections will be less effective over time as bacteria mutate into new resistant strains—and the pipeline of new antibiotics is nearly empty. My colleagues and I in Congress have been talking about the importance of developing new antibiotics for years, yet little has been done to create incentives to bring these anti-infectives to market.

In 2000, Senator KENNEDY stated on the Senate floor, ''We are in a race against time to find new antibiotics before microbes become resistant to those already in use.'' He could not have been more correct. That year, the Centers for Disease Control and Prevention estimated that methicillin-resistant Staphylococcus aureus, MRSA, was the cause of 126,000 hospitalizations in the United States. Today, that rate has tripled to nearly 400,000 hospitalizations per year and MRSA is the cause of an estimated 19,000 deaths every year.

The number of MRSA infections in hospitals has increased 10-fold since 1993. The University of North Carolina hospital systems reported earlier this year that 55 percent of patients with skin infections had a resistant strain.

Perhaps more frightening than hospital-acquired infections are those infections acquired in the community, including our elementary schools, athletic teams, and offices.

These numbers are more than statistics. Every Senator in Congress has constituents who have been impacted by MRSA. These super bugs are attacking and in several cases, killing healthy children and adults.

Earlier this year, six otherwise healthy high school football players at East Forsyth High School in Winston-Salem were diagnosed with MRSA. As the father of two boys who grew up in Winston-Salem and a former football player myself, this story hits close to home. Unfortunately, this outbreak was far from isolated.

According to the National Institute for Allergy and Infectious Diseases, antimicrobial resistance is driving up health care costs, contributing to the severity of disease, and increasing death rates from certain infections. In 2003, the economic burden for staph aureus associated hospital stays in the United States was $14.5 billion.

As you may know, many pharmaceutical companies are abandoning or scaling back antibiotic research and development in favor of more profitable drugs that treat chronic conditions. This is a regrettable, but understandable, development as market forces that would lead companies to consider investing in new antibiotic development are weak. Because antibiotics work so well and quickly in most cases, they are prescribed for only one or two weeks. That means antibiotics do not have as large a market as drugs that patients take for years. Bottom line—increasing the number of safe and effective antibiotics available in the United States is crucial to protecting the public health.

Section 4 of S. 3560, entitled ''Incentives for the Development of and Access to Certain Antibiotics,'' is an important step forward to help spur research on new antibiotics and provide incentives for the creation of additional generic antibiotics.

In the Food and Drug Administration Modernization Act of 1997, FDAMA, legislation I sponsored in the House, Congress moved antibiotics from section 507 to section 505 of the Food, Drug and Cosmetic Act because it did not make sense to have antibiotics separate from other drugs in the statue. Congress added language in FDAMA to ensure that antibiotics approved under section 507 would not be able to double dip on Hatch-Waxman benefits due to their new status under section 505. Those benefits include 3-year and 5-year data exclusivity and patent term extension for drugs. The FDAMA language said that any application for an antibiotic that was submitted to the Secretary could not ''double dip.'' As a result, companies have no access to Hatch-Waxman incentives to develop drugs based on active ingredients of the old 507 antibiotics submitted to, but not approved by, the Food and Drug Administration, FDA.

Equally important, the FDAMA language also negatively impacted generic drug companies' ability to gain approval of and market generic equivalents of antibiotics approved under section 507.

Section 4 of S. 3560 says that any antibiotic that was the subject of an application submitted to the FDA, but not approved before FDAMA, can get the 3 year and/or 5 year Hatch-Waxman exclusivity or a patent term extension. According to the FDA, approximately 10 antibiotics fit this category of submitted but not approved and about half of those could never be approved because of issues with the active ingredients. According to a Congressional Research Service legal expert, the Patent Act would apply to this language, and it would be legally confusing if it did not mention the available Hatch-Waxman patent term extensions. For that reason, the provision authors added language providing the option of data exclusivity or a patent term extension.

This provision also addresses the negative consequences of the FDAMA language on generic drugs. Section 4 of S. 3560 includes language clarifying the ability of generic drug companies to gain approval of and market generic equivalents of antibiotics approved under section 507.

This provision was included in Senate-passed S. 1082, the Food and Drug Administration Revitalization Act, and was agreed upon in Senate-House conference negotiations. Due to a lack of funding in H.R. 3580, the Food and Drug Administration Amendments Act, the House pulled this provision before passage of H.R. 3580, Public Law 110–85.

I commend Senators BAUCUS, GRASSLEY, KENNEDY, ENZI, and BROWN for making antibiotic incentives a priority at this time. It is important to encourage more treatments for the increasing number of resistant microbes we face.

IMPROVING ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONAL ACT

Mr. AKAKA. Mr. President, too many Americans are left out of our mainstream financial institutions. Millions of working families do not have a bank or credit union account. The unbanked rely on alternative financial service providers to obtain cash from checks, pay bills, and send remittances. Many of the unbanked are low-and moderate-income families that can ill afford having their earnings diminished by reliance on these high-cost and often predatory financial services. In addition, the unbanked are unable to save securely to prepare for the loss of a job, a family illness, a down payment on a first home, or education expenses. There are few affordable alternatives for consumers who need small loans quickly.

We need to enact S. 3410, the Improving Access to Mainstream Financial Institutions Act of 2008. This legislation authorizes grants intended to help low-and moderate-income unbanked individuals establish credit union or bank accounts. The legislation also authorizes a grant program to encourage the development of affordable small loans at banks and credit unions.

Mr. President, I ask unanimous consent to have a letter of support from the Credit Union National Association, CUNA, for S. 3410 printed in the RECORD.

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

AUGUST 1, 2008.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of the Credit Union National Association (CUNA), I am writing in regards to S. 3410, the ''Improving Access to Mainstream Financial Institutions Act of 2008.'' CUNA is the nation's largest credit union advocacy organization, representing nearly 90 percent of our nation's 8,300 state and federally chartered credit unions, their state credit union leagues, and their more than 90 million credit union members.

CUNA applauds your efforts to encourage low and moderate-income individuals to establish account relationships with mainstream financial institutions and to assist financial institution in offering low cost alternatives to payday loans.

Promoting thrift is one of the core missions of credit unions. Credit unions throughout the nation are dedicated to developing and offering products that provide consumers affordable payday lending alternatives. Credit unions also strive to improve their members' economic well-being through financial literacy programs and other initiatives. Because the intent of S. 3410 and the mission of credit unions are so well aligned, CUNA looks forward to the opportunity to work with you and your staff to suggest operational improvements to the bill as it makes its way through the legislative process.

On behalf of CUNA, our state leagues, member credit unions and their credit union members, I appreciate the opportunity to share our views on S. 3410, and we look forward to continuing to work with you on these and other issues important to consumers.

Sincerely,

DANIEL A. MICA,
President & CEO.

TRIBUTE TO JAMES K. ''KENNY'' PERRY AND JOHN B. ''J.B.'' HOLMES

Mr. BUNNING. Mr. President, today I pay tribute to Kenny Perry and J.B. Holmes for their contribution to the success of the 2008 United States Ryder Cup team.

The 2008 Ryder Cup was recently held in my home State at the Valhalla Golf Club in Louisville, KY. On Sunday, the American team defeated the Europeans 16½ to 11½. This was their first Ryder Cup victory since 1999. If not for the remarkable performances by Mr. Perry and Mr. Holmes, this success would not have been possible.

Mr. Perry was born in Elizabethtown, KY, but calls Franklin, KY, his home. He started playing golf at the age of 7 and spent years perfecting his game. He later went on to attend Western Kentucky University and started golfing professionally in 1982. He has shown his dedication to the game of golf by building a public golf course in his hometown specifically designed for handicapped individuals. Perry's performance at this year's Ryder Cup was exceptional as he finished with a total record of two wins, one loss, and one tie. His achievements on and off the course are to be commended.

Mr. Holmes was born and currently resides in Campbellsville, KY. He has played golf most of his life, including playing for his local high school golf team as a third grade elementary student. He later went on to attend the University of Kentucky and started playing professional golf in 2005. His hard work and dedication have earned him the right to be named among the highest skilled golfers in the world. Mr. Holmes' performance at the 2008 Ryder Cup was one of the best. He finished with a total score of two wins, no losses, and one tie. It was a pleasure to watch Mr. Holmes compete and I congratulate him on an outstanding performance.

I now ask my fellow colleagues to join me in congratulating Mr. Perry and Mr. Holmes for their remarkable performance and achievement. These two men have represented Kentucky and the United States well.

NATIONAL FIRST RESPONDER APPRECIATION DAY

Mr. CRAPO. Mr. President, I rise today to recognize and honor Idaho's first responders.

I have been joined by a bipartisan group of my Senate colleagues in passing a resolution that designates today, September 25, 2008, as National First Responder Appreciation Day. I would like to celebrate this day by showing my appreciation for the brave men and women who have risked life and limb and sacrificed family time and personal comfort to perform a task that is critical to citizens of the State of Idaho.

I would like to recognize the heroic efforts of all of Idaho's first responders, our firefighters, EMTs, medical personnel, and law enforcement officers. Thousands of first responders have made the ultimate sacrifice and have proven critical in leading the Nation through national tragedies like September 11 and natural disasters such as Hurricanes Ike and Gustav, through flooding in the Midwest, Hurricane Katrina and wildfires across the Western United States.

In Idaho, fire is a way of life. During the 2007 fire season, over 2 million acres burned, more than at any other time in Idaho's recorded history. Generally, Idaho's fire season begins in mid-July and extends into September, but in 2007, the Cascade Complex fire burned until the snow fell. The Cascade Complex fire was only one of several very large fires last year. The East Zone Complex fire in central Idaho burned over 300,000 acres, and the Murphy Complex fire in south-central Idaho burned over 600,000 acres. During this trying time, our first responders and firefighters went above and beyond the call of duty. Incident management teams and area command teams worked for weeks on end, battling flames and working to protect homes and lives. I have had the opportunity to visit fire camps and speak to these heroes who, like our veterans, often endanger their own lives to save the lives of others. Staff at the National Interagency Fire Center in Boise, ID, is to be commended for their tireless response coordination efforts.

While the severity of this fire season has not risen to the level of last year's fire season in Idaho, firefighters and other first responders have remained vigilant. The Oregon Trail fire in Boise, ID, began on August 25, 2008, when a brush fire, fed by 50 mph. winds, dry sage brush, high heat, and aided by sloped terrain, spread to the nearby Oregon Trail and Columbia Village subdivisions. The fire caused the destruction of ten homes, damage to nine others, and claimed the life of Mary Ellen Ryder, a professor at Boise State University. During this trying time, my thoughts and prayers go out to the Ryder family and others who have homes that have been lost or damaged. Thankfully, preplanning and preparation enabled Boise firefighters to avert the possibility of greater damage and loss. Firefighters arrived at Sweetwater Drive within 2 minutes of the first call, and they proceeded to risk their lives to draw a fire line between the burning houses and the other nearby subdivisions, protecting more than 1,000 homes and countless families.

The example of professionalism, strength, and bravery displayed by the Boise Police and Fire Departments during the events of the Oregon Trail fire is just one of many examples I could cite to illustrate the invaluable service wildland, municipal, and volunteer firefighters provide to our communities. Likewise, our EMTs, medical personnel, law enforcement, and others put their lives on the line daily to help others. Today, these efforts will receive recognition before the United States Senate and the American people.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

If you want to really understand what is going on with our energy crises, please view all eight sections of: http://video.google.com/videoplay?docid=3870461488930715065.

BRAD and DEE.

These rising fuel prices are hurting my family and our business! We own a logging company which, being all mechanized, requires use of a lot of fuel. In addition, our jobs are usually 100 miles or more away and even with our employees commuting together, the cost is outrageous. In the logging industry, it is not all that easy to pass the cost on to the customer. The jobs we are doing right now were bid on last year; therefore the price is set and was set without the prediction that the fuel prices were going to be this high. Our employees can forget

raises, bonuses or benefits as we cannot afford them, therefore it will be harder to keep and find new employees. We subcontract our log hauling and the truck drivers that have not quit driving completely are charging a fortune to haul our logs to the mills. At this point, we are unsure of our future as a business which, in turn, is affecting our family and our employees' families.

We have to be careful with our spending and put money aside. Forget that vacation to Yellowstone or any camping this summer as the cost of hauling our camp trailer is too high. Forget enjoying our beautiful lakes and rivers as the cost of fueling our boat is too expensive. And even driving to our favorite fishing hole is too costly. These things, our Idaho way of life, that have always been inexpensive family fun are now considered luxuries.

I have always and especially now support utilizing our own natural resources and relying less on foreign sources for anything. Although, I am suspicious that the rising fuel costs can be more controlled and are not just a factor of supply and demand. I wish I could do more other than tell my story and something needs to be done now by those in power. I feel powerless and controlled as you were saying, Mr. Crapo; Idahoans have no choice with the distances we have to travel and the lack of public transportation, and our jobs which require the use of fuel. Thanks for your efforts but this problem needs a solution immediately!

DEANNA, *Post Falls.*

One way to give back to the community is to volunteer for a non-profit. My wife does this regularly. The group that she is with will do home visits to help a particular group of people—those that are on the margin about to fail financially. The idea is to give people a little boost and prevent them from falling into a cycle of dependence for a long time.

Frequently, she'd ask me to go with her as they always require two people for safety reasons. I sit and watch the faces of the people being harmed by the current inaction in Congress. They know that so much is riding on what happens in the near future. Today, they are proud and know that they pay their own way. However, they fear having to live off the backs of others, becoming a burden and losing their pride in the process.

People know what is going on. Regarding Congress, the words we speak at these meetings are pretty simple. The people leading this country have worked for a long time to put us in this position. They are pushing you to the ground, and then grinding their heels into your head.

Many are suffering today—not because Congress does not give them stuff, but because Congress erodes the foundation of their prosperity—access to energy.

ROBERT.

I am a manager of low-income senior housing in Boise. Many of our tenants are on a fixed income and no longer drive. I have been transporting a few of my residents to the food bank as a courtesy to those that cannot drive and who do not have family to help. I have had to discontinue this charitable action because I can no longer afford to drive around unless it is absolutely necessary. This is truly unfortunate. One of the residents told me they cannot afford a taxi (especially now with the higher rates) so how are they supposed to get around?

On a personal note, I used to enjoy recreational activities throughout Idaho. I know I personally cut down on about half of these trips due to the gas prices. This must have a negative impact on tourism and small businesses. I would drive up to Cascade to the Flea Market or to Horseshoe Bend or Lucky Peak to go fishing. I haven't been able to go camping or fishing yet this year. We need some relief from the gas prices because it is impacting everyday quality of life: the price of groceries, visiting friends and family, normal daily activities become a tough choice.

Please help!

AMBER, *Boise.*

Normally I wait until election time to express my opinions through my right to vote. However, at this time, I feel so strongly about a plague facing our country that I cannot bear to sit idly by until November, praying for a change to take place. This plague which I speak of is our current gas prices. I am certain you are hearing about this on a daily basis as a representative for the state of Idaho, but I want to be included amongst those who choose to elevate this issue.

Gasoline prices have been a concern since they crept up to the $3/gallon mark for regular, so why is it that nothing is seemingly being done about this by our government as those prices further creep up above the $4/gallon mark? There is plenty of talk, but no immediate action. According to the Bureau of Labor Statistics, the average wages earned in Boise for 2007 are $33,072, thanks to the high paying tech jobs that the majority of Boise residents do not possess. Supposedly, the average cost of living here is only $29,864. So, that leaves the ''average'' Boisean with $267 a month to pay their bills outside what is considered ''cost of living'', and those are 2007 statistics. We haven't seen a wage increase in our fair town to compensate for the fact that we are paying double for gasoline what we paid a year ago. Not only is gasoline cost eating up our income, but cost of groceries has gone up as a direct result of cost incurred while transporting food. Many of the people in this area you represent are suffering over something that the government you work for has indirect control over. I plead with you—this issue needs to get resolved prior to the elections in November. We as a country cannot wait five more months for economic relief and then endure the growing pains the first year with the President-elect brings. The rising cost of gasoline and lack of an increase in personal income needs to be addressed immediately. What are you doing to intervene on behalf of the Idahoans? I ask rhetorically, but sincerely. The answer is not to be found in requiring people to purchase more gas-friendly vehicles (they can no longer afford the monthly payment that a new car brings) nor is it to be found in another pittance of a stimulus package. The answer is for our government to be proactive in finding resources for our glorious country to use that come at a considerably lower cost.

ERICA.

In response to a detailed message as to the effect of gas prices in our family budget, I would like to forward this message; yes, it is another area where it is affecting everyone in just about everything we do. In some ways, it is a good thing to give us an awareness of mistakes we have made in the past and bring about new solutions. One solution that I am aware of is the use of a product called Ferox, which was developed in 1986 from work done on experimental burn rate modifiers for solid rocket propellant systems use in the aerospace industry. Ferox is a catalysis which treats fuel (gas or diesel) so it will burn at a near 100%. The results is a average 20% increase in fuel efficiency, 95% reduction in emissions, 80% increase in oil life, and increase in horsepower as much as 15% & it works 100% of the time doubling engine life. Very affordable to the point of less than $20.00 it will treat up to 150 gallons of fuel giving upwards to a 600% return on the $20.00 investment. We are trying to get the word out to as many as we can, because it is and will make a difference. For more on line information, go to www.FeroxFuelTabs.com/FeroxUSA

GORDON, *Twin Falls.*

The environmental movement has just about brought this nation to a standstill and is basically punishing the lower wage earners just so they can try and change society into the model that they feel is relevant for the next century. I truly feel sorry for those people; especially since they are the ones that the ''left'' supposedly is championing the right of.

Drilling for oil is not dangerous to the environment any longer. There is no basis for this thinking in fact, plus there is no evidence that humans have ever been able to do anything that has caused climate change, so we need to stop this insanity and get our country moving forward again and begin using our natural resources.

Are we going to remain hostage to the Arabs and the radical fringe that is taken over this country of ours? Everyone needs to step up and be accountable and do something so we do not become a country that is irrelevant in the world we live in.

LOWELL.

A really simple way to show your colleagues on Capitol Hill how the high price of fuel is affecting the ''real people in Idaho'' is to give up all the freebies our Senators and Representatives get through the government and try living on your actual salaries for 60 days. No free trips, free airfare or lodging, discounted gas, food, benefits, medical insurance, retirement savings, etc.

Have your families (wives & kids) try and live on what you actually make, just like the ''real people in Idaho.'' Get back in touch with reality and then maybe you will see why some people have to choose between putting gas in the car or food on the table. I know none of our distinguished legislators will actually do this because then you would have to face the facts that Americans are drowning and our government is throwing us anvils to help.

CARALEA, *Boise.*

I live in rural Idaho, and my wife and I have five children. Since we have a large family, my wife drives an SUV, which gets an average of 14–16 mpg. Each time we have to run the children to piano, dance, clogging, baseball, etc., it costs us $2–$3. Making several trips a day can cost as much as $15–$20. If you multiply that by 5 days a week X 52 weeks, it becomes very expensive. Our lifestyle has been drastically changed, and I do not see any light at the end of the tunnel. We drive less, we save less and we feel less secure in our future and the future of our children.

The really sad thing is that, because of special interest and environmental groups, we are not able to utilize the resources we have at our disposal. In my opinion, we have sat on our hands for far too long. Drill on the North Slope, drill offshore and develop the technology to extract from oil shale. Let the Middle East sell oil to the Chinese, the Russians and each other. I do not think we can dramatically reduce our consumption in the near future. $100+ a barrel oil will destroy our economy; something needs to be done now!

BRYAN.

It is really unfortunate that the prices for gasoline have risen to such extreme levels, but we know they will only get worse. I have

combated this by riding my bike everyday to and from work and school but I know not everyone has this option. I think that these prices are a wake-up call to us and should be taken seriously. I hate it when people complain about the costs when they are not realizing that driving their trucks and SUVs on a 30-minute commute through town is awful for the environment and completely irresponsible. Although our public transport system [is not adequate], there are ways to work around having to drive. Idahoans are just too lazy. There are park and rides, regular buses, bikes, and the green belt that we can utilize to commute. Congress needs to make it their priority to not just focus on one ''fix'' to the situation, but how we can utilize all of our resources. I think you can promote more bikers if there were safer and larger bike lanes, as well as a more publicized public transportation system with bike racks on them. This problem will always be the topic for summer because everyone wants to go out of town and go camping, when it becomes an environmental issue more so than an economical issue we can combat all of the complaining and suffering. There needs to be a paradigm shift that will only come by congress's support, education, and from advertising these goals. Please consider what I have said. I am in the same boat as other thousands college students who are realizing our real problems and we need to see some change towards clean energy. The only thing I do not agree with, however, is the use of nuclear power. It is a non renewable resource, what we want to get away from and the amount of heating it causes to the water resource it uses is bad for that ecological environment. Thanks for reading my email.

RACHAEL, *Boise.*

You are right, gas prices are high! But you really got it wrong voting against the energy bill. It is time to start solving the problem not just pushing it out to the future, where it is going to cost a lot more. You need to start being part of the solution to these challenges, and not part of the problem.

ROB, *Boise.*

The rise in gas prices has caused me and my family of three to cut back the number of times we eat out, visit the store and go out for entertainment. We just do the essential things now. If we do decide to do any entertainment, we pay for it on a credit card, the balance of which has been continually rising as our economy has declined.

WALT, *Jerome.*

We need another ''Manhattan Project'' to solve the energy problem. Private industry has focused its solution for the energy crises on developing vehicles that will run on something they can ''sell'' you. I noted that a Japanese company (Genepax) is developing a car that runs on water. I believe that a government initiative to develop a vehicle such as that is needed. But, I would not stop there.

Once the technology is perfected, the U.S. should license it to the remainder of the world. That would help to underwrite the cost of the second phase of the solution.

Once the technology is developed, the government should put out a bid for U.S. industry to build such an automobile. (That would put American's back to work). Second, the U.S. should give every taxpaying household one of the cars. (To get one of the new cars you would have to turn in your old car). That would be much better than ''tax cuts'' or ''rebates'', and would serve to get a lot of the old, carbon producing, gas guzzlers off the road.

This solution would, end our dependence on foreign oil; put American's back to work; reduce the emissions problem; and give every American family a boost up.

Of course, the cost would be enormous, but since we can spend $900 billion on a farm bill and untold billions on the Iraq war to maintain our oil supplies, it should not be out of reach.

CHARLES.

IRAN

Mr. GRASSLEY. Mr. President, I want to provide some comments for the RECORD with respect to S. Res. 580. This resolution expresses the sense of the Senate on preventing Iran from acquiring a nuclear weapons capability.

Today, I have agreed to cosponsor S. Res. 580, introduced by Senator BAYH, Senator THUNE, and Senator SMITH. This resolution makes clear the need to take economic, political, and diplomatic action to prevent Iran from acquiring the capability to develop nuclear weapons.

S. Res. 580 sends an important message, and I support the policy reflected in this resolution. I did work with the authors of the resolution, however, to come to an agreement on a few minor changes to the resolution. For example, the word ''importation'' should be replaced with the word ''exportation'' on page 6. That's a technical change. I also wanted to see the word ''banning'' replaced with the phrase ''encouraging foreign governments to ban.''

Again, my staff and I have worked with Senator BAYH and his staff to address these two concerns, and he's graciously agreed to work toward incorporating these changes prior to any action by the Senate. On the basis of that understanding, I have agreed to cosponsor S. Res. 580.

ADDITIONAL STATEMENTS

TRIBUTE TO BATTELLE

● Mr. BROWN. Mr. President, today I pay tribute to Battelle, one of Ohio's oldest and most respected organizations.

On October 22, 1938, 70 years ago next month, a sea change in printing occurred, though no one but the inventor, Chester Carlson, and Battelle had the foresight to recognize it.

The invention of dry printing, forever memorialized by the etched words ''10–22–38 Astoria,'' was the genesis of an American product so successful its name became eponymous: Xerox.

Battelle, the world's largest nonprofit independent research and development organization, began its operations in 1929 at the behest and funding of founder Gordon Battelle's will. Within a few years, it would make history with the same vision, risk taking, and wisdom its employees display to this very day.

Even in today's increasingly paperless era, it is easy to see that a simple, rapid, and inexpensive copying process was one of the 20th century's most important innovations. With the advent of the Xerox machine, the world could make copies at the push of a button.

Battelle lies at the crossroads of necessity and creativity, an intersection we know as innovation. Taking on daunting, real-world challenges with technical prowess and ingenuity is Battelle's hallmark.

In 1935, New York patent attorney and amateur physicist Chester Carlson began thinking of easier ways to duplicate material. Extra copies of patent specifications and drawings, sometimes dozens or more, were necessary with each new job. The man-hours needed for each project were staggering.

So Carlson came up with the unconventional idea of copying by creating a visible image on paper using an electrostatic charge. He filed for a patent in 1937, calling the process electrophotography. He made it work in a real world situation the next year.

Though he shopped for financial backing at more than 20 of America's largest corporations, no one saw the value in Carlson's invention. Then, in 1944, he found Battelle. Even though America was in the midst of World War II, Carlson and Battelle signed a contract to further develop the electrophotography process. Four years later on September 28, 1948 the first public demonstration of the new technology—then named xerography, Greek for dry writing—was performed in Detroit.

Partnering in 1959 with a company called Haloid Xerox, Battelle and Carlson forged ahead to produce the first fast, low-cost, and convenient office copier—the 914 model. Xerox would go on to become one of the world's largest corporations.

Battelle grew and diversified with earnings from xerography's success. As a result, Battelle is currently the world's largest independent R&D organization. It proves that success comes to those who are willing to take risks, develop needed technology, and nurture the final product with long-term commitment.

So today, 60 years after the production of the first photocopy, I would like to commend Battelle for its role in the development of the Xerox copy machine and its continued commitment to technological advancement and investment in our Nation's future.●

TRIBUTE TO THOMAS J. KENNEDY

● Mr. BROWNBACK. Mr. President, I rise to speak about an exceptional Kansan and good friend of mine who I thought deserved a special mention from the floor.

BG Thomas J. Kennedy has served his country, State, and community with exemplary service for more than 70 years. General Kennedy began his military career in 1937 when he attended CMTC Camp at Fort Leavenworth. On September 26, 1939, he enlisted in Company B, 137th Infantry, 35th Infantry Division, Kansas Army

National Guard at Emporia, KS. He was orded to Active Duty on December 23, 1940, with the 60th Field Artillery Brigade, 35th Infantry Divsion and was commissioned a second lieutenant of the Field Artillery at Fort Sill, OK, on October 1, 1941. General Kennedy was promoted to captain in December 1942 and served in the European Theater of Operations. He was released from Active Duty in January of 1946 and assigned to the Officer's Reserve Corps. In October of 1946, he was promoted to major in the Kansas National Guard and rose steadily in rank to brigadier general. In May of 1968, General Kennedy retured to Active Duty during the Pueblo Crisis. In 1968, he became the commanding officer of the 69th Infrantry Brigade, 5th Infantry Division at Fort Carson, CO, until his release from Active Duty on December 12, 1969. During his distinguished military career, General Kennedy received numerous awards and honors, including his 1974 induction into the Artillery OCS Hall of Fame located at Fort Sill. He has remained active in veterans' issues and fundraising for veterans memorials.

From 1977 to 1984, Kennedy served as the director of Alcoholic Beverage Control for the Kansas Department of Revenue. He also served as president of the National Conference of State Liquor Administrators. His remarkable military and public service was recognized by the Washburn University with its Distinguished Service Award.

For more than 30 years, General Kennedy has been an active member in Topeka Fellowship and served as the program chair for the Kansas Prayer Breakfast. He worked diligently with Dr. Roy Brownng, Vernon Jarboe, Clayton McMuray, and many volunteers to make this inspirational event, which promotes prayer for our national, State, and local leaders, possible. The dedication and volunteerism demonstrated by BG Tom Kennedy serves as an example for the generations to come.●

CONGRATULATING THE INSTITUTE OF REAL ESTATE MANAGEMENT

● Mr. BUNNING. Mr. President, today I wish to congratulate the Institute of Real Estate Management, IREM, on its 75th anniversary. As an affiliate of the National Association of Realtors, IREM advocates on behalf of the real estate management industry. With 80 U.S. chapters, eight international chapters, and several partnerships around the globe, IREM constantly strives to promote the principles of professional real estate management.

Ethics are the cornerstone of the IREM mission. The IREM Code of Professional Ethics seeks to defend the public interest, promote healthy competition, and guarantee that IREM members will act ethically. Actively and strictly enforced, the Code of Professional Ethics provides a foundation for public trust in the integrity and expertise of professional real estate managers. IREM's commitment to ethics underlies its 75 years of success as a professional association.

I would also like to congratulate IREM Kentucky chapter 59, which will be celebrating its 40th anniversary on November 10, 2008. Kentucky chapter 59 is the largest IREM chapter in the Commonwealth of Kentucky and serves as an excellent resource on real estate management education and information for its members.

I congratulate IREM on more than seven decades of dedication to the real estate management profession. By providing dedicated service to its members, as well as maintaining high standards for the real estate industry as a whole, IREM serves as an exemplary model of a professional association.●

TRIBUTE TO REV. CAESAR ARTHUR WALTER CLARK, SR.

● Mr. CORNYN. Mr. President, today I honor the life of a highly respected and gifted Baptist pastor, Caesar Arthur Walter Clark, Sr. Born on December 13, 1914, in Shreveport, LA, Reverend Clark spent his life devoted to the teaching of his faith, blessing many around the State and Nation by his work. He died Sunday, July 27, 2008, at age 93 in Dallas, where he spent more than five decades preaching at Good Street Baptist Church.

Reverend Clark showed his passion for preaching throughout his life, starting as a 19-year-old pastor of the Israelite Baptist Church in Longstreet, LA, where his fiery sermons earned him the nickname ''Little Caesar.'' After joining Good Street Baptist Church in 1950, Reverend Clark helped build the church into a 5,000 member congregation. It was through his work with the local NAACP chapter that Reverend Clark met Reverend Martin Luther King, Jr., and invited him to give a speech hosted by Good Street Baptist.

Reverend Clark cared as much about the presentation of his sermons as the presentation of his actions. He sought to live what he preached to the best of his ability, becoming a mentor to many. As a result, Reverend Clark's sphere of influence extended far beyond the pulpit. For example, he worked to improve the lives of his parishioners and members of the community by opening daycare centers, a credit union, a legal clinic, and low-income housing. In addition, he served as vice president of the National Baptist Convention and as president of the Missionary Baptist Association of Texas. Reverend Clark's service touched many lives; in particular, Reverend R.E. Price, pastor at Mt. Zion Baptist Church in Dallas. Reverend Price said, ''Dr. Clark was a man of great integrity and a speaker for all occasions. It was a privilege to serve with him in various leadership roles as his advice was always sage. Most of all, he was my friend.''

Reverend Clark's accomplishments as a pastor and civic leader have earned him the respect and admiration of many. He leaves a legacy of good works, a mighty faith, and a purpose-filled life. I join with his family and friends in celebrating Reverend Clark for his long life of service to God and community.●

TRIBUTE TO ROGER STONE

● Mr. CORNYN. Mr. President, when the Texas A&M sailboat Cynthia Woods capsized off the coast of Texas, Safety Officer Roger Stone was trapped below deck with two other men. It was a frightening event, which would have put anyone into a panic. But Stone, thinking of his crewmates before himself, pushed Steven Guy and Travis Wright out of the upturned sinking boat's cabin, saving their lives. He did not have time to escape. Roger Stone was a heroic Aggie.

The remaining crew was rescued by the U.S. Coast Guard 26 hours later. Only after Steven Guy and Travis Wright retold the story did Roger Stone's family find out what happened. While the pain of losing a loved one is tremendous, the Stone family should find some comfort in Roger's courageous and selfless acts. His brave sacrifice is a lasting testament to his great character and personal strength.

Roger was originally from London, England, but came to Texas to work at the University of Texas Medical Branch in Galveston. He had been sailing his entire life. Roger and his wife Linda were engaged on a sailboat and were married in the port—Veracruz—that the Cynthia Woods was bound for. Throughout Roger's career he was always serving others, from teaching younger sailors to helping competitors. In addition to his wife Linda Stone, Roger was survived by his daughter Elizabeth Stone, son Eric Stone, mother Doris Stone, and sister Valerie Stone.

These heroic actions are something we all can admire. At the age of 53 Roger gave his life to save the lives of others. This ultimate sacrifice is embodied in chapter 15, verse 13 of the Book of John, ''Greater love has no one than this, that he lay down his life for his friends.'' This courageous deed leaves a lasting legacy for his wife and his children.

While Roger's friends and family will mourn his loss, the people of Texas will honor with solemn pride his heroism. I join today in commending his courage, and honoring his sacrifice.●

ALBURNETT COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Alburnett Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Alburnett Community School District received a 2005 Harkin grant totaling $500,000 which it is using to help expand and renovate the high school facility. Although parts of the construction project are still under way, this school will be a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, this is the kind of school that every child in America deserves. The district also received a fire safety grant in 2002 totaling $50,000 which was used to construct a fire wall and repair existing exit signs.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Alburnett Community School District. In particular, I would like to recognize the leadership of the board of education—president Barry Woodson, Mike Olinger, Dee Luedtke, Cindy Francois, David Kirk and Rhonda Lange, and former board president Duane Bolton and vice president Cregg Smith. I would also like to recognize the leadership of superintendent Mike Harrold and former superintendent Angel Melendez.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Alburnett Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

BEDFORD COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Bedford Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Bedford Community School District received several Harkin fire safety grants totaling $174,000 which it used to improve fire safety systems and included such things as emergency lighting and exit doors, new wiring and other electrical improvements, heat detectors, and sprinkler systems. The auditorium which was built in 1926 was renovated and the grant was used to update the wiring, install heat detectors and replace exit doors. The district had been cited by the State Fire Marshall for severe deficiencies in fire safety. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute superintendent Joe Drake and the entire staff, administration, and governance in the Bedford Community School District. In particular, I'd like to recognize the leadership of the board of education—president Tony Brown, Layne Thornton, Mike Irvin, Ed Hensley, Jack Spencer and Rodger Ritchie. District staff who were helpful in the grant application and implementation process were business manager Sharon Hart, grant writer Paul Boysen, and buildings and grounds supervisor Dan Walston.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Bedford Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

BELMOND-KLEMME COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Belmond-Klemme Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Belmond-Klemme Community School District received a 2005 Harkin

grant totaling $500,000 which it used to help build a new elementary school. This new school is part of the district's goal to modernize schools in the district which will include renovating the high school. The new elementary school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received fire safety grants totaling $100,000 to install new fire alarms, to update electrical wiring and to make other safety improvements in schools throughout the district.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Belmond-Klemme Community School District. In particular, I would like to recognize the leadership of the board of education—Jim Swenson, Dennis Lowenberg, Claude Post, Steve Tenold, Mark Jenison, Lynn Loux and Curt Stadtlander and former board members Jodi Pentico, Kevin Brunes and the late Stan Olsen. I would also like to recognize superintendent Larry Frakes, interim superintendent Dave Sextro, grant writer Trish Morris, maintenance director Steve Dougherty, the committee supporting passage of the bond referendum and Richard O. Jacobson for his generous financial contribution to the district.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Belmond-Klemme Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

CEDAR FALLS COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Cedar Falls Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Cedar Falls Community School District received four Harkin grants totaling $1,481,178. A 1999 grant for $393,466 which was used to help build classroom additions at Hansen Elementary and at Southdale Elementary; a 2000 grant for $487,712 which helped build Cedar Heights Elementary and a 2001 grant for $500,000 for an addition and renovations at Cedar Falls High School. These schools are the modern, state-of-the-art facilities that befit the educational ambitions and excellence of this school district. Indeed, they are the kind of schools that every child in America deserves. The district also received a 2005 fire safety grant for $100,000 to install fire alarms systems at Peet Junior High School, Holmes Junior High School and Cedar Falls High School.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Cedar Falls Community School District. In particular, I would like to recognize the leadership of the board of education Deon Senchina, Dr. James Kenyon, Dan Battcher, Joyce Coil, Duane Hamilton, Susan Lantz and Richard Vande Kieft and former board members Marlene Behn and Tom Reisetter. I would also like to recognize former superintendent Dr. Dan Smith, former business manager Dr. Craig Hansel, Hansen principal Dr. Tony Reid, former high school principal Dean Dreyer, former Cedar Heights principal Chris Smith and former Southdale principal Tom Galligan.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Cedar Falls Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

JESUP COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Jesup Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Jesup Community School District received a 2002 Harkin grant totaling $1 million which it used to help build a new school to serve students in pre-kindergarten through 8th grade. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received $71,800 in fire safety grants.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of

collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Jesup Community School District. In particular, I would like to recognize the leadership of the board of education—Staci Brown, Fritz Demuth, Leonard Harting, Roxanne Masteller, Lisa Riensche, Jim Phillips and Todd Rohlfsen and former board members Gin Vogel, Kevin McCombs, Brenda Schmit, Dawn Quackenbush and Larry Thompson. I would also like to recognize superintendent Sarah Pinion, former superintendent Terry Christie, board secretary Mary Anne Harrold and the individuals involved with the Vote Yes Committee.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Jesup Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

LISBON COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Lisbon Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Lisbon Community School District received a 2002 Harkin grant totaling $1 million which it used to help build an elementary school addition and make renovations to the existing building. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received two fire safety grants totaling $65,521 to make safety improvement throughout the building.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Lisbon Community School District. In particular, I would like to recognize the leadership of the board of education Andy Sullivan, Eric Krob, Doren Montgomery, Dave Prasil and Connie Sproston and former board members Jeff Bohr, Scott Morningstar, Dean Mallie and Ann Opatz. I would also like to recognize superintendent Vincent Smith, former superintendent Bob Torrence, elementary principal Roger Teeling, former elementary principal Dr. George Karam, former custodian Tony Nost, technology coordinator Julie Hill, former business manager Gene Lawson, high school principal Dan Conner, John Nietupski from Grant Wood Area Education Agency, the architectural firm Neumann Monson and Dan Boggs, Tom Light, Bob Hill, Scott West and the many individuals who worked to pass the bond referendum in 2003.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Lisbon Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

MARSHALLTOWN COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Marshalltown Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Marshalltown Community School District received several Harkin grants totaling $3,319,658 which it used to help modernize and make safety improvements throughout the district. Harkin construction grants totaling $2.5 million have helped with renovation projects at Marshalltown High School, Miller Middle School and Anson, Woodbury, Franklin, Lenihan and Rogers Elementary Schools. These projects have included new classrooms, new roofs, and new HVAC systems. These schools are the modern facilities that befit the educational ambitions and excellence of this school district. Indeed, they are the kind of schools that every child in America deserves.

The district also received six fire safety grants totaling $819,658 to make improvements at Marshalltown High School, Miller Middle School, and Woodbury, Rogers, Anson, Hoglan, Lenihan and Franklin Elementary Schools. The improvements included new sprinkler systems, upgraded fire alarm systems and other safety repairs. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Marshalltown Community School District. In particular, I would like to recognize the leadership of the board of education—Pam Swarts, Kay

Beach, Jay Merryman, Dick Hessenius, Paul Gassman, Anne Paullus and Dean Stucky and former board members Betsy Macke, Floyd Jury, Jack Lashier, Bob Downey, Kent Loney, Dick Russell, Adrienne Macmillan, Anne Bacon, Linda Borsch, Sally Hansen, Don McKibben, JoAnn Miller, Wayne Sawtelle, Doug Betts, Bob Christenson and Steve Ford. I would also like to recognize superintendent Dr. Marvin Wade; former superintendents Dr. Stephen Williams, Dr. Richard Doyle and Dr. Harrison Cass, Jr.; principals Bonnie Lowry, Brad Clement, Ralph Bryant, Sarah Johnson, Tom Renze, Mick Jurgensen, Bea Niblock, Vicki Vopava, Amy Williams and Tim Holmgren; former principals Jerry Stephens, Pat Kremer, Mary Giese and; finance director Kevin Posekany; former finance directors Larry Pfantz and Dan Gillen; director of buildings and grounds Rick Simpson and architect Dave Schulze from TSP Group.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Marshalltown Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

MOUNT VERNON COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Mount Vernon Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction grant program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Mount Vernon Community School District received a 2004 Harkin grant totaling $500,000 which it used to help build a new 93,000 square foot high school. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received a fire safety grant in 2005, totaling $25,000, which was used to upgrade existing smoke and fire protection systems at the Middle School.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Mount Vernon Community School District. In particular, I would like to recognize the leadership of the board of education—president Tom Wieseler, vice president Bob Penn, John Cochrane, Deb Herrmann, Paul Morf, Ann Stoner and Jeff Walberg, and former members, Dean Borg, Todd Tripp, Janet Griffith and Rebecca Brandt. I would also like to recognize superintendent Jeff Schwiebert and business manager Matt Burke.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

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That is why I am deeply grateful to the professionals and parents in the Mount Vernon Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

WEST HARRISON COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the West Harrison Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The West Harrison Community School District received a 2002 Harkin grant totaling $125,000 which it used to help build two new preschool rooms. Since the addition of the preschool program the students are more ready for Kindergarten and there has been an improvement in test scores from children who went through the preschool. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the West Harrison Community School District. In particular, I would like to recognize the leadership of the board of education, president Jason Sherer, Kandi Forbes, Tammy Neill, Zack Olinger and Jerri Lynn Sheppard, and former members, president Walter Utman, president Roger Jenson, Mike Carritt, Dale Davis and Sue Maule. I would also like to recognize superintendent Richard Gerking, principal Doug Barry, and principal Mike Bunde.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79

percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the West Harrison Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

100TH ANNIVERSARY OF GENERAL MOTORS

● Mr. LEVIN. Mr. President, I have the distinct honor of rising today to commemorate the 100th anniversary of a true Michigan success story, the founding of General Motors Corporation. It was 100 years ago this month that a man named Billy Durant who, after years in the horse-drawn carriage business, founded General Motors in Flint, MI. Durant had taken the helm at a small motor car company called Buick, and, in September 1908, incorporated it into General Motors. Under his stewardship, Buick became the best-selling brand in the world, affording Durant the opportunity to buy a number of other small companies including Oldsmobile, Cadillac, and the company that would eventually be known as Pontiac. Later he started Chevrolet and brought it into General Motors as well.

Over the century that followed its incorporation, GM would become the largest company in the world, driven by the goal articulated by Alfred Sloan, president of GM in the 1920s and 1930s, to build ''a car for every purse and purpose.'' In that pursuit, the company time and again originated innovations that continue to benefit consumers to this day, ranging from the closed-body car, 1910, to the electric starter, 1912, to mass-produced automatic transmissions, 1940, to pollution controls, 1963, to airbags, 1973, to the catalytic converter, 1974.

But the intertwined nature of the company with this nation's economic growth extends far beyond innovative technological contributions and even beyond balance sheets and metrics for economic growth.

You can ask just about anyone, ''What's the heartbeat of America?'' And years after that slogan last passed across our television screens, people still know the answer is Chevrolet. And of course many Americans heeded the good advice to ''See the USA in your Chevrolet.'' Cadillac has become a ubiquitous synonym for quality. The Pontiac GTO defined an era of muscle cars. The legendary ''409'' block engine became an American icon.

During the Second World War, GM provided more than $12 billion of goods to support the Allied effort, more than any other company. The company also played critical roles in the navigation system that sent Americans to the moon for the first time, and designed and built the lunar rover, which was used by astronauts to travel around the Moon in subsequent trips.

Today, GM employs more than 250,000 people, and in 2007 sold nearly 9.37 million cars and trucks. And its next century is filled with promise. As the GM marketing team has noted, in 2008 we are in the middle of an American revolution.

The company that helped to make Michigan the arsenal of Democracy is working on fuel cells that can make help break our democracy's dependence on foreign oil. The company that invented the electric starter is going to be a leader in bringing a plug-in hybrid, the Volt, to consumers. The company that brought consumers the first automatic transmission is striving to bring consumers the first zero-emissions commute.

I offer my congratulations to the entire GM family on 100 remarkable years, and wish them all the best in keeping the pedal to the metal for 100 more.●

LIBERTY BAPTIST CHURCH 125TH ANNIVERSARY

● Mrs. LINCOLN. Mr. President, it is with great joy that today I recognize the 125th anniversary of Liberty Baptist Church located in the northwest Arkansas town of Dutch Mills in Washington County along the historic Butterfield Stagecoach Route.

According to its members, Liberty Baptist was built in 1883 by the founding families—Kimbrough, Bryant, Douthit, Fields, Greer, Grisham, Holman, Hodges, McCarty, and Seay—of what was then known as Hermansburg, AR. In fact, Rufus Seay, the husband of Jennie Kimbrough and son-in-law to Thomas Kimbrough, donated the land for the church, and the Kimbrough, McCarty, English, Seay, Holland, Patterson, and Hodges families funded the construction. It was a community effort as the men built the church and the women provided food and encouragement.

While much has changed since Liberty Baptist's doors opened in 1883, the community spirit and spiritual nourishment provided by Liberty Baptist Church remain a foundation for the citizens of Dutch Mills.

Liberty Baptist will commemorate its anniversary the week of November 2 through 9 with community events and activities. Although I will be unable to attend the festivities, I want to take this opportunity to extend my congratulations and recognize them on this glorious occasion.●

CELEBRATING 100 YEARS OF 4–H IN ARKANSAS

● Mrs. LINCOLN. Mr. President, tomorrow evening, Arkansas 4–H will cap a year long celebration, ''Honoring the Past, Celebrating the Future,'' at the 4–H Centennial gala in Little Rock, AR. Nearly 1 year ago, on October 1, 2007, the 4–H Centennial Celebration kicked off in Searcy, AR, located in White County, where Arkansas 4–H began.

Founded as a boys' corn and cotton club in 1908, Arkansas 4–H soon expanded to include girls' canning clubs and is now one of the largest youth development programs in Arkansas. The mission of 4–H is to provide opportunities for youth to acquire knowledge, develop life skills, form attitudes, and practice behavior that will enable them to become self-directing, productive, and contributing members of society.

It is exemplified in the pledge every Arkansas 4–Her recites: I pledge my Head to clearer thinking; my Heart to greater loyalty; my Hands to larger service; my Health to better living for my club, my community, my country, and my world.

Mr. President, what great words to live by.

Approximately 133,000 young people, in all 75 Arkansas counties, participate in Arkansas 4–H clubs. Arkansas 4–H carries out its mission across our diverse State in inner cities, suburbs, and rural communities. It seeks to break barriers among our youth by focusing on a philosophy of learning by doing.

Associated with the University of Arkansas's Division of Agriculture, through the Cooperative Extension Service, 4–H members can select activities in 82 project areas from automotive and clothing to space camp and show horse competitions. In addition, Arkansas 4–H youth receive more than $80,000 in college scholarships each year at the State level for their 4–H work.

So as Arkansas 4–H culminates its year long celebration, I want to extend my congratulations on a tremendous 100 years and wish 4–H the best for another 100 years.

I would also like to take this time to recognize the over 40 clubs statewide that joined the Centennial Club Circle to help fund centennial activities this year. They include the following:

Garland County Teen Leader Club, Garland County; Busy Beavers 4–H Club, Pope County; Elkins 4–H Club, Washington County; Galloping Clovers, Yell County; Fusion 4–H Club, Columbia County; Town & Country 4–H Club, Benton County; Bear Pride 4–H Club, White County; Yellowjackets 4–H Club; Grant County; Rocky Top 4–H Club, Crawford County; 4–H Soaring Eagles Group, Cross County; Perry County Teen Leaders, Perry County; Vilonia 4–H Club, Faulkner County; Centerton 4–H Club, Benton County; Pastoria 4–H Club, Jefferson County; Western Wranglers 4–H Horse & Pony Club, Lawrence

County; Alpena 4–H Club, Boone County; Monette Buffalo Island 4–H Club, Craighead County; Lakeside 4–H Club, Sevier County; Gaither-Valley 4–H Club, Boone County; Olvey 4–H Club, Boone County; Decatur 4–H Club, Benton County; Gravette Gleamers-4–H, Benton County; Chambers 4–H Club, Crawford County; Hilltop Kids 4–H Club, Pope County; Carnall 4–H Club, Sebastian County; Franklin County 4–H Shooting Sports Club, Franklin County; Hurricane Creek 4–H Club, Franklin County; Franklin County Teen Leaders Club, Franklin County; Pulaski County Teen Leaders Club, Pulaski County; Berryville 4–H Club, Carroll County; Atkins 4–H Club, Pope County; Shining Stars 4–H Club, Clark County; Salem Superstars 4–H Club, Saline County; Chapel Hill 4–H Club, Sevier County; Spirit of 76 4–H Club, Arkansas County; Batesville Pioneer 4–H Club, Independence County; Hector 4–H Club, Pope County; El Paso 4–H Club, White County; Towers 4–H Club, Union County; Magic Clovers 4–H Club, Saline County; Lion's Pride 4–H Club, White County; Johnson County 4–H Teen Leaders Club, Johnson County; Hasbrook Road 4–H Club, Craighead County; Bethlehem 4–H Club, Columbia County; H&S Dream Makers, Dallas County; Small Stockers & More 4–H Club, Marion County; Columbia County Livestock 4–H Club, Columbia County; Haskell 4–H Club, Saline County; Prairie Grove 4–H Club, Washington County; Greene County 4–H Livestock Club, Greene County; Greene County 4–H Club, Greene County; Hickory 4–H Club, Cross County; Boone County 4–H Sharpshooters, Boone County; Phillips County 4–H Club, Phillips County; L'eau Frais 4–H Club, Clark County; Dayton 4–H Club, Sebastian County; White County 4–H Leaders Association, White County; Mountaineers 4–H Club, Franklin County; 4–H Busy Beavers, Yell County; Lee County 4–H Club, Lee County; Conway County 4–H Foundation, Conway County; Caney Creek 4–H Club, Conway County; Conway County Livestock Club, Conway County; Hattieville Community 4–H Club, Conway County; Heritage Run Homeschool 4–H Club, Conway County; Latino 4–H Club, Conway County; Lucky Clovers 4–H Club, Conway County; Morrilton High School HOFNOD 4–H Club, Conway County; Nemo Vista Pioneers 4–H Club, Conway County; South of the River 4–H Club, Conway County; Trailblazers 4–H Club, Conway County; Union Chapel 4–H Club, Conway County; Wonderview High School 4–H Club, Conway County; and Viola Loyal Longhorn 4–H Club, Fulton County.●

HONORING DORIS J. JOHNSON

● Mrs. LINCOLN. Mr. President, yesterday morning I met Doris Johnson of West Memphis, AR, who was selected by Experience Works as the recipient of the 2008 Changing Lives Award for Outstanding Senior Community Service Employment Program, SCSEP, Participant. I want to congratulate Mrs. Johnson on receiving this award and changing her life through participation in the SCSEP.

Prior to her participation in the program, Mrs. Johnson's sole work experience was helping to run her family's sheet metal shop business for nearly 45 years. She managed many of the day-to-day office tasks which included sending and receiving invoices on behalf of the business. Unfortunately, in 1986, her husband's health began to deteriorate, and she suffered a heart attack herself. It was at this time that their son began running the company until it was eventually sold, when her husband passed away in 1996.

After her heart attack, Mrs. Johnson was not employed for nearly 20 years. In fact, her husband's death was very painful, and she rarely visited friends or ventured out of the house. But at the age of 77, realizing she needed additional income just to make ends meet, she contacted Experience Works.

For those who are not aware, Experience Works is the Nation's oldest and largest provider of job training and employment opportunities for older Americans. Each year, Experience Works serves over 20,000 older workers and local communities through the SCSEP.

Shortly before her 78th birthday, Mrs. Johnson was placed with the Amazing Grace Thrift Shop on a training assignment. She quickly learned to sort and fold clothes, as well as price and sell items. In a short time, she and another SCSEP participant tripled the sales at the store.

She soon was encouraged to take a new job as a receptionist with the Arkansas Rehabilitation Service, ARS. It was not an easy transition, though. Mrs. Johnson suffered from hearing loss and was concerned about her ability to answer the phone. In addition, the phone system was rather intimidating, and she was unsure if she could adapt. The staff at ARS was impressed with her, though, and they worked to help her obtain new hearing aids. She was also a quick study during phone training. She not only developed the skills to become a good receptionist but also took the initiative to take a phone list home so that she could learn employee names and extensions. Her work ethic, people skills, and ability to learn new task set her apart. In fact, her training supervisor has requested that she become the office assistant.

It has certainly made a difference in Mrs. Johnson's life. She says, ''Being in the program has made a complete turnaround in my life.'' She displays a newfound confidence, and with some extra income, has returned to becoming an active senior.

Mrs. Johnson, I want you to know that you are an inspiration, not only to me and my colleagues but to the millions of seniors around our great State and across this country. Thank you for all you do, and good luck in your future endeavors.●

HONORING EDWARD R. JOHNSON

● Mrs. LINCOLN. Mr. President, yesterday morning I met Edward Johnson of Springdale, AR, who was selected by Experience Works, the Nation's oldest and largest provider of job training and employment opportunities for older Americans, as the 2008 Outstanding Older Worker from the State of Arkansas. I want to take this opportunity to congratulate Mr. Johnson on receiving this award and thank him for his steadfast service to our country and my home State of Arkansas.

More than 60 years ago, as an 18-year-old young man, Mr. Johnson enlisted in the U.S. Army. Over the next 30 years, he served our country in outposts from Japan and Korea to the Panama Canal and Vietnam. Upon his honorable discharge in 1978, he had earned the rank of sergeant major.

Without knowing what his next step in life would be, Mr. Johnson went to his local employment office to apply for unemployment benefits. Upon arriving, he found his second calling and began a second 30-year career as the local veterans representative in the Fayetteville office for the Arkansas Department of Workforce Services, DWS. In this capacity, Mr. Johnson has assisted countless veterans find employment and helped disabled veterans find uses for their unique talents. He has said that the pleasure of putting veterans to work and their excitement when hired is what motivates him.

Throughout his service, he has become like a father figure and invaluable member of the DWS staff. It is not uncommon for him to go above and beyond to assist in a variety of capacities around the office. He is known to mentor new employees, especially veterans in the work/study program, and takes it upon himself to recognize colleagues with awards when they provide an outstanding level of service.

At the age of 78, Mr. Johnson is showing no signs of slowing down, either. He continues to learn how to use the newest technology needed to perform his job. He also likes to treat the staff by grilling hamburgers and hotdogs in the parking lot or bringing in his wife's homemade soup.

Beyond his work, Mr. Johnson is a valuable member of his community. He is a 23-year member of the Noon Lions Club, where he served as president from 1988 to 1989, and in 1999, he served as the Rogers-Lowell Chamber of Commerce Ambassador of the Year.

In closing, I want Mr. Johnson to know that he is an inspiration, not only to me and my colleagues but to the millions of seniors around our great State and across this country. We are thankful for his many contributions.●

TRIBUTE TO BOB FELLER

● Mr. VOINOVICH. Mr. President, today I honor and congratulate an outstanding community member, distinguished veteran of World War II and

Baseball Hall of Famer who played for my hometown team, the Cleveland Indians, on his upcoming 90th birthday on November 3.

Bob Feller, also known as ''Rapid Robert,'' was born in 1918, and grew up in humble beginnings during the Great Depression on a farm outside Van Meter, IA. There he learned the importance of hard work, leadership and civic responsibility from his father Bill, who worked the family farm, and his mother Lena, who was a nurse and a school teacher.

While doing chores around the farm—including milking the cows and taking the hogs to market—Bob dreamed of becoming a Major League Baseball player. With the encouragement of his parents—especially his father, who had been a semi-pro pitcher—Bob honed his skills and worked to achieve his dream.

Bob and his father spent countless hours playing pitch and catch on the mound and a backstop his father had built between the barn and the house. When it was too cold to throw outside in the winter, they moved practice sessions into the barn.

As he grew, Bob's pitching speed increased, and by the time he was in grade school he was regularly beating high schoolers. Word of his curveball and strong arm quickly spread, and sports fans across the country began to take notice of the kid with the ''Heater from Van Meter.'' As interest in Bob's pitching grew, Bob's father expanded the pitching mound and backstop into a full field with bleachers and a concession stand. A team was formed with Bob as pitcher and his father managing. Hundreds of people traveled to each game at the farm to pay 35 cents to watch young Bob dominate batters with his signature high windup kick and blazing fastball.

Bob began the first of his 18 seasons with the Cleveland Indians after his junior year of high school when he signed with the team and jumped straight to the big leagues. In his first Major League start, he backed up the hype and added to his legend by striking out 15 in a four-to-one win over the St. Louis Browns. At age 17, the win made him the youngest Major League pitcher to win a game—a record that still stands today.

After his rookie season, Bob returned to Iowa for his senior year of high school, and the eyes of the Nation followed him there. In fact, NBC covered his graduation live on national radio.

Back in Cleveland after graduation, Bob went on to establish himself as the premier pitcher in Major League Baseball, as he led the league in strikeouts in 1938, won 24 games in 1939 and, in 1940, threw the only Opening Day no-hitter in major league history. That year he also won a league best 27 games with an ERA of 2.61 and 261 strikeouts to win the pitcher's Triple Crown.

Despite being at the height of his career, Bob traded his cleats and baseball cap for a Navy uniform without a second thought after the Japanese bombed Pearl Harbor in 1941. Putting his country first, he signed up just 2 days after the attack, making him the first major leaguer to enlist in the military to fight in World War II.

In the Navy, Bob was assigned to the battleship U.S.S. *Alabama*, where he led an anti-aircraft gun crew and attained the rank of Chief Petty Officer. During missions in the Atlantic and the Pacific, he fought admirably along with his fellow shipmates in notable battles in the waters off New Guinea, Guam and the Philippines. Though Bob earned 5 campaign ribbons and 8 battle stars, he'll quickly tell you that he is most proud that the *Alabama* never lost a man to the enemy in battle.

While on the *Alabama,* Bob stayed in shape by leading exercise classes twice a day, and playing on the ship's baseball team; but his dedication to his mission and his shipmates was unquestioned. In fact, Bob declined an invitation by Admiral Nimitz to leave the war zone and fly to Honolulu to pitch in the Army-Navy World Series game, telling the admiral that he had more important things to do.

Bob missed all of the next 3 seasons—and nearly all of the 1945 season—but he never had any regrets. His wife Anne says, ''For all that Bob accomplished in baseball, and all that baseball means to him, I still think Bob's more proud about his service in the Navy.''

When the war was won, Bob returned to baseball. For many athletes, 3 years off would be a difficult challenge to overcome, but not for Bob. He returned to the Indians for the 1946 season and had arguably the best season of his career, as he won 26 games, pitched a no-hitter, two-one hitters and struck out 348.

After the 1946 season, Bob played a major role in the desegregation of baseball. In a series of exhibitions played across the country organized by Bob and his good friend Satchel Paige, the Bob Feller All-Stars matched up against the Satchel Paige All-Stars from the Negro Leagues. These games offered a great amount of national exposure, smoothing the path for Jackie Robinson and other African Americans who would later enter Major League Baseball.

Bob retired after the 1956 season as one of Cleveland's all-time great players. Throughout his career he won 20 or more games in a season 6 times, pitched 3 no-hitters, was an integral part of the 1948 Indians team that won the World Series and played in the All Star Game eight times. He still stands as Cleveland's all-time leader in shutouts, innings pitched, wins and strikeouts.

In 1962, Bob's achievements were recognized when he was elected to the Hall of Fame in his first year of eligibility, becoming the first pitcher to enter the Hall in his first year of eligibility since charter member Walter Johnson.

More important than all of the records Bob holds are the lives he has touched and the people he has inspired with his amazing gift. Like so many other boys growing up in the 1940s and 1950s, Bob Feller was one of my heroes. Getting to know Bob and observe his down-home humility, enthusiasm for life and baseball and, more importantly, his commitment to his country, has been a great joy for me during my time as mayor of Cleveland, Governor and now Senator for Ohio. I will never forget being on the mound with Bob and President Clinton on opening day of the inaugural season for Jacobs Field in 1994, and I still treasure the baseball he signed for me that day.

Since retiring from baseball, Bob has continued to touch countless lives, as he has devoted himself to serving the community with the same passion and work ethic that made him one of the best pitchers in baseball history. He is well known for always taking time to sign autographs and visit with fans and has dedicated countless hours to a number of causes. Today he proudly lists the Salvation Army, the Cleveland Indians Charities, the Little League of Gates Mills and the U.S.S. *Alabama* Foundation among his favorite charities. Bob also remains very active in the Major League Baseball Players Alumni Association and the Bob Feller Museum in Van Meter, IA.

Cleveland will be forever indebted to Bob for his contributions and I am proud he still fondly calls the area home. In fact, he currently lives with his beautiful wife Anne in nearby Gates Mills, where he remains in close touch with his three sons and grandson.

Despite all that he has accomplished, Bob remains the hard-working, down-to-earth, patriotic and compassionate farm boy from Van Meter. When asked once if he could relive any one of the many great moments of his life, Bob answered without hesitation, ''Playing catch with my dad between the red barn and the house.''

On behalf of a grateful Nation, I would like to congratulate Bob Feller on his upcoming 90th birthday, and thank him for his service to his country, his dedication to the community and for sharing his love of baseball and the Cleveland Indians with so many. He is truly a role model that all of us should strive to emulate. I wish him continued health and happiness.●

TRIBUTE TO NANCY NEIGHBOR RUSSELL

● Mr. WYDEN. Mr. President, I wish to recognize a great Oregonian, Nancy Neighbor Russell. Not long ago, Nancy woke up and demanded that her family take her to see the Columbia River Gorge. It was not an unusual request because Nancy has been a tireless and fearless defender of the gorge for more than a quarter century. The scenic beauty of the gorge was her passion and protecting it was her crusade.

What made this trip different was that Nancy suffered from amyotrophic lateral sclerosis, ALS, often referred to

as ''Lou Gehrig's disease.'' Taking her to visit the place she loved most would not be easy. Her family hired an ambulance, placed Nancy in the back, and drove east from her home in Portland. Once there, Nancy saw her beloved gorge for the last time. On September 19, 2008, Nancy Neighbor Russell passed away.

While she is gone, her legacy is not. No individual has had the lasting and profound impact on a Pacific Northwest's landscape as Nancy Russell has had on the Columbia River Gorge. In my hometown newspaper, The Oregonian reporter Katy Muldoon described her this way: ''a lion in conservation circles, a fearless but graceful negotiator, a dogged fundraiser, a mentor to young leaders and an inspiration to anyone who had the pleasure of hiking or hunting wildflowers with her on the grassy slopes above the Columbia River.''

Anyone who has seen the Columbia River Gorge know that its steep cliffs, dramatic rock formations, and graceful waterfalls makes it one of the most beautiful places on Earth. It is the crown jewel of a Pacific Northwest landscape filled with a treasure trove of natural beauty. But it took someone like Nancy Russell to recognize that the gorge's beauty, drama, and gracefulness needed to be protected. She would devote the rest of her life to making sure it was.

In the early 1980s, she founded the Friends of the Columbia Gorge and began an unprecedented effort that in 1986 resulted in passage of the Columbia River Gorge National Scenic Area Act. As Congressman of the Third Congressional District at the time, I was proud to stand with friends and allies to vote for this historic legislation. That act preserved the gorge while protecting the valuable orchards and agriculture lands and acting as a catalyst to the tourism and recreational values so important to the communities along the Columbia.

But Nancy didn't stop there. She continued to push the Federal Government to purchase important pieces of property from willing sellers so that stunning views of the gorge would remain open to the public. She personally purchased more than 30 properties and donated them to the public so hikers could enjoy them for generations to come.

Today, the Columbia Gorge faces issues that Nancy would have never contemplated three decades ago. Fortunately, Nancy Russell leaves behind what may be her greatest accomplishment—an organization with members who are inspired by her vision and determined to follow in her footsteps. The gorge may have lost an ardent supporter, but it has not lost support. I am confident that Nancy's children and grandchildren, her countless friends, and Oregon's and Washington's leaders on both sides of the aisle will honor her by continuing to protect this great legacy.

On those times when I return to Oregon and my flight takes me over the Columbia River Gorge, I will think of Nancy Russell and her last visit there. Knowing what I do about Nancy and all that she did for that beautiful area, it will be hard to think of anything else. I pay tribute to her life well-lived today and thank her and her family for all of her many, lasting accomplishments.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:00 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1014. An act to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardivascular diseases in women.

H.R. 1157. An act to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

H.R. 3018. An act to provide for payment of an administrative fee to public housing agencies to cover the costs of administering family self-sufficiency programs in connection with the housing choice you her program of the Department of Housing and Urban Development.

H.R. 3232. An act to establish a non-profit corporation to communicate United States entry policies and otherwise promote tourist, business, and scholarly travel to the United States.

H.R. 3402. An act to require accurate and reasonable disclosure of the terms and conditions of prepaid telephone calling cards and services.

H.R. 6469. An act to amend the Public Health Service Act to authorize increased Federal funding for the Organ Procurement and Transplantation Network.

H.R. 6568. An act to direct the Secretary of Health and Human Services to encourage research and carry out an educational campaign with respect to pulmonary hypertension, and for other purposes.

H.R. 6946. An act to make a technical correction in the NET 911 Improvement Act of 2008.

H.R. 6950. An act to establish the Stephanie Tubbs Jones Gift of Life Medal for organ donors and the family of organ donors.

The message also announced that the House has passed the following bill, without amendment:

S. 1810. An act to amend the Public Health Service Act to increase the provision of scientifically sound information and support services to patients receiving a positive test diagnosis for Down syndrome or other prenatally and postnatally diagnosed conditions.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 255. Concurrent resolution expressing the sense of Congress regarding the United States commitment to preservation of religious and cultural sites and condemning instances where sites are desecrated.

H. Con. Res. 393. Concurrent resolution supporting the goals and ideals of ''National Sudden Cardiac Arrest Awareness Month''.

The message also announced that the House agreed to the amendment of the Senate to the bill (H.R. 1343) to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act, and for other purposes.

The message further announced that in accordance with the request of the Senate, the bill (H. R. 3068) to prohibit the award of contracts to provide guard services under the contract security guard program of the Federal Protective Service to a business concern that is owned, controlled, or operated by an individual who has been convicted of a felony, is hereby returned to the Senate.

At 12:17 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7060. An act to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

At 4:59 p.m., a message from the House of Representatives, delivered by Mr. Zapata, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

S. 1382. An act to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 2932. An act to amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 214. Concurrent resolution expressing the sense of Congress that the President should grant a posthumous pardon to John Arthur ''Jack'' Johnson for the 1913

racially motivated conviction of Johnson, which diminished his athletic, cultural, and historic significance, and tarnished his reputation.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4120) to amend title 18, United States Code, to provide for more effective prosecution of cases involving child pornography, and for other purposes.

At 7:05 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6045. An act to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend the authorization of the Bulletproof Vest Partnership Grant Program through fiscal year 2012.

H.R. 6199. An act to designate the facility of the United States Postal Service located at 245 North Main Street in New City, New York, as the ''Kenneth Peter Zebrowski Post Office Building''.

H.R. 6847. An act to designate the facility of the United States Postal Service located at 801 Industrial Boulevard in Ellijay, Georgia, as the ''First Lieutenant Noah Harris Ellijay Post Office Building''.

H.R. 6901. An act to amend the Public Health Service Act to provide for the establishment of a drug-free workplace information clearinghouse, to support residential methamphetamine treatment programs for pregnant and parenting women, to improve the prevention and treatment of methamphetamine addiction, and for other purposes.

H.R. 7110. An act making supplemental appropriations for job creation and preservation, infrastructure investment, and economic and energy assistance for the fiscal year ending September 30, 2009, and for other purposes.

At 7:38 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks announced that the House has passed the following bill, without amendment:

S. 1046. An act to modify pay provisions relating to certain senior-level positions in the Federal Government, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 6646. An act to require the Secretary of State, in consultation with the Secretary of Defense, to provide detailed briefings to Congress on any recent discussions conducted between United States Government and the Government of Taiwan and any potential transfer of defense articles or defense services to the Government of Taiwan; to the Committee on Foreign Relations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 26, 2008, she had presented to the President of the United States the following enrolled bills:

S. 1760. An act to amend the Public Health Service Act with respect to the Healthy Start Initiative.

S. 3241. An act to designate the facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, as the ''CeeCee Ross Lyles Post Office Building''.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7967. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report entitled ''2007 Annual Report of the Securities Investor Protection Corporation''; to the Committee on Commerce, Science, and Transportation.

EC–7968. A communication from the General Counsel, Department of Commerce, transmitting, the report of draft legislation intended to implement Section 3005 of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4, 23; to the Committee on Commerce, Science, and Transportation.

EC–7969. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Red Dog, AK'' ((Docket No. FAA–2008–0457)(Airspace Docket No. 08–AAL–16)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7970. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Rome, NY'' ((Docket No. FAA–2008–0308)(Airspace Docket No. 08–AEA–19)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7971. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Black River Falls, WI'' ((Docket No. FAA–2008–0024)(Airspace Docket No. 08–AGL–4)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7972. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Lexington, OK'' ((Docket No. FAA–2008–0003)(Airspace Docket No. 08–ASW–1)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7973. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Altus AFB, OK'' ((Docket No. FAA–2008–0339)(Airspace Docket No. 08–ASW–5)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7974. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Salida, CO'' ((Docket No. FAA–2007–0293)(Airspace Docket No. 07–ANM–18)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7975. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Low Altitude Area Navigation Route (T–Route); Southwest Oregon'' ((Docket No. FAA–2008–0038)(Airspace Docket No. 07–ANM–16)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7976. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Plains, TX'' ((Docket No. FAA–2008–0683)(Airspace Docket No. 08–ASW–11)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7977. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Pampa, TX'' ((Docket No. FAA–2008–0610)(Airspace Docket No. 08–ASW–10)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7978. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Colored and VOR Federal Airways; Alaska'' ((Docket No. FAA–2007–0092)(Airspace Docket No. 07–AAL–18)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7979. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Emporium, PA'' ((Docket No. FAA–2007–0275)(Airspace Docket No. 07–AEA–15)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7980. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Fort Collins, CO'' ((Docket No. FAA–2008–0336)(Airspace Docket No. 08–ANM–4)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7981. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Removal of Class E Airspace; Roanoke Rapids, NC'' ((Docket No. FAA–2008–0307)(Airspace Docket No. 08–AEA–18)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7982. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Lexington, OK'' ((Docket No. FAA–2008–0003)(Airspace Docket No. 08–ASW–1)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7983. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class E Airspace, Luke AFB, Phoenix, AZ'' ((Docket No. FAA–

2008–0204)(Airspace Docket No. 08–AWP–5)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7984. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Removal of Class E5 Airspace; Madison, CT'' ((Docket No. FAA–2008–0665)(Airspace Docket No. 08–ANE–100)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7985. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Kivalina, AK'' ((Docket No. FAA–2008–0452)(Airspace Docket No. 08–AAL–11)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7986. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Carson City, NV'' ((Docket No. FAA–2008–0068)(Airspace Docket No. 08–AWP–1)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7987. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Eek, AK'' ((Docket No. FAA–2008–0447)(Airspace Docket No. 08–AAL–8)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7988. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Kake, AK'' ((Docket No. FAA–2008–0451)(Airspace Docket No. 08–AAL–10)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7989. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Gulkana, AK'' ((Docket No. FAA–2008–0448)(Airspace Docket No. 08–AAL–9)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7990. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Prospect Creek, AK'' ((Docket No. FAA–2008–0456)(Airspace Docket No. 08–AAL–15)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7991. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Red Dog, AK'' ((Docket No. FAA–2008–0457)(Airspace Docket No. 08–AAL–16)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7992. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Venetie, AK'' ((Docket No. FAA–2008–0460)(Airspace Docket No. 08–AAL–18)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7993. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Salyer Farms, CA'' ((Docket No. FAA–2008–0330)(Airspace Docket No. 08–AWP–4)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7994. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 222, 22B, and 222U Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2007–0178)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7995. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0864)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7996. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes'' ((RIN2120–AA64)(Docket No. FAA– 2008–0622)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7997. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–600, –700, –800, and –900 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0621)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7998. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 206A, 206B, 206L, 206L–1, 206L–3, and 206L–4 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2008–0040)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7999. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–10–10 and DC–10–10F Airplanes, Model DC–10–15 Airplanes, Model DC–10–30 and Model DC–10–30–F (KC–10A and KDC–10) Airplanes, Model DC–10–40 and DC–10–40F Airplanes, Model MD–10–10F and MD–10–30F Airplanes, and Model MD–11 and MD–11F Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–27339)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8000. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 707 Airplanes, and Model 720 and 720B Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0523)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8001. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes and Model ERJ 190 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–27785)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8002. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes Equipped with Certain Northrop Grumman (formerly Litton) Air Data Inertial Reference Units'' ((RIN2120–AA64)(Docket No. FAA–2008–0046)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8003. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 727 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–0223)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8004. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 430 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2007–0177)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8005. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; MD Helicopters, Inc. Model 369A, OH–6A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, and 369HS Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2008–0287)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8006. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Hawker Beechcraft Corporation Model 390 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0353)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8007. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pilatus Aircraft Ltd. Model PC-6 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0822)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8008. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; International Aero Engines AG (IAE) V2500 Series Turbofan Engines'' ((RIN2120-AA64)(Docket No. FAA-2007-28058)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8009. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Airworthiness Directives; Cessna Aircraft Company Models 175 and 175A Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2007-29240)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8010. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Co. (GE) CF34-8E Series Turbofan Engines'' ((RIN2120-AA64)(Docket No. FAA-2008-0821)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8011. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (RRD) Dart 528, 529, 532, 535, 542, and 552 Series Turboprop Engines'' ((RIN2120-AA64)(Docket No. FAA-2006-24825)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8012. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0733)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8013. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dassault Model Falcon 2000EX Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0557)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8014. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0541)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8015. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC-8-400, -401 and -402 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0586)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8016. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 777-200 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0520)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8017. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, -900, and -900ER Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0413)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8018. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eclipse Aviation Corporation Model EA500 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0837)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8019. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 230 Helicopters'' ((RIN2120-AA64)(Docket No. FAA-2008-0450)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8020. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Short Brothers Model SD3-60 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0375)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8021. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc RB211-524 Series Turbofan Engines'' ((RIN2120-AA64)(Docket No. FAA-2007-0036)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8022. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC-8-61, DC-8-61F, DC-8-63, DC-8-63F, DC-8-71F, and DC-8-73F Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0497)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8023. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pilatus Aircraft Ltd. Model PC-6 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0626)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8024. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Diamond Aircraft Industries GmbH Model DA 42 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0685)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8025. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747SR, and 747SP Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2007-0043)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8026. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC-8-102, DHC-8-103, DHC-8-106, DHC-8-201, DHC-8-202, DHC-8-301, DHC-8-311, and DHC-8-315 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0179)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8027. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dornier Model 328-100 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0584)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8028. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0406)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8029. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; PZL Swidnik S.A. Model W-3A Helicopters'' ((RIN2120-AA64)(Docket No. FAA-2008-0844)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8030. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2007-29174)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8031. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; APEX Aircraft Model CAP 10 B Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0470)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8032. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0627)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8033. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; DG Flugzeugbau GmbH Model DG-500 MB Powered Sailplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0649)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8034. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0148)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8035. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2007-0184)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8036. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737-300 and -400 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2007-0395)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8037. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pacific Aerospace Limited Model FU-24 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0543)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8038. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120, -120ER, -120FC, -120QC, and -120RT Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2003-NM-33-AD)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8039. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F27 Mark 050 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0639)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8040. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747-400 and 747-400D Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2007-0267)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8041. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330-200 and A340-300 Series Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0232)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8042. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; 328 Support Services GmbH Dornier Model 328-100 and -300 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0362)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8043. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Agusta S.p.A. Model A109E and A119 Helicopters'' ((RIN2120-AA64)(Docket No. FAA-2008-0327)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8044. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; ATR Model ATR42 Airplanes and Model ATR72-101, -102, -201, -202, -211, and -212 Airplanes'' ((RIN2120-AA64)(Docket No. FAA-2008-0409)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8045. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XK38) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8046. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands'' (RIN0648–XK39) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8047. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' (RIN0648–XK42) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8048. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries'' (RIN0648–XJ69) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8049. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Nomenclature Change to Rename the ''Haddock Rope Trawl'' the ''Ruhle Trawl''; Final Rule'' (RIN0648–AX18) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8050. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska'' (RIN0648–XK29) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8051. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Revisions to the Medicare Advantage and Prescription Drug Benefit Program'' (RIN0938–AP52) received on September 16, 2008; to the Committee on Finance.

EC–8052. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Medicare Advantage and Prescription Drug Benefit Programs: Final Marketing Provisions'' (RIN0938–AP24) received on September 16, 2008; to the Committee on Finance.

EC–8053. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tier I Issue: IRC Section 118 Abuse Directive #5'' (LMSB Control No. 4-0808-041) received on September 16, 2008; to the Committee on Finance.

EC–8054. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Extensions of Import Restrictions Imposed on Archaeological Material from Cambodia'' (RIN1505–AB99) received on September 17, 2008; to the Committee on Finance.

EC–8055. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Form 990'' (RIN1545–BH85) received on September 17, 2008; to the Committee on Finance.

EC–8056. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates'' (Notice 2008-75) received on September 17, 2008; to the Committee on Finance.

EC–8057. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to the modification of transition rules in the effective date provisions of Rev. Proc. 2008-52 (Announcement 2008-84) received on September 17, 2008; to the Committee on Finance.

EC–8058. A communication from the Chief of the Recovery and Delisting Branch, Endangered Species Program, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Rule Removing the Virginia Northern Flying Squirrel (Glaucomys sabrinus fuscus) From the Federal List of Endangered and Threatened Wildlife'' (RIN1018-AT37) received on September 25, 2008; to the Committee on Environment and Public Works.

EC–8059. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on the feasibility study undertaken to investigate flood damage reduction and related water and land resource problems in the Coachella Valley of the Whitewater River basin in California; to the Committee on Environment and Public Works.

EC–8060. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on the feasibility study that was undertaken to determine whether improvements in the interest of navigation, recreation, fish and wildlife, environmental restoration and protection, and shoreline erosion control along the Mahon River and Delaware Bay in the vicinity of Port Mahon would be warranted; to the Committee on Environment and Public Works.

EC–8061. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticides; Food Packaging Treated with a Pesticide'' (FRL No. 8382-3) received on September 25, 2008; to the Committee on Environment and Public Works.

EC–8062. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Aldicarb, Ametryn, 2,4-DB, Dicamba, Dimethipin, Disulfoton, Diuron, et al.; Tolerance Actions'' (FRL No. 8382-2) received on September 25, 2008; to the Committee on Environment and Public Works.

EC–8063. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Reclassification of the Houston/Galveston/Brazoria Ozone Nonattainment Area; Texas; Final Rule'' (FRL No. 8712-8) received on September 25, 2008; to the Committee on Environment and Public Works.

EC–8064. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyfluthrin; Pesticide Tolerances'' (FRL No. 8382-5) received on September 25, 2008; to the Committee on Environment and Public Works.

EC–8065. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pendimethalin; Pesticide Tolerances'' (FRL No. 8368-8) received on September 25, 2008; to the Committee on Environment and Public Works.

EC–8066. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for Petroleum Refineries'' (RIN2060-AN72) received on September 25, 2008; to the Committee on Environment and Public Works.

EC–8067. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Defense Advanced Research Projects Agency when contracting personnel inadvertently issued a duplicate contract modification; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 3617. An original bill to amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States (Rept. No. 110-509).

By Mr. DODD, from the Committee on Foreign Relations, without amendment:

S. 3263. A bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes (Rept. No. 110-510).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2281. A bill to expand the boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve and for other purposes (Rept. No. 110-511).

S. 2685. A bill to prohibit cigarette manufacturers from making claims or representations based on data derived from the cigarette testing method established by the Federal Trade Commission (Rept. No. 110-512).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2699. A bill to require new vessels for carrying oil fuel to have double hulls, and for other purposes (Rept. No. 110-513).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 2136, a bill to address the treatment of primary mortgages in bankruptcy, and for other purposes (Rept. No. 110-514).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 3639. An original bill to protect pregnant women and children from dangerous lead exposures (Rept. No. 110-515).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Michael Bruce Donley, of Virginia, to be Secretary of the Air Force.

*David H. McIntyre, of Texas, to be a Member of the National Security Education Board for a term of four years.

*Mark J. Gerencser, of New Jersey, to be a Member of the National Security Education Board for a term of four years.

Navy nomination of Rear Adm. (lh) Timothy V. Flynn III, to be Rear Admiral.

Navy nomination of Capt. George W. Ballance, to be Rear Admiral (lower half).

Army nomination of Brig. Gen. Patrick J. O'Reilly, to be Lieutenant General.

Air Force nomination of Lt. Gen. William M. Fraser III, to be General.

Air Force nomination of Lt. Gen. Craig R. McKinley, to be General.

Army nomination of Gen. David D. McKiernan, to be General.

Army nomination of Lt. Gen. William G. Webster, Jr., to be Lieutenant General.

Army nominations beginning with Brigadier General Daniel B. Allyn and ending with Brigadier General Terry A. Wolff, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2008. (minus 1 nominee: Brigadier General Gina S. Farrisee)

Army nomination of Lt. Gen. H. Steven Blum, to be Lieutenant General.

Air Force nominations beginning with Brigadier General Garry C. Dean and ending with Colonel James W. Schroeder, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nomination of Rear Adm. Alan S. Thompson, to be Vice Admiral.

Army nomination of Col. Karlynn P. O'Shaughnessy, to be Brigadier General.

Army nomination of Maj. Gen. Carroll F. Pollett, to be Lieutenant General.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Sarah C. L. Scullion, to be Lieutenant Colonel.

Air Force nomination of Richard E. Cutts, to be Lieutenant Colonel.

Air Force nomination of Karl L. Brown, to be Major.

Air Force nominations beginning with Andrew T. Harkreader and ending with Taris S. Hawkins, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Air Force nominations beginning with Darrell I. Morgan and ending with Roger E. Jones, which nominations were received by the Senate and appeared in the Congressional Record on September 9, 2008.

Air Force nominations beginning with Thomas R. Reed and ending with Vijayalakshmi Sripathy, which nominations were received by the Senate and appeared in the Congressional Record on September 12, 2008.

Air Force nomination of Daniel Uribe, to be Colonel.

Air Force nomination of Mark A. Lambertsen, to be Lieutenant Colonel.

Air Force nomination of Randy L. Manella, to be Lieutenant Colonel.

Air Force nomination of Timothy W. Ricks, to be Lieutenant Colonel.

Air Force nominations beginning with Marco V. Galvez and ending with John T. Symonds, which nominations were received by the Senate and appeared in the Congressional Record on September 12, 2008.

Air Force nominations beginning with John J. Abbatiello and ending with Timothy A. Zoerlein, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Air Force nominations beginning with Michelle T. Aaron and ending with Julie F. Zwies, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Air Force nominations beginning with Elaine M. Alexa and ending with Dennis C. Wooten, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Air Force nominations beginning with Nicola S. Adams and ending with Tambra L. Yates, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Air Force nominations beginning with Jade A. Alota and ending with Michelle L. Wright, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Air Force nominations beginning with Robert L. Clark and ending with John K. Bini, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Air Force nomination of Theodore A. Mickle, Jr., to be Colonel.

Air Force nominations beginning with Michael G. Butel and ending with Timothy S. Woodruff, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Army nomination of Allen D. Ferry, to be Colonel.

Army nomination of Stephen E. Huskey, to be Colonel.

Army nominations beginning with Jennifer A. Hisgen and ending with Vivian C. Shafer, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Army nominations beginning with Kord H. Basnight and ending with Frank D. Whitney, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Army nominations beginning with Bradley Aebi and ending with Jonathan Yun, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Army nominations beginning with Julie A. Ake and ending with Scott E. Young, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Army nomination of Mark V. Flasch, to be Colonel.

Army nomination of Steven B. Horton, to be Colonel.

Army nomination of Mary F. Braun, to be Colonel.

Army nomination of James C. Bayley, to be Colonel.

Army nomination of Jose R. Rafols, to be Major.

Army nomination of Matthew Myles, to be Major.

Army nomination of Jayanthi Kondamini, to be Major.

Army nominations beginning with Katherine G. Arterburn and ending with Jesse C. White, which nominations were received by the Senate and appeared in the Congressional Record on September 12, 2008.

Army nominations beginning with Leeann M. Capace and ending with Duaine J. Kaczinski, which nominations were received by the Senate and appeared in the Congressional Record on September 12, 2008.

Army nominations beginning with Job Andujar and ending with Ralph Layman, which nominations were received by the Senate and appeared in the Congressional Record on September 12, 2008.

Army nomination of Chris D. Fritz, to be Colonel.

Army nominations beginning with Shannon B. Brown and ending with Arnold K. Iaea, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Army nominations beginning with Howard Davis and ending with James Wilkinson, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Army nomination of Katherine L. Froehling, to be Colonel.

Army nomination of D060712, to be Colonel.

Army nominations beginning with Philip W. Gay and ending with Timothy N. Thombleson, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nomination of D060652, to be Lieutenant Colonel.

Army nomination of Tyrone P. Crabb, to be Lieutenant Colonel.

Army nominations beginning with Michael M. King and ending with Bradley C. Ware, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nominations beginning with D060674 and ending with D060715, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nomination of D060834, to be Major.

Army nominations beginning with D060478 and ending with D060552, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nominations beginning with D060513 and ending with D070008, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nominations beginning with Jonathan S. Ackiss and ending with D070159, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nominations beginning with Stephen L. Adamson and ending with X0005, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nominations beginning with Matthew T. Adamczyk and ending with D060798, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

Army nomination of Nathan V. Sweetser, to be Lieutenant Colonel.

Army nominations beginning with David E. Graetz and ending with Stephen E. Vaughn, which nominations were received by the Senate and appeared in the Congressional Record on September 22, 2008.

Army nominations beginning with Orman W. Boyd and ending with D060774, which nominations were received by the Senate and appeared in the Congressional Record on September 22, 2008.

Army nominations beginning with Christopher C. Carlson and ending with James G. Winter, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 22, 2008.

Navy nominations beginning with Anthony M. Griffay and ending with Andrew G. Liggett, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nomination of Patrick J. Fullerton, to be Lieutenant Commander.

Navy nominations beginning with Joshua D. Crouse and ending with Dave S. Evans, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Matthew E. Dubrow and ending with Robert S. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Zachary A. Beehner and ending with David R. Wilcox, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Denver L. Applehans and ending with Christopher S. Servello, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Lyle P. Ainsworth and ending with Juan C. Varela, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Rodney O. Adams and ending with Steven T. Wisnoski, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Timothy R. Campo and ending with John E. Woods III, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Michael M. Andrews and ending with Joseph Zuliani, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Lasumar R. Aragon and ending with Sarah E. Zarro, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Audrey G. Adams and ending with James B. Vernon, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Adam L. Albarado and ending with Dennis M. Zogg, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Emmanuel C. Arcelona and ending with Bernerd C. Zwahlen, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Cal R. Abel and ending with Charles B. Zuhoski, which nominations were received by the Senate and appeared in the Congressional Record on July 30, 2008.

Navy nominations beginning with Stevic B. Abad and ending with Nathan J. Wonder, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Dana E. Adkins and ending with Vincent A. I. Zizak, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Christopher W. Abbott and ending with Tom A. Zurakowski, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Catherine K. K. Chiappetta and ending with Sylvaine W. Wong, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Paul G. Albers and ending with John P. Zalar, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Joseph K. Ahn and ending with David M. Wright, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Cassie L. Allen and ending with David S. Yang, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Ferdinand D. Abril and ending with Yue K. Zhang, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nominations beginning with Palmo S. Barrera and ending with Horacio G. Tan, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

Navy nomination of Jefferey R. Jernigan, to be Captain.

By Mr. INOUYE for the Committee on Commerce, Science, and Transportation.

*John P. Hewko, of Michigan, to be an Assistant Secretary of Transportation.

*Cheryl Feldman Halpern, of New Jersey, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2014.

*David H. Pryor, of Arkansas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2014.

*Bruce M. Ramer, of California, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2012.

*Elizabeth Sembler, of Florida, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2014.

*Loretta Cheryl Sutliff, of Nevada, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2012.

*Coast Guard nominations beginning with Rear Adm. (lh) Christopher C. Colvin and ending with Rear Adm. (lh) Paul F. Zukunft, which nominations were received by the Senate and appeared in the Congressional Record on July 10, 2008.

*Coast Guard nominations beginning with Rear Adm. (lh) Thomas F. Atkin and ending with Rear Adm. (lh) James A. Watson, which nominations were received by the Senate and appeared in the Congressional Record on September 9, 2008.

Mr. INOUYE. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*Coast Guard nominations beginning with Kurt A. Sebastian and ending with Glenn M. Sulmasy, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

*Coast Guard nominations beginning with John J. Arenstam and ending with John D. Wood, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

*Coast Guard nominations beginning with Lara A. Anderson and ending with Christopher H. Zorman, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2008.

*Coast Guard nominations beginning with Robert P. Branc and ending with Hekmat D. Tamimie, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 2008.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REID (for himself and Mr. BYRD):

S. 3604. A bill making emergency supplemental appropriations for economic recovery for the fiscal year ending September 30, 2008, and for other purposes; read twice; to the Committee on Appropriations.

By Mr. REID (for Mr. BIDEN (for himself and Mr. HATCH)):

S. 3605. A bill to extend the pilot program for volunteer groups to obtain criminal history background checks; considered and passed.

By Mr. HATCH:

S. 3606. A bill to extend the special immigrant nonminister religious worker program and for other purposes; considered and passed.

By Mr. BURR (for himself, Mr. MCCAIN, Mr. BROWN, Mrs. DOLE, Mr. LEVIN, Mr. KENNEDY, Mr. ISAKSON, Mr. WYDEN, Mr. WARNER, Mr. VOINOVICH, and Mr. CHAMBLISS):

S. 3607. A bill to reauthorize the memorial to Martin Luther King, Jr; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. SMITH, and Mr. STEVENS):

S. 3608. A bill to establish a Salmon Stronghold Partnership program to protect wild Pacific salmon and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 3609. A bill to amend the Residential Lead-Based Paint Hazard Reduction Act of 1992 to define environmental intervention blood lead level, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ (for himself, Mr. COLEMAN, Mr. LAUTENBERG, Ms. CANTWELL, Mr. LEVIN, Mr. FEINGOLD, and Mr. CASEY):

S. 3610. A bill to improve the accuracy of fur product labeling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW:

S. 3611. A bill to amend title XIX of the Social Security Act to improve the provision of rehabilitation services and case management and targeted case management services under the Medicaid program, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Ms. CANTWELL, Mr. AKAKA, and Mr. WYDEN):

S. 3612. A bill to protect citizens and legal residents of the United States from unreasonable searches and seizures of electronic equipment at the border, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. WYDEN (for himself, Ms. MIKULSKI, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 3613. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to Independence at home services in lower cost treatment settings, such as their residences, under a plan of care developed by an Independence at Home physician or Independence at Home nurse practitioner; to the Committee on Finance.

By Mr. CASEY:

S. 3614. A bill to require semiannual indexing of mandatory Federal food assistance programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. HUTCHISON (for herself and Mr. CARDIN):

S. 3615. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of church pension plans, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3616. A bill to amend title 31, United States Code, to provide for the licensing of Internet skill game facilities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER:

S. 3617. An original bill to amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States; from the Committee on Environment and Public Works; placed on the calendar.

By Ms. COLLINS (for herself and Mrs. FEINSTEIN):

S. 3618. A bill to establish a research, development, demonstration, and commercial application program to promote research of appropriate technologies for heavy duty plug-in hybrid vehicles, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 3619. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself, Mr. SMITH, and Mr. PRYOR):

S. 3620. A bill to amend the Social Security Act to enable States to carry out quality initiatives, and for other purposes; to the Committee on Finance.

By Mr. MARTINEZ:

S. 3621. A bill to amend title 10, United States Code, to authorize extended benefits for certain autistic dependents of certain retirees; to the Committee on Armed Services.

By Mr. DURBIN (for himself, Mr. LEVIN, and Mr. BROWN):

S. 3622. A bill to establish a grant program to promote the conservation of the Great Lakes and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 3623. A bill to authorize appropriations for the Department of Homeland Security for fiscal years 2008 and 2009, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CARPER:

S. 3624. A bill to amend title 49, United States Code, to require States and metropolitan planning organizations to develop transportation greenhouse gas reduction plans to reduce greenhouse gas emissions from the transportation sector, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 3625. A bill to designate the facility of the United States Postal Service located at 245 North Main Street in New City, New York, as the ''Kenneth Peter Zebrowski Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HATCH:

S. 3626. A bill to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 3627. A bill to improve the calculation of, the reporting of, and the accountability for, secondary school graduation rates; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 3628. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 3629. A bill to create a new Consumer Credit Safety Commission, to provide individual consumers of credit with better information and stronger protections, and to provide sellers of consumer credit with more regulatory certainty; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 3630. A bill to authorize a comprehensive program of nationwide access to Federal remote sensing data, to promote use of the program for education, workforce training and development, and applied research, and to support Federal, State, tribal, and local government programs; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 3631. A bill to amend title XIX of the Social Security Act to establish a State plan option under Medicaid to provide an all-inclusive program of care for children who are medically fragile or have one or more chronic conditions that impede their ability to function; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3632. A bill to combat predatory lending practices and to provide access to capital to those living in low-income and traditionally undeserved communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN:

S. 3633. A bill to amend the Federal Food, Drug, and Cosmetic Act to require country of origin labeling on prescription and over-the-counter drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself and Mr. MENENDEZ):

S. 3634. A bill to reduce gun trafficking by prohibiting bulk purchases of handguns; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 3635. A bill to authorize a loan forgiveness program for students of institutions of

higher education who volunteer to serve as mentors; to the Committee on Health, Education, Labor, and Pensions.

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

S. 3636. A bill to amend title II of the Public Health Service Act to provide for an improved method to measure poverty so as to enable a better assessment of the effects of programs under the Public Health Service Act and the Social Security Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

S. 3637. A bill to provide for an annual comprehensive report on the status of United States efforts and the level of progress achieved to counter and defeat Al Qaeda and its related affiliates and undermine long-term support for the violent extremism that helps sustain Al Qaeda's recruitment efforts, as carried out under a broad counterterrorism strategy; to the Committee on Foreign Relations.

By Mr. NELSON of Florida:

S. 3638. A bill to reauthorize the National Windstorm Impact Reduction Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 3639. An original bill to protect pregnant women and children from dangerous lead exposures; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. FEINGOLD (for himself, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 3640. A bill to secure the Federal voting rights of persons who have been released from incarceration; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

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

S. Res. 686. A resolution to authorize the production of records; considered and agreed to.

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

S. Res. 687. A resolution to authorize testimony and legal representation in People of the State of Michigan v. Sereal Leonard Gravlin; considered and agreed to.

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

S. Res. 688. A resolution to authorize testimony in United States v. Max Obuszewski, et al; considered and agreed to.

By Mrs. FEINSTEIN:

S. Res. 689. A resolution to authorize the printing of a revised edition of the Senate Rules and Manual; considered and agreed to.

By Mr. DODD (for himself, Mr. ENSIGN, Mr. KOHL, Mr. BURR, Mrs. LINCOLN, Mr. STEVENS, Mr. CASEY, Mr. ROBERTS, Mr. FEINGOLD, Ms. STABENOW, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. LIEBERMAN, Mrs. BOXER, Mr. BIDEN, Mr. BARRASSO, Ms. COLLINS, and Mr. SPECTER):

S. Con. Res. 104. A concurrent resolution supporting ''Lights On Afterschool!'', a national celebration of after school programs; considered and agreed to.

ADDITIONAL COSPONSORS

S. 223

At the request of Mr. FEINGOLD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 223, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 394

At the request of Mr. AKAKA, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 394, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 459

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 459, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 714

At the request of Mr. AKAKA, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 714, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 826

At the request of Mr. MENENDEZ, the names of the Senator from Colorado (Mr. SALAZAR), the Senator from New York (Mr. SCHUMER), the Senator from Maine (Ms. COLLINS), the Senator from North Dakota (Mr. DORGAN) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 826, a bill to posthumously award a Congressional gold medal to Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women.

S. 871

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 871, a bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes.

S. 988

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 988, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 1232

At the request of Mr. DODD, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1232, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

S. 1589

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1589, a bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of Medicaid managed care organizations by extending the discounts offered under fee-for-service Medicaid to such organizations.

S. 1627

At the request of Mrs. LINCOLN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1627, a bill to amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes.

S. 1661

At the request of Mr. DORGAN, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1661, a bill to communicate United States travel policies and improve marketing and other activities designed to increase travel in the United States from abroad.

S. 2102

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2102, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 2162

At the request of Mr. AKAKA, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2162, a bill to improve the treatment and services provided by the Department of Veterans Affairs to veterans with post-traumatic stress disorder and substance use disorders, and for other purposes.

S. 2593

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from North Carolina (Mr. BURR), the Senator from Montana (Mr. TESTER) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 2593, a bill to establish a program at the Forest Service and the Department of the Interior to carry out collaborative ecological restoration treatments for priority forest landscapes on public land, and for other purposes.

S. 2668

At the request of Mr. KERRY, the names of the Senator from Maine (Ms. COLLINS), the Senator from Tennessee (Mr. CORKER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

At the request of Mr. ENSIGN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2668, supra.

S. 2883

At the request of Mr. ROCKEFELLER, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2883, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 2928

At the request of Mr. SCHUMER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2928, a bill to ban bisphenol A in children's products.

S. 2942

At the request of Mr. CARDIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2942, a bill to authorize funding for the National Advocacy Center.

S. 3020

At the request of Mrs. BOXER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3020, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the postmarket surveillance of devices.

S. 3023

At the request of Mr. AKAKA, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3023, a bill to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

S. 3038

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 3038, a bill to amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

S. 3136

At the request of Mr. REID, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3136, a bill to encourage the entry of felony warrants into the NCIC database by States and provide additional resources for extradition.

S. 3249

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3249, a bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on mobile wireless communications services, providers, or property.

S. 3290

At the request of Mr. BARRASSO, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3290, a bill to provide for a program for circulating quarter dollar coins that are emblematic of a national park or other national site in each State, the District of Columbia, and certain territories and insular areas of the United States, and for other purposes.

S. 3325

At the request of Mr. LEAHY, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 3325, a bill to enhance remedies for violations of intellectual property laws, and for other purposes.

S. 3368

At the request of Mr. BROWN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 3368, a bill to promote industry growth and competitiveness and to improve worker training, retention, and advancement, and for other purposes.

S. 3442

At the request of Mr. REED, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 3442, a bill to reauthorize the National Oilheat Reliance Alliance Act of 2000, and for other purposes.

S. 3477

At the request of Mr. WARNER, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 3477, a bill to amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence.

S. 3484

At the request of Mr. SPECTER, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 3484, a bill to provide for a delay in the phase out of the hospice budget neutrality adjustment factor under title XVIII of the Social Security Act.

S. 3487

At the request of Mr. REID, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 3487, a bill to amend the National and Community Service Act of 1990 to expand and improve opportunities for service, and for other purposes.

S. 3507

At the request of Mr. REED, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3507, a bill to provide for additional emergency unemployment compensation.

S. 3525

At the request of Mr. CARDIN, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Oklahoma (Mr. COBURN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 3525, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the ''Star-Spangled Banner'', and for other purposes.

S. 3527

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3527, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority.

S. 3539

At the request of Ms. COLLINS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 3539, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 3566

At the request of Mrs. MURRAY, the names of the Senator from New York (Mrs. CLINTON) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 3566, a bill to prohibit the Secretary of Labor from issuing, administering, or enforcing any rule, regulation, or requirement derived from the proposal submitted to the Office of Management and Budget entitled ''Requirements for DOL Agencies' Assessment of Occupational Health Risks'' (RIN: 1290-AA23).

S. 3580

At the request of Mr. CORNYN, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 3580, a bill to assure the safety of expeditionary facilities, infrastructure, and equipment supporting United States military operations overseas.

S. CON. RES. 102

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 102, a concurrent resolution expressing the sense of Congress that ensuring the availability of adequate housing is an essential component of an effective strategy for the prevention and treatment of HIV and the care of individuals with HIV.

S. RES. 499

At the request of Mr. SPECTER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. Res. 499, a resolution urging Palestinian Authority President Mahmoud Abbas, who is also the head of the Fatah Party, to officially abrogate the 10 articles in the Fatah Constitution that call for Israel's destruction and terrorism against Israel, oppose any political solution, and label Zionism as racism.

S. RES. 580

At the request of Mr. BAYH, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 580, a resolution expressing the sense of the Senate on preventing Iran

from acquiring a nuclear weapons capability.

S. RES. 616

At the request of Mrs. LINCOLN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 616, a resolution reducing maternal mortality both at home and abroad.

S. RES. 660

At the request of Mr. NELSON of Florida, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 660, a resolution condemning ongoing sales of arms to belligerents in Sudan, including the Government of Sudan, and calling for both a cessation of such sales and an expansion of the United Nations embargo on arms sales to Sudan.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. BYRD):

S. 3604. A bill making emergency supplemental appropriations for economic recovery for the fiscal year ending September 30, 2008, and for other purposes; read twice; to the Committee on Appropriations.

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. 3604

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, and for other purposes, namely:

TITLE I

INFRASTRUCTURE, ENERGY, AND ECONOMIC RECOVERY

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for ''Farm Service Agency, Salaries and Expenses'', for the purpose of maintaining and modernizing the information technology system, $171,700,000, to remain available until expended.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $171,000,000 for section 502 borrowers for direct loans.

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until expended, as follows: $11,500,000 for section 502 direct loans.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed loans and grants as authorized by section 306 of the Consolidated Farm and Rural Development Act, to be available from the rural community facilities program account, as follows: $612,000,000 for rural community facilities direct loans; $130,000,000 for guaranteed rural community facilities loans; and $50,000,000 for rural community facilities grants.

For an additional amount for the cost of direct loans, guaranteed loans, and grants, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until expended, as follows: $35,000,000 for rural community facilities direct loans; $4,000,000 for rural community facilities guaranteed loans; and $50,000,000 for rural community facilities grants.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS ENTERPRISE GRANTS

For an additional amount for ''Rural Business Enterprise Grants'', $40,000,000, to remain available until expended.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct loans as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $30,000,000.

For an additional amount for the cost of direct loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until expended, $12,600,000, for direct loans as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)).

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, loan guarantees, and grants for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, and 310B and described in sections 306C(a)(2), 306D, and 381E(d)(2) of the Consolidated Farm and Rural Development Act, $200,000,000, to remain available until expended.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM ACCOUNT

For an additional amount for grants for distance learning and telemedicine services in rural areas, as authorized by 7 U.S.C. 950aaa, et seq., $26,000,000, to remain available until expended.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

For an additional amount for the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $450,000,000, to remain available through September 30, 2009.

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For an additional amount for the Emergency Food Assistance Program, as authorized by Section 4201 of Public Law 110–246, $50,000,000, to remain available until September 30, 2009, of which the Secretary may use up to 10 percent for costs associated with the distribution of commodities.

COMMODITY ASSISTANCE PROGRAM

For an additional amount for the Commodity Supplemental Food Program, $30,000,000, to support additional food purchases, to remain available until September 30, 2009.

GENERAL PROVISION—THIS CHAPTER

SEC. 1101. (a) In this section, the term ''nonambulatory disabled cattle'' means cattle, other than cattle that are less than 5 months old or weigh less than 500 pounds, subject to inspection under section 3(b) of the Federal Meat Inspection Act (21 U.S.C. 603(b)) that cannot rise from a recumbent position or walk, including cattle with a broken appendage, severed tendon or ligament, nerve paralysis, fractured vertebral column, or a metabolic condition.

(b) None of the funds made available under this Act may be used to pay the salaries or expenses of any personnel of the Food Safety and Inspection Service to pass through inspection any nonambulatory disabled cattle for use as human food, regardless of the reason for the nonambulatory status of the cattle or the time at which the cattle became nonambulatory.

(c) In addition to any penalties available under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Secretary shall impose penalties consistent with sections 10414 and 10415 of the Animal Health Protection Act (7 U.S.C. 8313, 8314) on any establishment that slaughters nonambulatory disabled cattle or prepares a carcass, part of a carcass, or meat or meat food product, from any nonambulatory disabled cattle, for use as human food.

CHAPTER 2

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'' for economic adjustment assistance as authorized by section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149), $50,000,000, to remain available until expended: *Provided,* That in allocating funds provided in the previous proviso, the Secretary of Commerce shall give priority consideration to areas of the Nation that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring.

DEPARTMENT OF JUSTICE

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $50,000,000 for the United States Marshals Service, to remain available until September 30, 2009, to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109–248) to apprehend non-compliant sex offenders.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $5,000,000, to remain available until September 30, 2009.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'' Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Street Act of 1968 (''1968 Act''), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), $490,000,000, to remain available until September 30, 2009.

For an additional amount for ''State and Local Law Enforcement Assistance'', $100,000,000, to remain available until September 30, 2009, for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of

which $15,000,000 shall be transferred to the ''Bureau of Alcohol, Tobacco, Firearms and Explosives'', ''Salaries and Expenses'' for the ATF Project Gunrunner.

COMMUNITY ORIENTED POLICING SERVICES

For additional amount for ''Community Oriented Policing Services'', for grants under section 1701 of title I of the 1968 Omnibus Crime Control and Safe Streets Act (42 U.S.C. 379dd) for hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsection (i) of such section, $500,000,000, to remain available until September 30, 2009.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RETURN TO FLIGHT

For necessary expenses, not otherwise provided for, in carrying out return to flight activities associated with the space shuttle and activities from which funds were transferred to accommodate return to flight activities, $250,000,000, to remain available until September 30, 2009, with such sums as determined by the Administrator of the National Aeronautics and Space Administration as available for transfer to ''Science'', ''Aeronautics'', ''Exploration'', and ''Exploration Capabilities'' for restoration of funds previously reallocated to meet return to flight activities.

RELATED AGENCY

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For an additional amount for ''Payment to the Legal Services Corporation'', $37,500,000, to remain available until September 30, 2009, to provide legal assistance related to home ownership preservation, home foreclosure prevention, and tenancy associated foreclosure: *Provided*, That each limitation on expenditures, and each term or condition, that applies to funds appropriated to the Legal Services Corporation under the Consolidated Appropriations Act of 2008 (Public Law 110–61), shall apply to funds appropriated under this Act: *Provided further*, That priority shall be given to entities and individuals that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates; and (2) have the capacity to begin using the funds within 90 days of receipt of the funds.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'' for rehabilitation of Corps of Engineers owned and operated hydropower facilities and for other activities, $400,000,000, to remain available until expended.

OPERATIONS AND MAINTENANCE

For an additional amount for ''Operations and Maintenance'' to dredge navigation channels that provide access to significant energy infrastructure and for other maintenance needs, $100,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for ''Water and Related Resources'' for rehabilitation of Bureau of Reclamation owned and operated hydropower facilities and for other purposes, $50,000,000, to remain available until expended: *Provided*, That up to $5,000,000 can be utilized by the Bureau of Reclamation to initiate a canal safety program to assess the condition of Reclamation water supply canals.

DEPARTMENT OF ENERGY

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for ''Energy Efficiency and Renewable Energy'', $1,100,000,000, to remain available until expended: *Provided*, That of the funds appropriated, $500,000,000 is directed to the Weatherization Assistance Program: *Provided further*, That of the funds appropriated, $300,000,000 is directed to advance battery technology research, development, and demonstration: *Provided further*, That of the funds appropriated, $300,000,000 is directed to competitively awarded local government and tribal technology demonstration grants.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Non-Defense Environmental Cleanup'', $120,000,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for ''Uranium Enrichment Decontamination and Decommissioning Fund'', $120,000,000, to remain available until expended, of which $20,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For an additional amount for ''Science'', $150,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for ''Weapons Activities'', $100,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup'', $510,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. FUTUREGEN. (a) Subject to subsection (b), the Secretary of Energy shall reinstate and continue—

(1) the cooperative agreement numbered DE–FC–26–06NT42073 (as in effect on May 15, 2008); and

(2) Budget Period 1, under such agreement, through March 31, 2009.

(b) During the period beginning on the date of enactment of this Act and ending March 31, 2009—

(1) The agreement described in subsection (a) may not be terminated except by the mutual consent of the parties to the agreement; and

(2) Funds may be expended under the agreement only to complete and provide information and documentation to the Department of Energy.

SEC. 1302. In chapter 3 of title I of division B of H.R. 2638 (110th Congress) as enacted into law, the paragraph under the heading ''Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction'' is amended by—

(1) Repealing the second proviso; and

(2) By adding before the period the following: '': *Provided further*, That the Secretary is directed to provide $1,500,000,000 of the funds appropriated under this heading to fund levee and flood protection repairs, restoration, improvements and critical coastal restoration projects in the State of Louisiana: *Provided further*, That funds shall be expended in consultation with the State of Louisiana''.

CHAPTER 4

DEPARTMENT OF THE TREASURY

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount to be available until September 30, 2009, $10,550,000 to carry out the provisions of the Inspector General Act of 1978, including material loss reviews in conjunction with bank failures.

COMMODITY FUTURES TRADING COMMISSION

SALARIES AND EXPENSES

For an additional amount to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), $13,100,000, of which $5,100,000 shall remain available until September 30, 2009, and of which $8,000,000 shall remain available until September 30, 2010.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

(LIMITATION ON AVAILABILITY)

For an additional amount to be deposited in the Federal Buildings Fund, $547,639,000, to be used by the Administrator of General Services for GSA real property activities; of which $201,000,000 shall be used for construction, repair and alteration of border inspection facility projects for any previously funded or authorized prospectus level project, for which additional funding is required, to expire on September 30, 2009 and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; and of which $346,639,000 shall be used for the development and construction of the St. Elizabeths campus in the District of Columbia, to remain available until expended and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided*, That each of the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts provided unless advance approval is obtained from the Committees on Appropriations of a greater amount.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount to be available until September 30, 2009, $4,000,000 for marketing, management, and technical assistance under section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) by intermediaries that make microloans under the Microloan program.

For an additional amount to be available until September 30, 2009, $600,000 for grants in the amount of $200,000 to veterans business resource centers that received grants from the National Veterans Business Development Corporation in fiscal years 2006 and 2007.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $1,000,000, to remain available until September 30, 2009; and for an additional amount for the cost of guaranteed loans, $200,000,000, to remain available until September 30, 2009: *Provided*, That of the amount for the cost of guaranteed loans, $152,000,000 shall be for loan subsidies and loan modifications for loans to small business concerns authorized under section 1401 of this Act; $34,000,000 shall be for the increased veteran participation pilot program

under paragraph (33) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as redesignated by section 1401 of this Act; and $14,000,000 shall be for the energy efficient technologies pilot program under section 7(a)(32) of the Small Business Act (15 U.S.C. 636(a)(32)): *Provided further,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 1401. ECONOMIC STIMULUS FOR SMALL BUSINESS CONCERNS. (a) REDUCTION OF FEES.—

(1) IN GENERAL.—Until September 30, 2009, and to the extent the cost of such reduction in fees is offset by appropriations, with respect to each loan guaranteed under section 7(a) of Small Business Act (15 U.S.C. 636(a)) for which the application is approved on or after the date of enactment of this Act, the Administrator shall—

(A) in lieu of the fee otherwise applicable under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee in an amount equal to a maximum of .25 percent of the outstanding balance of the deferred participation share of that loan;

(B) in lieu of the fee otherwise applicable under section 7(a)(18)(A) of the Small Business Act (15 U.S.C. 636(a)(18)(A)), collect a guarantee fee in an amount equal to a maximum of—

(i) 1 percent of the deferred participation share of a total loan amount that is not more than $150,000;

(ii) 2.5 percent of the deferred participation share of a total loan amount that is more than $150,000 and not more than $700,000; and

(iii) 3 percent of the deferred participation share of a total loan amount that is more than $700,000; and

(C) in lieu of the fee otherwise applicable under section 7(a)(18)(A)(iv) of the Small Business Act (15 U.S.C. 636(a)(18)(A)(iv)), collect no fee.

(2) IMPLEMENTATION.—In carrying out this subsection, the Administrator shall reduce the fees for a loan guaranteed under section 7(a) of Small Business Act (15 U.S.C. 636(a)) to the maximum extent possible, subject to the availability of appropriations.

(b) TECHNICAL CORRECTION.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by redesignating paragraph (32) relating to an increased veteran participation pilot program, as added by section 208 of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Public Law 110–186; 122 Stat. 631), as paragraph (33).

(c) APPLICATION OF FEE REDUCTIONS.—The Administrator shall reduce the fees under subsection (a) for any loan guarantee subject to such subsection for which the application is approved on or after the date of enactment of this Act, until the amount provided for such purpose under the heading ''Business Loans Program Account'' under the heading ''Small Business Administration'' under this Act is expended.

(d) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 1402. None of the funds made available under this Act or any other appropriations Act for any fiscal year may be used by the Small Business Administration to implement the proposed rule relating to women-owned small business Federal contract assistance procedures published in the Federal Register on December 27, 2007 (72 Fed. Reg. 73285 et seq.).

CHAPTER 5

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For an additional amount for the ''Office of the Under Secretary for Management'', $120,000,000, to remain available until expended, solely for planning, design, and construction costs to consolidate the Department of Homeland Security headquarters.

U.S. CUSTOMS AND BORDER PROTECTION

For an additional amount for ''Border Security, Fencing, Infrastructure, and Technology'', $215,000,000, to remain available until expended, for construction of border fencing on the Southwest border.

CONSTRUCTION

For an additional amount for ''Construction'', $100,000,000, to remain available until expended, for the purpose of repair and construction of inspection facilities at land border ports of entry.

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction and Improvements'' for the acquisition of a new polar icebreaker or for necessary expenses related to the service life extension of existing Coast Guard polar icebreakers, $925,000,000, to remain available until expended.

OFFICE OF HEALTH AFFAIRS

For an additional amount for the ''Office of Health Affairs'', $27,000,000, to remain available until September 30, 2009, for the BioWatch environmental monitoring system.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount for ''Acquisitions, Construction, Improvements, and Related Expenses'', $9,000,000, to remain available until expended, for security upgrades to the Federal Law Enforcement Training Center's border-related training facilities.

CHAPTER 6

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for ''Science and Technology'', $10,600,000, to remain available until September 30, 2010, for urgent bio-defense research activities.

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount for ''Hazardous Substance Superfund'', $24,165,000, to remain available until expended, for urgent decontamination and laboratory response activities.

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', $600,000,000, to remain available until expended, for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1601. SECURE RURAL SCHOOLS ACT AMENDMENT. (a) For fiscal year 2008, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 102(b)(3) and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), not to exceed $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act.

(b) There is appropriated $400,000,000, to remain available until December 31, 2008, to be used to cover any shortfall for payments made under this section from funds not otherwise appropriated.

(c) Titles II and III of Public Law 106–393 are amended, effective September 30, 2006, by striking ''2007'' and ''2008'' each place they appear and inserting ''2008'' and ''2009'', respectively.

SEC. 1602. Notwithstanding any other provision of law, including section 152 of division A of H.R. 2638 (110th Congress), the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, the terms and conditions contained in section 433 of division F of Public Law 110–161 shall remain in effect for the fiscal year ending September 30, 2009.

CHAPTER 7

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for ''Training and Employment Services'' under the Employment and Training Administration, $600,000,000, for youth activities and dislocated worker activities authorized by the Workforce Investment Act of 1998 (''WIA''): *Provided,* That $300,000,000 shall be for youth activities and available for the period April 1, 2008 through June 30, 2009: *Provided further,* That $300,000,000 shall be for dislocated worker employment and training activities and available for the period July 1, 2008 through June 30, 2009: *Provided further,* That no portion of funds available under this heading in this Act shall be reserved to carry out section 127(b)(1)(A), section 128(a), or section 133(a) of the WIA: *Provided further,* That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of the youth activities, and that the performance indicators in section 136(b)(2)(A)(i) of the WIA shall be the measures of performance used to assess the effectiveness of the dislocated worker activities funded with such funds.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'', $46,000,000, to remain available through September 30, 2009, of which $20,000,000 shall be to continue and expand investigations to determine the root causes of disease clusters, including but not limited to polycythemia vera clusters; of which $21,000,000 shall be for the prevention of and response to medical errors including research, education and outreach activities; and of which $5,000,000 shall be for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

NATIONAL INSTITUTES OF HEALTH

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director'', $1,200,000,000, which shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section

402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2008: *Provided*, That these funds shall be available through September 30, 2009: *Provided further*, That these funds shall be used to support additional scientific research and be available for the same purposes as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds may be transferred to ''National Institutes of Health—Buildings and Facilities'', the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund).

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For an additional amount for ''Aging Services Programs'', $60,000,000, of which $40,750,000 shall be for Congregate Nutrition Services and $19,250,000 shall be for Home-Delivered Nutrition Services: *Provided*, That these funds shall remain available through September 30, 2009.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Public Health and Social Services Emergency Fund'' to support activities related to countering potential biological, nuclear, radiological and chemical threats to civilian populations, and for other public health emergencies, $542,000,000, to remain available through September 30, 2009: *Provided*, That $473,000,000 is for advanced research and development of medical countermeasures and ancillary products: *Provided further*, That $50,000,000 is available to support the delivery of medical countermeasures, of which up to $20,000,000 may be made available to the United States Postal Service to support such delivery.

For an additional amount for the ''Public Health and Social Services Emergency Fund'' to prepare for and respond to an influenza pandemic, $363,000,000, to remain available through September 30, 2009 for activities including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools: *Provided*, That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: *Provided further*, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologics, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologics: *Provided further*, That funds appropriated herein may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence.

DEPARTMENT OF EDUCATION

For carrying out section 1702 of this Act, $2,000,000,000, which shall be available for obligation from July 1, 2008 through September 30, 2009.

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for ''School Improvement Programs'', $36,000,000, for carrying out activities authorized by subtitle B of title VII of the McKinney-Vento Homeless Assistance Act: *Provided*, That the Secretary shall make such funds available on a competitive basis to local educational agencies that demonstrate a high need for such assistance: *Provided further*, That these funds shall remain available through September 30, 2009.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1701. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended to read as follows:

''SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

''(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is $7.25 per hour, the Government Accountability Office shall conduct a study to—

''(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

''(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

''(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

''(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

''(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

''(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

''(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.''.

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

SEC. 1702. GRANTS FOR SCHOOL RENOVATION. (a) ALLOCATION OF FUNDS.—

(1) RESERVATION.—From the funds appropriated to carry out this section for a fiscal year, the Secretary shall reserve 1 percent to provide assistance under this section to the outlying areas and for payments to the Secretary of the Interior to provide assistance consistent with this section to schools funded by the Bureau of Indian Education. Funds reserved under this subsection shall be distributed by the Secretary among the outlying areas and the Secretary of the Interior on the basis of their relative need, as determined by the Secretary, in accordance with the purposes of this section.

(2) ALLOCATION TO STATE EDUCATIONAL AGENCIES.—After making the reservation described in paragraph (1), from the remainder of the appropriated funds described in paragraph (1), the Secretary shall allocate to each State educational agency serving a State an amount that bears the same relation to the remainder for the fiscal year as the amount the State received under part A of title I of such Act for fiscal year 2008 bears to the amount all States received under such part for fiscal year 2008, except that no such State educational agency shall receive less than 0.5 percent of the amount allocated under this paragraph.

(b) WITHIN-STATE ALLOCATIONS.—

(1) ADMINISTRATIVE COSTS.—

(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (C), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(2) or $1,000,000, whichever is less, for the purpose of administering the distribution of grants under this subsection.

(B) REQUIRED USES.—The State educational agency shall use a portion of the reserved funds to establish or support a State-level database of public school facility inventory, condition, design, and utilization.

(C) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the State educational agency shall transfer to such entity 0.75 of the amount reserved under this paragraph for the purpose of administering the distribution of grants under this subsection.

(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(2), the State educational agency shall distribute 100 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the State educational agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the ''State entity'') for distribution by such entity to local educational agencies in accordance with this paragraph,

to be used, consistent with subsection (c), for school repair and renovation.

(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The State educational agency or State entity shall carry out a program awarding grants, on a competitive basis, to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to local educational agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the grant competition—

(i) award to high-need local educational agencies, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such high-need local educational agencies received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for fiscal year 2008 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State;

(ii) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under such part for fiscal year 2008 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

(iii) award the remaining funds to local educational agencies not receiving an award under clause (i) or (ii), including high-need local educational agencies and rural local educational agencies that did not receive such an award.

(C) CRITERIA FOR AWARDING GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

(i) PERCENTAGE OF POOR CHILDREN.—The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

(ii) NEED FOR SCHOOL REPAIR AND RENOVATION.—The need of a local educational agency for school repair and renovation, as demonstrated by the condition of the public school facilities of the local educational agency.

(iii) FISCAL CAPACITY.—The fiscal capacity of a local educational agency to meet the needs of the local educational agency for repair and renovation of public school facilities without assistance under this section, including the ability of the local educational agency to raise funds through the use of local bonding capacity and otherwise.

(iv) CHARTER SCHOOL ACCESS TO FUNDING.—In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school, the extent to which the school has access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

(v) LIKELIHOOD OF MAINTAINING THE FACILITY.—The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

(D) MATCHING REQUIREMENT.—

(i) IN GENERAL.—A State educational agency or State entity shall require local educational agencies to match funds awarded under this subsection.

(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

(c) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to 1 or more of the following:

(A) EMERGENCY REPAIRS OR RENOVATIONS.—Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

(i) repairing, replacing, or installing roofs, windows, doors, electrical wiring, plumbing systems, or sewage systems;

(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

(iii) bringing public schools into compliance with fire and safety codes.

(B) MODIFICATIONS FOR COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990.—School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(C) MODIFICATIONS FOR COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973.—School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(D) ASBESTOS ABATEMENT OR REMOVAL.—Asbestos abatement or removal from public school facilities.

(E) CHARTER SCHOOL BUILDING INFRASTRUCTURE.—Renovation and repair needs related to the building infrastructure of a charter school.

(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

(B) the construction of new facilities; or

(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

(3) SUPPLEMENT, NOT SUPPLANT.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school repair and renovation.

(d) QUALIFIED BIDDERS; COMPETITION.—Each local educational agency that receives funds under this section shall ensure that, if the local educational agency carries out repair or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

(e) REPORTING.—

(1) LOCAL REPORTING.—Each local educational agency receiving funds made available under subsection (a)(2) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for school repair and renovation.

(2) STATE REPORTING.—Each State educational agency receiving funds made available under subsection (a)(2) shall submit to the Secretary, not later than December 31, 2010, a report on the use of funds received under subsection (a)(2) and made available to local educational agencies for school repair and renovation.

(f) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(2) for a fiscal year, or does not use its entire allocation for such fiscal year, then the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) for such fiscal year to the remaining State educational agencies in accordance with subsection (a)(2).

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

(1) CHARTER SCHOOL.—The term ''charter school'' has the meaning given the term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i).

(2) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term ''high-need local educational agency'' has the meaning given the term in section 2102(3)(A) of such Act (20 U.S.C. 6602(3)(A)).

(3) LOCAL EDUCATIONAL AGENCY; SECRETARY; STATE EDUCATIONAL AGENCY.—The terms ''local educational agency'', ''Secretary'', and ''State educational agency'' have the meanings given the terms in section 9101 of such Act (20 U.S.C. 7801).

(4) OUTLYING AREA.—The term ''outlying area'' has the meaning given the term in section 1121(c) of such Act (20 U.S.C. 6331(c)).

(5) POOR CHILDREN.—The term ''poor children'' refers to children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

(6) RURAL LOCAL EDUCATIONAL AGENCY.—The term ''rural local educational agency'' means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term ''rural''.

(7) STATE.—The term ''State'' means each of the several states of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1703. RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS. (a) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. §1396r-8(c)(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended—

(1) in clause (i)—

(A) by redesignating subclause (IV) as subclause (VI); and

(B) by inserting after subclause (III) the following:

''(IV) An entity that—

''(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

''(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

''(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.''; and

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

''(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i),

including the prohibition set forth in section 1008 of the Public Health Service Act.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 6001(d)(2) of the Deficit Reduction Act of 2005.

CHAPTER 8

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'', $55,000,000 for costs associated with a radio modernization system, to remain available until expended: *Provided*, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT INVESTMENT

For an additional amount for capital expenditures authorized under section 47102(3) of title 49, United States Code, $400,000,000, to remain available until September 30, 2009: *Provided*, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to airports that demonstrate to her satisfaction their ability to obligate these funds within 180 days of the date of such distribution and shall serve to supplement and not supplant planned expenditures from airport-generated revenues or from other State and local sources on such activities: *Provided further*, That no funds provided under this heading shall be used for activities not identified on an airport layout plan: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code.

FEDERAL HIGHWAY ADMINISTRATION

SUPPLEMENTAL GRANTS TO STATES FOR FEDERAL-AID HIGHWAY INVESTMENT

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, $8,000,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be apportioned to States using the formula set forth in section 104(b)(3) of such title: *Provided further*, That funding provided under this heading shall be in addition to any and all funds provided for fiscal years 2008 and 2009 in any other Act for ''Federal-aid Highways'' and shall not affect the distribution of funds provided for ''Federal-aid Highways'' in any other Act: *Provided further*, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 90 days of the date of their apportionment, and shall serve to supplement and not supplant planned expenditures by States and localities on such activities from other Federal, State, and local sources: *Provided further*, That 90 days following the date of such apportionment, the Secretary shall withdraw and redistribute any unobligated funds utilizing whatever method she deems appropriate to ensure that all funds provided under this heading shall be obligated promptly: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That for the purposes of the definition of States for this paragraph, sections 101(a)(32) of title 23, United States Code, shall apply.

FEDERAL RAILROAD ADMINISTRATION

SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the immediate investment in capital projects necessary to maintain and improve national intercity passenger rail service, $350,000,000, to remain available until September 30, 2009: *Provided*, That funds made available under this heading shall be allocated directly to the corporation for the purpose of immediate investment in capital projects including the rehabilitation of rolling stock for the purpose of expanding passenger rail capacity: *Provided further*, that the Board of Directors shall take measures to ensure that funds provided under this heading shall be obligated within 180 days of the enactment of this Act and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources: *Provided further*, That said Board of Directors shall certify to the House and Senate Committees on Appropriations in writing their compliance with the preceding proviso: *Provided further*, That not more than 50 percent of the funds provided under this heading may be used for capital projects along the Northeast Corridor.

FEDERAL TRANSIT ADMINISTRATION

SUPPLEMENTAL DISCRETIONARY GRANTS FOR PUBLIC TRANSIT INVESTMENT

For an additional amount for capital expenditures authorized under section 5302(a)(1) of title 49, United States Code, $2,000,000,000, to remain available until September 30, 2009: *Provided*, That the Secretary of Transportation shall apportion funds provided under this heading based on the formula set forth in subsections (a) through (c) of section 5336 of title 49, United States Code: *Provided further*, That the Secretary shall take such measures necessary to ensure that the minimum amount of funding distributed under this heading to any individual transit authority shall not be less than $100,000: *Provided further*, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 90 days of the date of their apportionment, and shall serve to supplement and not supplant planned expenditures by States and localities on such activities from other Federal, State and local sources as well as transit authority revenues: *Provided further*, That 90 days following the date of such apportionment, the Secretary shall withdraw and redistribute any unobligated funds utilizing whatever method she deems appropriate to ensure that all funds provided under this paragraph shall be obligated promptly: *Provided further*, That the Secretary of Transportation shall make such funds available to pay for operating expenses to the extent that a transit authority demonstrates to her satisfaction that such funds are necessary to continue current services or expand such services to meet increased ridership: *Provided further*, That the funds appropriated under this heading shall be subject to section 5333(a) of title 49, United States Code but shall not be comingled with funds available under the Formula and Bus Grants account.

MARITIME ADMINISTRATION

SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL SHIPYARDS

For an additional amount to make grants to qualified shipyards as authorized under section 3506 of Public Law 109–163 or section 54101 of title 46, United States Code, $44,000,000, to remain available until September 30, 2009: *Provided*, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 180 days of the date of their apportionment: *Provided further*, That not to exceed 2 percent of the funds appropriated under this heading shall be available for necessary costs of grant administration.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUPPLEMENTAL GRANTS TO PUBLIC HOUSING AGENCIES FOR CAPITAL NEEDS

For an additional amount for discretionary grants to public housing agencies for capital expenditures permitted under section 9(d)(1) of the United States Housing Act of 1937, as amended, $250,000,000, to remain available until September 30, 2009: *Provided,* That in allocating discretionary grants under this paragraph, the Secretary of Housing and Urban Development shall give priority consideration to the rehabilitation of vacant rental units: *Provided further*, That notwithstanding any other provision of law, the Secretary shall institute measures to ensure that funds provided under this paragraph shall be obligated within 180 days of the date of enactment of this Act and shall serve to supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee: *Provided further*, That in administering funds provided in this paragraph, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the timely use of such funds.

SUPPLEMENTAL GRANTS TO PUBLIC HOUSING AGENCIES FOR EXTRAORDINARY ENERGY COSTS

For an additional amount for discretionary grants to public housing agencies for operating expenses permitted under section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)), $200,000,000, to remain available until September 30, 2009: *Provided,* That funding provided under this heading shall be used to cover extraordinary energy costs: *Provided further*, That to be eligible for such grants, public housing agencies must demonstrate to the satisfaction of the Secretary a significant increase in energy costs associated with operating and maintaining public housing: *Provided further*, That notwithstanding any other provision of law, the Secretary shall institute measures to ensure that funds provided under this paragraph shall be allocated to those public housing agencies most in need of such assistance and that such funds shall be obligated within 180 days of the date of enactment of this Act: *Provided further*, That in administering funds provided in this paragraph, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that such a waiver is required to facilitate the timely use of such funds.

HOUSING ASSISTANCE FOR TENANTS DISPLACED BY FORECLOSURE

For an additional amount for grants to public housing agencies or grantees participating in Continuums of Care receiving assistance through existing Housing and Urban Development programs, for the purpose of providing relocation and temporary housing assistance to individuals and families that

reside in dwelling units that have been foreclosed upon, or are in default and where foreclosure is imminent, $200,000,000, to be available until September 30, 2009: *Provided*, That the Secretary of Housing and Urban Development shall allocate amounts made available under this heading to grantees located in areas with the greatest number and percentage of homes in default or delinquency and the greatest number and percentage of homes in foreclosure: *Provided further*, That funding made available under this heading may be used for temporary rental assistance, first and last month's rent, security deposit, case management services, or other appropriate services necessary to assist eligible individuals or families in finding safe and affordable permanent housing: *Provided further*, That the Secretary shall provide notice of the availability of funding provided under this heading within 60 days of the enactment of this Act.

FEDERAL HOUSING ADMINISTRATION

INFORMATION TECHNOLOGY

For an additional amount to maintain, modernize and improve technology systems and infrastructure for the Federal Housing Administration, $37,000,000, to remain available until September 30, 2009: *Provided*, That these funds shall serve to supplement and not supplant planned expenditures for the Federal Housing Administration for information technology maintenance and development funding provided through the Departmental Working Capital Fund.

SALARIES AND EXPENSES

For an additional amount for salaries and expenses for the Federal Housing Administration, $15,000,000, to remain available until September 30, 2009: *Provided*, That of the total amount provided under this paragraph, not less than $13,000,000 shall be made available under the heading ''Housing Personnel Compensation and Benefits'' and up to $2,000,000 shall be made available under the heading ''Management and Administration, Administration, Operations and Management'': *Provided further*, That with funding provided under this paragraph, the Federal Housing Administration Commissioner is hereby authorized to take such actions and perform such functions as necessary regarding the hiring of personnel for performing functions of the Federal Housing Administration within the Office of Housing.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1901. Section 5309(g)(4)(A) of title 49, United States Code, is amended by striking ''or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii)'' and inserting ''or the sum of the funds available for the next three fiscal years beyond the current fiscal year, assuming an annual growth of the program of 10 percent''.

SEC. 1902. No funds provided in this Act or any other Act may be used by the Secretary of Transportation to take any action regarding airline operations at any United States commercial airport that involves:

(1) auction, sale, lease, or the imposition of any charge or fee, by the Secretary or the Federal Aviation Administrator, for rights, authorization or permission by them to conduct flight operations at, or in the navigable airspace of, any such airport;

(2) implementing or facilitating any such auction, sale or lease, or the imposition of any such charge or fee by the Secretary or the Administrator initiated prior to enactment of this Act; or

(3) the withdrawal or involuntary transfer by the Secretary or Administrator of rights, authorizations or permissions to operate at, or in the navigable airspace of, any such airport for the purpose of the auction, sale or lease of such rights, authorizations or permissions, or the imposition by the Secretary or Administrator of any charge or fee for such rights, authorization or permission.

TITLE II—NUTRITION PROGRAMS FOR ECONOMIC STIMULUS

SEC. 2001. NUTRITION PROGRAMS FOR ECONOMIC STIMULUS.

(a) MAXIMUM BENEFIT INCREASE.—

(1) IN GENERAL.—Beginning with the first month that begins not less than 25 days after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by 10 percent.

(2) TERMINATION OF EFFECTIVENESS.—The authority provided by this subsection terminates and has no effect, effective on October 1, 2009.

(b) REQUIREMENTS FOR THE SECRETARY.—In carrying out this section, the Secretary shall—

(1) consider the benefit increase described in subsection (a) to be a ''mass change'';

(2) require a simple process for States to notify households of the increase in benefits;

(3) consider section 16(c)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A)) to apply to any errors in the implementation of this section, without regard to the 120-day limit described in that section; and

(4) disregard the value of benefits resulting from this section in any required calculations or estimates of benefits if the Secretary determines it is necessary to ensure efficient administration of programs authorized under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) or other Federal programs.

(c) STATE ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—For the costs of State administrative expenses associated with carrying out this section, the Secretary shall make available $50,000,000, to remain available until expended.

(2) AVAILABILITY OF FUNDS.—Funds described in paragraph (1) shall be made available to State agencies based on each State's share of households that participate in the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(3) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—For fiscal year 2009, the Secretary shall increase by 10 percent the amount available for nutrition assistance for eligible households under the consolidated block grants for Puerto Rico and American Samoa under section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028).

(d) FUNDING.—There are hereby appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until September 30, 2010.

TITLE III—STATE FISCAL RELIEF

SEC. 3001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2008 FMAP FOR FISCAL YEAR 2009.—Subject to subsections (d), (e), and (f), if the FMAP determined without regard to this section for a State for fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2009 FMAP FOR FIRST QUARTER OF FISCAL YEAR 2010.—Subject to subsections (d), (e), and (f), if the FMAP determined without regard to this section for a State for fiscal year 2010 is less than the FMAP as so determined for fiscal year 2009, the FMAP for the State for fiscal year 2009 shall be substituted for the State's FMAP for the first calendar quarter of fiscal year 2010, before the application of this section.

(c) GENERAL 4 PERCENTAGE POINTS INCREASE FOR FISCAL YEAR 2009 AND FIRST CALENDAR QUARTER OF FISCAL YEAR 2010.—

(1) IN GENERAL.—Subject to subsections (d), (e), and (f), for each State for fiscal year 2009 and for the first calendar quarter of fiscal year 2010, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 4.0 percentage points.

(2) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (e) and (f), with respect to fiscal year 2009 and the first calendar quarter of fiscal year 2010, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.0 percent of such amounts.

(d) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(3) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)).

(e) STATE INELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is not eligible for an increase in its FMAP under subsection (c)(1), or an increase in a cap amount under subsection (c)(2), if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is more restrictive than the eligibility under such plan (or waiver) as in effect on September 1, 2008.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 1, 2008, is no longer ineligible under paragraph (1) beginning with the first calendar quarter in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 1, 2008.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(f) REQUIREMENTS.—

(1) IN GENERAL.—A State may not use the additional Federal funds paid to the State as a result of this section for purposes of increasing any reserve or rainy day fund maintained by the State.

(2) ADDITIONAL REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (c)(1), or an increase in a

cap amount under subsection (c)(2), if it requires that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for fiscal year 2009, and the first calendar quarter of fiscal year 2010, than the percentage that would have been required by the State under such plan on September 1, 2008, prior to application of this section.

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of January 1, 2010, this section is repealed.

SEC. 3002. TEMPORARY REINSTATEMENT OF AUTHORITY TO PROVIDE FEDERAL MATCHING PAYMENTS FOR STATE SPENDING OF CHILD SUPPORT INCENTIVE PAYMENTS.

During the period that begins on October 1, 2008, and ends on September 30, 2010, section 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1)) shall be applied without regard to the amendment made by section 7309(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 147).

TITLE IV—UNEMPLOYMENT INSURANCE

SEC. 4001. EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) ADDITIONAL FIRST-TIER BENEFITS.—Section 4002(b)(1) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in subparagraph (A), by striking ''50'' and inserting ''80''; and

(2) in subparagraph (B), by striking ''13'' and inserting ''20''.

(b) SECOND-TIER BENEFITS.—Section 4002 of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended by adding at the end the following:

''(c) SPECIAL RULE.—

''(1) IN GENERAL.—If, at the time that the amount established in an individual's account under subsection (b)(1) is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount equal to the lesser of—

''(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law, or

''(B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

''(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

''(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

''(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

''(i) were applied by substituting '4' for '5' each place it appears; and

''(ii) did not include the requirement under paragraph (1)(A) thereof; or

''(C) such a period would then be in effect for such State under such Act if—

''(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

''(ii) such section 203(f)—

''(I) were applied by substituting '6.0' for '6.5' in paragraph (1)(A)(i) thereof; and

''(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

''(3) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.''.

(c) PHASEOUT PROVISIONS.—Section 4007(b) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in paragraph (1), by striking ''paragraph (2),'' and inserting ''paragraphs (2) and (3),''; and

(2) by striking paragraph (2) and inserting the following:

''(2) NO AUGMENTATION AFTER MARCH 31, 2009.—If the amount established in an individual's account under subsection (b)(1) is exhausted after March 31, 2009, then section 4002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

''(3) TERMINATION.—No compensation under this title shall be payable for any week beginning after November 27, 2009.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, subject to paragraph (2).

(2) ADDITIONAL BENEFITS.—In applying the amendments made by subsections (a) and (b), any additional emergency unemployment compensation made payable by such amendments (which would not otherwise have been payable if such amendments had not been enacted) shall be payable only with respect to any week of unemployment beginning on or after the date of the enactment of this Act.

SEC. 4002. TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.

With respect to weeks of unemployment beginning after the date of enactment of this Act and ending on or before December 8, 2009, subparagraph (B) of section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall not apply.

TITLE V—NATIONAL PARK CENTENNIAL FUND ACT

SECTION 5001. SHORT TITLE.

This Act may be cited as the ''National Park Centennial Fund Act''.

SEC. 5002. DEFINITIONS.

In this Act:

(1) FUND.—The term ''Fund'' means the National Park Centennial Fund established under section 5003.

(2) IN-KIND.—The term ''in-kind'' means the fair market value of non-cash contributions provided by non-Federal partners, which may be in the form of real property, equipment, supplies and other expendable property, as well as other goods and services.

(3) PROJECT OR PROGRAM.—The term ''Project or program'' means a National Park Centennial Project or Program funded pursuant to this Act.

(4) PROPOSAL.—The term ''Proposal'' means a National Park Centennial Proposal submitted pursuant to section 5004.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 5003. NATIONAL PARK CENTENNIAL FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a fund which shall be known as the ''National Park Centennial Fund''. In each of fiscal years 2009 through 2018, the Secretary of the Treasury shall deposit into the Fund the following:

(1) Cash donations received by the National Park Service in support of projects or programs authorized by this Act.

(2) From the General Fund, an amount equivalent to—

(A) the amount described in paragraph (1), excluding donations pledged through a letter of credit in a prior year; and

(B) the amount of donations pledged through letters of credit in the same fiscal year.

(b) LIMITATION ON AMOUNT.—The total amount of deposits from the General Fund under subsection (a)(2) shall not exceed, in the aggregate, $1,000,000,000 for fiscal years 2009 through 2018.

SEC. 5004. PROGRAM ALLOCATION.

(a) IN GENERAL.—Each fiscal year, the President's annual budget submission for the Department of the Interior shall include a list of proposals which shall be known as National Park Centennial Proposals. The Secretary shall establish a standard process for developing the list that shall encourage input from both the public and a broad cross-section of employees at every level of the National Park Service. The list—

(1) shall include proposals having an aggregate cost to the Federal Government equal to the unobligated amount in the Fund;

(2) shall include only proposals consistent with National Park Service policies and adopted park planning documents;

(3) may include proposals for any area within the national park system (as that term is defined in section 2 of the Act of August 8, 1953 (16 U.S.C. 1c)), clusters of areas within such system, a region or regions of such system, or such system in its entirety;

(4) shall cumulatively represent a nationwide array of proposals that is diverse geographically, in size, scope, magnitude, theme, and variety under the initiatives described in subsection (b);

(5) shall give priority to proposals demonstrating long-term viability beyond receipts from the Fund;

(6) shall include only proposals meeting the requirements of one or more of the initiatives set forth in subsection (b);

(7) should contain proposals under each of the initiatives set forth in subsection (b); and

(8) shall give priority to proposals with committed, non-Federal support but shall also include proposals funded entirely by the Fund.

(b) NATIONAL PARK CENTENNIAL INITIATIVES.—The requirements referred to in subsection (a)(6) are as follows:

(1) EDUCATION IN PARKS CENTENNIAL INITIATIVE.—Proposals for the ''Education in Parks Centennial Initiative'' shall meet the following requirements:

(A) Priority shall be given to proposals designed to increase National Park-based educational opportunities for elementary, secondary and college students particularly those from populations historically under represented among visitors to the National Park System.

(B) Priority shall be given to proposals designed to bring students into the National Park System in person.

(C) Proposals should include strategies for encouraging young people to become lifelong advocates for National Parks.

(D) Proposals shall be developed in consultation with the leadership of educational and youth organizations expected to participate in the proposed initiative.

(2) DIVERSITY IN PARKS CENTENNIAL INITIATIVE.—

(A) STUDY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report detailing a service-wide strategy for increasing diversity among National Park Service employees at all levels and visitors to the National Park System.

(B) PROPOSALS.—Proposals for the ''Diversity in Parks Centennial Initiative'' shall meet the following requirements:

(i) Each proposal shall be based on recommendations contained in the report required in subparagraph (A).

(ii) Each proposal shall be designed to make National Park Service employees, visitors to the National Park System, or both, reflect the diversity of the population of the United States.

(3) SUPPORTING PARK PROFESSIONALS CENTENNIAL INITIATIVE.—Proposals for the ''Supporting Park Professionals Centennial Initiative'' shall meet the following requirements:

(A) Taken as a whole, proposals shall provide specific opportunities for National Park Service employees, at all levels, to participate in professional career development.

(B) Proposals may include National Park Service-designed, internal professional development programs.

(C) Proposals may also be designed to facilitate participation in external professional development programs or established courses of study by National Park Service employees.

(4) ENVIRONMENTAL LEADERSHIP CENTENNIAL INITIATIVE.—Proposals for the ''Environmental Leadership Centennial Initiative'' shall meet the following requirements:

(A) Each proposal shall be designed to do one or more of the following:

(i) Reduce harmful emissions.

(ii) Conserve energy or water resources.

(iii) Reduce solid waste production within the National Park System.

(B) Each proposal shall include strategies for educating the public regarding Environmental Leadership projects and their results.

(C) Priority shall be given to proposals with the potential to spread technological advances to other Federal agencies or to the private sector.

(5) NATURAL RESOURCE PROTECTION CENTENNIAL INITIATIVE.—Proposals for the ''Natural Resource Protection Centennial Initiative'' shall meet the following requirements:

(A) Each proposal shall be designed to restore or conserve native ecosystems within the National Park System.

(B) Priority shall be given to proposals designed to control invasive species.

(C) Each proposal shall be based on the best available scientific information.

(6) CULTURAL RESOURCE PROTECTION CENTENNIAL INITIATIVE.—Proposals for the ''Cultural Resource Protection Centennial Initiative'' shall—

(A) either—

(i) increase the National Park Service's knowledge of cultural resources located within the National Park System through means including, but not limited to, surveys, studies, mapping, and documentation of such resources; or

(ii) improve the condition of documented cultural resources within the National Park System;

(B) incorporate the best available scientific information; and

(C) where appropriate, be developed in consultation with Native American tribes, State historic preservation offices, or other organizations with cultural resource preservation expertise.

(7) HEALTH AND FITNESS IN PARKS CENTENNIAL INITIATIVE.—

(A) IN GENERAL.—Proposals for the ''Health and Fitness in Parks Centennial Initiative'' shall fall into one or more of the following four categories:

(i) Proposals designed to repair, rehabilitate, or otherwise improve infrastructure, including trails, that facilitates healthy outdoor activity within the National Park System.

(ii) Proposals designed to expand opportunities for access to the National Park System for visitors with disabilities.

(iii) Proposals to develop and implement management plans (such as climbing plans and trail system plans) for activities designed to increase the health and fitness of visitors to the National Park System.

(iv) Proposals to develop outreach programs and media that provide public information regarding health and fitness opportunities within the National Park System.

(B) MISCELLANEOUS REQUIREMENTS.—All proposals for ''the Health and Fitness in Parks Centennial Initiative'' shall—

(i) be consistent with National Park Service policies and adopted park planning documents; and

(ii) be designed to provide for visitor enjoyment in such a way as to leave the National Park System unimpaired for future generations.

(c) FUNDING.—In each of fiscal years 2009 through 2018, unobligated amounts in the Fund shall be available without further appropriation for projects authorized by this Act, but may not be obligated or expended until 120 days after the annual submission of the list of proposals required under this section to allow for Congressional review.

(d) LIMITATION ON DISTRIBUTION OF FUNDS.—No more than 50 percent of amounts available from the Fund for any fiscal year may be spent on projects that are for the construction of facilities that cost in excess of $5,000,000.

SEC. 5005. PARTNERSHIPS.

(a) DONATIONS.—The Secretary may actively encourage and facilitate participation in proposals from non-Federal and philanthropic partners, and may accept donations, both monetary and in-kind for any Project or Program pursuant to section 1 of the Act of June 5, 1920 (16 U.S.C. 6), and other authorities to accept donations existing on the date of enactment of this Act.

(b) TERMS AND CONDITIONS.—To the extent that private organizations or individuals are to participate in or contribute to any Project or Program, the terms and conditions of that participation or contribution as well as all actions of employees of the National Park Service, shall be governed by National Park Service Directors Order #21, ''Donations and Fundraising'', as in force on the date of the enactment of this Act.

SEC. 5006. MAINTENANCE OF EFFORT.

Amounts made available from the Fund shall supplement rather than replace annual expenditures by the National Park Service, including authorized expenditures from the Land and Water Conservation Fund and the National Park Service Line Item Construction Program. The National Park Service shall maintain adequate, permanent staffing levels and permanent staff shall not be replaced with nonpermanent employees hired to carry out this Act or Projects or Programs carried out with funds provided under this Act.

SEC. 5007. REPORTS.

For each fiscal year beginning in fiscal year 2009, the Secretary shall submit to Congress a report that includes the following:

(1) A detailed accounting of all expenditures from the Fund divided by categories of proposals under section 4(b), including a detailed accounting of any private contributions, either in funds or in kind, to any Project or Program.

(2) A cumulative summary of the results of the National Park Centennial program including recommendations for revisions to the program.

(3) A statement of whether the National Park Service has maintained adequate, permanent staffing levels and what nonpermanent and permanent staff have been hired to carry out this Act or Projects or Programs carried out with funds provided under this Act.

TITLE VI

GENERAL PROVISIONS—THIS ACT

EMERGENCY DESIGNATION

SEC. 6001. Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

COORDINATION OF PROVISIONS

SEC. 6002. Unless otherwise expressly provided, each amount in this Act is a supplemental appropriation for fiscal year 2008, or, if enacted after September 30, 2008, for fiscal year 2009.

This Act may be cited as the ''Economic Recovery Act, 2008''.

By Mr. HATCH:

S. 3606. A bill to extend the special immigrant nonminister religious worker program and for other purposes, considered and passed.

Mr. HATCH. Mr. President, I rise today to introduce the Special Immigrant Non-Minister Religious Worker Program Act, S. 3606, which would extend the Special Immigrant Non-Minister Religious Worker Visa Program until March 6, 2009.

The program provides for up to 5,000 special Immigrant visas per year which religious denominations or organizations in the United States can use to sponsor foreign nationals to perform religious service in our country. Since its initial enactment in 1990, the Special Immigrant Non-Minister Religious Worker Visa Program has been extended four times. Yet some seem quick to discount the importance of the program. I point out that the continuing resolution passed by the House of Representatives did not include language to extend the Special Immigrant Non-Minister Religious Worker Visa Program.

Among the important tasks nonminister religious workers perform are: providing human services to the most needy, including shelter and nutrition; caring for and ministering to the sick, aged, and dying; working with adolescents and young adults; assisting religious leaders as they lead their congregations and communities in worship; counseling those who have suffered severe trauma and/or hardship; supporting families, particularly when they are in crisis; offering religious instruction, especially to new members of the religious denomination; and, helping refugees and immigrants in the United States adjust to a new way of life.

To ensure that this program is not abused by fraud or other measures, the proposed legislation requires the Secretary of Homeland Security to issue final regulations to eliminate or reduce fraud in the program before it goes into

effect. Additionally, the legislation requires the inspector general of the Department of Homeland Security to submit to Congress a report on the effectiveness of the aforementioned regulations.

I note that there are several religious organizations that support passage of my legislation, including The Church of Jesus Christ of Latter-day Saints, the American Jewish Committee, the Agudath Israel of America, the Catholic Legal Immigration Network, Inc., the Church Communities International, the Conference of Major Superiors of Men, the Hebrew Immigrant Aid Society, the Lutheran Immigration and Refugee Service, the Mennonite Central Committee, the United States National Association of Evangelicals, the National Spiritual Assembly of the Bahai of the United States, The Church of Scientology International, The First Church of Christ, Scientist, Boston, MA, the United Methodist Church, the General Board of Church and Society, the World Relief, and the U.S. Conference of Catholic Bishops.

There is no doubt that our country's religious organizations face sometimes insurmountable obstacles in using traditional employment immigration categories to fit their unique situations. Fortunately, the Non-Minister Religious Worker Visa Program allows our country's religious denominations to continue uninterrupted in their call to serve and provide support to those who are in the greatest need. I commend their service and hope they know how much I respect their work.

I urge my colleagues to support this legislation.

By Ms. CANTWELL (for herself, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. SMITH, and Mr. STEVENS):

S. 3608. A bill to establish a Salmon Stronghold Partnership program to protect wild Pacific salmon and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I rise today to introduce the Pacific Salmon Stronghold Conservation Act of 2008, together with my colleague from Alaska, Senator MURKOWSKI. I am grateful for all the input and collaboration from key stakeholders in Washington State that I have received on this legislation. I am especially grateful for the input from the Quinault Tribe, the Wild Salmon Center, and Bill Ruckelshaus.

While current Federal salmon recovery efforts are focused on recovering salmon listed under the Endangered Species Act, ESA, seeking to ''restore what we've lost,'' the Salmon Stronghold Act seeks to ''protect what we have.'' To this end, I have consistently fought for increased funding for the Pacific Coast Salmon Recovery Fund and will continue to proudly do so. In addition, with this legislation we will direct new Federal resources on protection of healthy salmon population.

Restoring threatened and endangered salmon in the Pacific Northwest is an imperative. Wild Pacific salmon are central to the culture, economy, and environment of western North America. The Pacific Coast Salmon Recovery Fund, since its inception in 2000, has allowed my home State of Washington to focus the efforts of counties and conservation districts, on average, to remove 300 barriers to fish passage and to open 300 miles of habitat each year. That is 2,400 barriers removed and 2,400 miles of habitat restored. In 2007, for every Federal dollar spent on this program it leveraged about $2 in local and State dollars.

I will continue the fight to protect this salmon recovery funding. But more must be done. This legislation will complement ongoing recovery efforts to ensure the future viability of healthy wild Pacific salmon runs by establishing a Federal program supporting voluntary public-private incentive-based efforts to proactively maintain the rivers that are home to the thriving populations of Pacific salmon—known as our ''Salmon Strongholds.''

This bill does that by establishing a new regional Salmon Stronghold Partnership program that provides Federal support and resources to protect a network of the healthiest remaining wild Pacific salmon ecosystems in North America. The bill promotes enhanced coordination and cooperation of Federal, tribal, State and local governments, public and private land managers, fisheries managers, power authorities, and nongovernmental organizations in efforts to protect salmon strongholds.

It is time to increase funding to recovery efforts, but also focus on prevention. It is time to adopt the kind of comprehensive solution that can solidify wild Pacific salmon's place in American culture for generations to come.

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. 3608

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 ''Pacific Salmon Stronghold Conservation Act of 2008''.

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

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) salmon are a central part of the culture, economy, and environment of Western North America;

(2) economic activities relating to salmon generate billions of dollars of economic activity and provide thousands of jobs;

(3) during the anticipated rapid environmental change during the several decade period beginning on the date of enactment of this Act, maintaining key ecosystem processes and functions, population abundance, and genetic integrity are vital to ensuring the health of salmon populations;

(4) salmon strongholds provide critical production zones for commercial and recreational fisheries;

(5) taking into consideration the frequency of fisheries collapses during the period immediately preceding the date of enactment of this Act, conserving core centers of abundance, productivity, and diversity is vital to sustain salmon populations and fisheries into the future;

(6) measures being undertaken as of the date of enactment of this Act to recover threatened or endangered salmon stocks are vital, but must be complemented by identifying and sustaining core centers of abundance, productivity, and diversity in the healthiest remaining salmon ecosystems throughout the salmon range; and

(7) greater coordination between public and private actors can assist salmon strongholds by marshaling and focusing resources on high priority protection and restoration actions.

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

(1) to expand Federal support for the protection and restoration of the healthiest remaining salmon strongholds in North America to sustain core centers of salmon abundance, productivity, and diversity in order to prevent decline of salmon populations—

(A) in the States of Washington, Idaho, Oregon, and California, by focusing resources on cooperative, incentive-based efforts to protect the roughly 20 percent of salmon habitat that supports approximately ⅔ of salmon abundance; and

(B) in the State of Alaska, a regional stronghold that produces over ⅓ of all Pacific salmon, by increasing resources available to public and private organizations working cooperatively to protect regional core centers of salmon abundance and diversity;

(2) to obtain long-term funding for implementation of salmon stronghold strategies, including the bundling and delivery of incentive-based conservation measures;

(3) to promote economic co-benefits associated with healthy and restored salmon stronghold habitat, including flood protection, recreation, water quantity and quality, climate benefits, and other ecosystem services; and

(4) to accelerate as applicable the implementation of recovery plans for salmon populations listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) within salmon strongholds.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Assistant Administrator for the National Marine Fisheries Service of

the National Oceanic and Atmospheric Administration.

(2) BOARD.—The term ''Board'' means the Salmon Stronghold Partnership Board established under section 4(a).

(3) CHARTER.—The term ''Charter'' means the charter developed under section 4(g).

(4) DIRECTOR.—The term ''Director'' means the Director of the United States Fish and Wildlife Service.

(5) ECOSYSTEM SERVICES.—The term ''ecosystem services'' means an ecological benefit generated from a healthy, functioning ecosystem, including clean water, pollutant filtration, regulation of river flow, prevention of soil erosion, regulation of climate, and fish production.

(6) PROGRAM.—The term ''program'' means the salmon stronghold watershed grants and technical assistance program established under section 6(a).

(7) SALMON.—The term ''salmon'' means any of the wild anadromous Oncorhynchus species in the Western United States, including—

(A) chum salmon (Oncorhynchus keta);

(B) pink salmon (Oncorhynchus gorbuscha);

(C) sockeye salmon (Oncorhynchus nerka);

(D) chinook salmon (Oncorhynchus tshawytscha);

(E) coho salmon (Oncorhynchus kisutch); and

(F) steelhead trout (Oncorhynchus mykiss).

(8) SALMON STRONGHOLD.—The term ''salmon stronghold'' means all or part of a watershed that meets biological criteria for abundance, productivity, diversity (life history and run timing), habitat quality, or other biological attributes important to sustaining viable populations of salmon throughout the salmon range.

(9) SALMON STRONGHOLD PARTNERSHIP.—The term ''Salmon Stronghold Partnership'' means a cooperative, incentive-based, public-private partnership between Federal, State, tribal, private, and non-governmental organizations working across political boundaries, government jurisdictions, and land ownerships to identify and protect salmon strongholds.

(10) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Commerce.

SEC. 4. ESTABLISHMENT OF SALMON STRONGHOLD PARTNERSHIP BOARD.

(a) ESTABLISHMENT.—There is established a Board to be known as the ''Salmon Stronghold Partnership Board''.

(b) MEMBERSHIP.—The members of the Board shall include members from Federal, State, tribal, and non-governmental organizations, and other entities with significant resources regionally dedicated to protection of wild salmon ecosystems, including—

(1) one representative from each of—

(A) the National Oceanic and Atmospheric Administration;

(B) the United States Fish and Wildlife Service;

(C) the Forest Service;

(D) the Environmental Protection Agency;

(E) the Bonneville Power Administration;

(F) the Bureau of Land Management; and

(G) the Northwest Power and Conservation Council;

(2) State representatives from the Governor's Office or the appropriate natural resource agencies, as determined by the Board, from each of the States of—

(A) Oregon;

(B) Washington;

(C) California;

(D) Idaho; and

(E) Alaska;

(3) three representatives from West Coast Indian tribes;

(4) one representative from each of 3 non-governmental organizations selected by the Board; and

(5) any other members that the Board determines are appropriate.

(c) BOARD CONSULTATION.—The Board may seek expertise from fisheries experts from appropriate agencies or universities.

(d) MEETINGS.—

(1) FREQUENCY.—Not less frequently than 3 times each year, the Board shall hold Salmon Stronghold Partnership meetings to provide opportunities for input from a broader set of stakeholders.

(2) NOTICE.—Prior to each Salmon Stronghold Partnership meeting, the Board shall give timely notice of the meeting to the public and to the government of each county in which a salmon stronghold is identified by the Board.

(e) CHAIRPERSON.—The Board shall nominate and select a Chairperson from among the members of the Board.

(f) COMMITTEES.—The Board may establish standing or ad hoc committees, including a science advisory committee.

(g) CHARTER.—The Board shall develop a written Charter that—

(1) provides for the members of the Board described in subsection (b);

(2) may be signed by a broad range of partners, to reflect a shared understanding of the purposes, intent, and governance framework of the Salmon Stronghold Partnership; and

(3) shall include—

(A) a description of the process for identifying salmon strongholds; and

(B) the process for reviewing and selecting watershed grants under section 6, including—

(i) the number of years for which grants can be issued;

(ii) the process for renewing grants;

(iii) a description of grant eligibility;

(iv) reporting requirements for selected projects; and

(v) criteria for evaluation of the success of a project.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

SEC. 5. INFORMATION AND ASSESSMENT.

The Administrator shall carry out specific information and assessment functions associated with the network of salmon strongholds, in coordination with other regional salmon efforts, including—

(1) triennial assessment of status and trends in network sites;

(2) geographic information system and mapping support to facilitate conservation planning;

(3) development and application of models and other tools to identify highest value conservation actions within salmon strongholds; and

(4) measurement of the effectiveness of the Salmon Stronghold Partnership activities.

SEC. 6. SALMON STRONGHOLD WATERSHED GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Administrator, in consultation with the Director, shall establish a salmon stronghold watershed grants and technical assistance program, as described in this section.

(b) PURPOSE.—The purpose of the program shall be to support salmon stronghold protection and restoration activities, including—

(1) to fund the administration of the Salmon Stronghold Partnership in carrying out the Charter;

(2) to encourage cooperation among the entities represented on the Board, local authorities, and private entities to establish a network of salmon strongholds, and assist locally in specific actions that support the Salmon Stronghold Partnership;

(3) to work with entities represented on the Board—

(A) to develop strategies focusing on the highest value salmon conservation actions in salmon strongholds; and

(B) in addition to protection actions, including voluntary acquisitions and easements, to provide financial assistance to the Salmon Stronghold Partnership to develop innovative financial mechanisms to increase local economic opportunities and resources for actions or practices that provide long-term or permanent protection and maintain key ecosystem services in salmon strongholds, including—

(i) approaches to explore a payment for ecosystem services model that values and compensates individuals or groups for actions taken, or not taken, and that preserves, increases, or maintains key ecosystem services; and

(ii) carrying out several demonstration projects designed for specific salmon strongholds;

(4) to maintain a forum to share best practices and approaches, employ consistent and comparable metrics, and monitor, evaluate, and report regional status and trends of salmon ecosystems in coordination with related regional and State efforts;

(5) to carry out activities and existing conservation programs in, and across, salmon strongholds on a regional scale to achieve the goals of the Salmon Stronghold Partnership;

(6) to develop and make information available to the public pertaining to the Salmon Stronghold Partnership; and

(7) to conduct education outreach to the public to encourage increased stewardship of salmon strongholds.

(c) SELECTION.—

(1) ADMINISTRATION AND SELECTION.—The Administrator, in consultation with the Board, shall establish a process to select grant applicants and administer the grants made under this section.

(2) CRITERIA FOR APPROVAL.—Subject to subsection (d), a project may be approved to receive a grant under this section if—

(A) the project contributes to the protection and restoration of salmon;

(B) the project meets criteria regarding geographic and programmatic parameters for strategic investments in Salmon Strongholds, as identified and periodically revised by the Board preceding each grant review process; and

(C) the project—

(i)(I) addresses a key factor limiting or threatening to limit abundance, productivity, diversity, habitat quality, or other biological attributes important to sustaining viable wild salmon populations within a Salmon Stronghold; or

(II) a programmatic action that supports the Salmon Stronghold Partnership;

(ii) addresses major limiting factors to healthy ecosystem processes or sustainable fisheries management; and

(iii) has the potential for major conservation benefits and potentially exportable results.

(d) ACQUISITION OF REAL PROPERTY INTERESTS.—No project that will result in the acquisition by the Secretary or the Secretary of the Interior of any land or interest in land, in whole or in part, may receive funds under this Act unless the project is consistent with the purposes of this Act.

(e) PROJECT REPORTING.—Each grantee under this section shall provide periodic reports to the Administrator that include such information as the Administrator may require to evaluate the progress and success of the project.

(f) STAFF.—Subject to the availability of appropriations, the Administrator may hire such additional full-time employees as are necessary to carry out this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) GRANTS.—There is authorized to be appropriated to the Administrator, to be distributed by the National Fish and Wildlife Foundation as a fiscal agent, to provide grants under this section $15,000,000 for each of fiscal years 2009 through 2013, to remain available until expended.

(2) TECHNICAL ASSISTANCE.—For each of fiscal years 2009 through 2013, there is authorized to be appropriated to the Administrator an additional $300,000 to carry out this section and section 5, to remain available until expended.

SEC. 7. CONSERVATION OF SALMON STRONGHOLDS ON FEDERAL LAND.

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal land in salmon strongholds shall, to the extent consistent with the mission of the agency and existing statutory authorities, cooperate with the Administrator and the Director to—

(1) conserve salmon strongholds; and

(2) effectively coordinate and streamline delivery of overlapping incentive-based programs affecting salmon strongholds within the land of each agency.

SEC. 8. CONDITIONS RELATING TO SALMON STRONGHOLD CONSERVATION PROJECTS.

(a) IN GENERAL.—No land or interest in land, acquired in whole or in part by 1 or both of the Secretaries with Federal funds made available under this Act to carry out salmon stronghold conservation projects may be conveyed to a State, other public agency, or other entity unless—

(1) the Secretaries determine that the State, agency, or other entity is committed to undertake the management of the property being transferred in accordance with this Act; and

(2) the deed or other instrument of transfer contains provisions for the reversion of the title to the property to the United States if the State, agency, or other entity fails to manage the property in accordance with this Act.

(b) REQUIREMENT.—Any real property interest conveyed under this section shall be subject to such terms and conditions as will ensure, to the maximum extent practicable, that the interest will be administered for the long-term conservation and management of the applicable aquatic ecosystem and the fish and wildlife dependent on that ecosystem.

SEC. 9. ALLOCATION OF AMOUNTS.

(a) FEDERAL SHARE.—

(1) NON-FEDERAL LAND.—For any fiscal year, the Federal share of carrying out a salmon stronghold conservation project that receives funds under section 6 on non-Federal land shall not exceed 50 percent of the costs of the project.

(2) FEDERAL LAND.—For any fiscal year, the Federal share of carrying out a salmon stronghold conservation project that receives funds under section 6 on Federal land, including the acquisition of inholdings, may be up to 100 percent of the costs of the project.

(b) NON-FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the non-Federal share of the cost of a project that receives funds under section 6 may not be derived from Federal grant programs, but may include in-kind contributions and cash.

(2) BONNEVILLE POWER ADMINISTRATION.—Any amounts provided by the Bonneville Power Administration directly or through a grant to another entity shall be credited toward the non-Federal share of the cost of the project.

(c) PROVISION OF FUNDING.—In carrying out this Act, the Secretary may—

(1) consistent with a recommendation of the Board and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (31 U.S.C. 6101 note; Public Law 106-107), enter into cooperative agreements, contracts, and grants;

(2) notwithstanding any other provision of law, apply for, accept, and use grants from any person to carry out the purposes of this Act; and

(3) make funds available to any Federal agency to be used by the agency to award financial assistance for any salmon stronghold protection, restoration, and enhancement project that the Secretary determines to be consistent with this Act.

(d) DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to authorize the organization to carry out activities under this Act; and

(B) accept donations of funds or services for use in carrying out this Act.

(2) PROPERTY.—The Secretary of the Interior may accept donations of property for use in carrying out this Act.

(3) USE OF DONATIONS.—Donations accepted under this section—

(A) shall be considered to be gifts or bequests to, or for the use of, the United States; and

(B) may be used directly by the Secretary (or, in the case of donated property under paragraph (2), the Secretary of the Interior) or provided to other Federal agencies through interagency agreements.

(e) INTERAGENCY FINANCING.—The Secretary may participate in interagency financing, including receiving appropriated funds from other agencies to carry out this Act.

SEC. 10. ACCOUNTABILITY AND REPORTING.

Not less frequently than once every 3 years, the Administrator and the Director shall jointly submit to Congress a report describing the activities carried out under this Act, including any legislative recommendations relating to the Salmon Stronghold Partnership.

SEC. 11. REGULATIONS.

The Secretary may promulgate regulations to carry out this Act.

SEC. 12. LIMITATIONS.

Nothing in this Act may be construed—

(1) to create a reserved water right, express or implied, in the United States for any purpose, or affect any water right in existence on the date of enactment of this Act;

(2) to affect any Federal or State law in existence on the date of enactment of this Act regarding water quality or water quantity;

(3) to affect the authority, jurisdiction, or responsibility of any agency or department of the United States or of a State to manage, control, or regulate fish and resident wildlife under a Federal or State law (including regulations);

(4) to authorize the Secretary or the Secretary of Interior to control or regulate hunting or fishing under State law;

(5) to abrogate, abridge, affect, modify, supersede, or otherwise alter any right of a federally recognized Indian tribe under any law (including regulations); or

(6) to diminish or affect the ability of the Secretary or the Secretary of Interior to join the adjudication of rights to the use of water pursuant to subsections (a), (b), or (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

SEC. 13. PRIVATE PROPERTY PROTECTION.

No Federal funds made available to carry out this Act may be used to acquire any real property or any interest in any real property without the written consent of the 1 or more owners of the property or interest in property.

By Mr. FEINGOLD (for himself, Ms. CANTWELL, Mr. AKAKA and Mr. WYDEN):

S. 3612. A bill to protect citizens and legal residents of the United States from unreasonable searches and seizures of electronic equipment at the border, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Today, I am joined by the junior Senator from Washington, Senator CANTWELL, in introducing the Travelers' Privacy Protection Act of 2008. This bill restores privacy for law-abiding Americans who, under current administration policy, may be required to give customs agents unfettered access to the contents of their laptop computers and other electronic devices when they return from overseas travel.

There is a compelling and immediate need for this legislation. Over the last two years, reports have surfaced that customs agents have been requiring American citizens and others lawfully residing in the U.S. to turn over their cell phones or give them the passwords to their laptops. The travelers have been forced to wait for hours while customs agents reviewed and sometimes copied the contents of the electronic devices. In some cases, the laptops or cell phones were confiscated, and returned weeks or even months later, with no explanation.

When the practice was challenged in court, the administration argued that it can search the contents of American travelers' laptops without any suspicion of wrongdoing whatsoever, because a laptop is no different than any other ''closed container.'' In other words, according to this administration, there is no difference between rifling through the contents of your suitcase, and logging on to your laptop, opening your files, and reviewing your photographs, medical records, financial records, e-mails, letters, journals, work product, or an electronic record of all the Web sites you have visited.

I am willing to bet that most Americans would disagree. Americans understand the importance of security at the borders, and the vast majority of them accept that the government is entitled to look through their suitcases when they are returning from an overseas trip. But I say to my colleagues: try asking your constituents whether the government has a right to open their laptops, read their documents and e-mails, look at their photographs, and examine the Web sites they have visited—all without any suspicion of wrongdoing—and see what they say. I think you'll hear the same thing that I have heard: ''Not in the United States of America.''

In June of this year, I held a hearing of the Constitution Subcommittee of the Judiciary Committee to examine this issue. At this hearing, we learned about the effect of suspicionless electronic border searches on American businesses. The Executive Director for the Association of Corporate Travel Executives testified that, in a survey of ACTE members, 7 out of 100 respondents had experienced seizures of their laptops or other electronic equipment. Many companies are now taking expensive and burdensome measures to protect their electronic information from forced disclosure at the border. The administration's intrusive border practices thus come with a hefty price tag for the American business sector, at a time when the economy can ill afford it.

We also heard disturbing evidence suggesting that Muslim Americans and Americans of Arab or South Asian descent are being targeted for these invasive searches. Many travelers from these backgrounds who have been subject to electronic searches have also been asked about their religious and political views, including why they chose to convert to Islam, what they think about Jews, and their views of the candidates in the upcoming election. This questioning is deeply disturbing in its own right. It also strongly suggests that some border searches are being based, at least in part, on impermissible factors.

At the same time it was claiming the right to look at all of the information Americans carry with them across the border, the administration was refusing to provide Americans or Congress with information about its policies for border searches. Requests by the public and members of Congress were steadfastly ignored. DHS declined my invitation to send a witness to the hearing, claiming that its preferred witness was unavailable on that day. But after the hearing sparked a flurry of press coverage and major newspapers criticized DHS for its secrecy, the agency made public a written policy for border searches dated July 16, 2008.

The DHS policy is truly alarming in the sweeping authority it claims. According to the policy, customs agents may ''analyze and review'' the information in Americans' laptops and other electronic devices ''absent individualized suspicion.'' As part of this search authority, customs agents may ''detain'' the electronic device for an unspecified period of time, take it offsite, make copies of its contents, and send the equipment or the copies to other agencies or even private individuals in some cases. Although the policy purports to require probable cause to ''seize'' a laptop, as opposed to merely searching it, this safeguard is almost meaningless given that DHS's definition of ''search'' includes the right to ''detain'' the laptop indefinitely. Moreover the policy exempts officers' written notes from any constraints, allowing customs agents to transcribe an electronic document verbatim and keep it forever without any level of suspicion.

Defenders of this policy outside the administration are hard to find. Major newspapers across the country, including the New York Times, the Washington Post, and a host of other national and local outlets, have published editorials condemning the policy and urging Congress to act. As USA Today put it: ''[T]he notion that the government can arbitrarily have a free crack at your e-mail, Web searches and other personal electronic data is chilling. Given the government's abysmal record of safeguarding private data, it's no wonder that business and civil liberties groups are protesting.'' In my home state of Wisconsin, the Green Bay Press-Gazette put it this way: ''[T]he fact that this policy exists . . . is an affront to the core values of the United States of America.''

In the fact of this public outcry, DHS has reacted like a traffic officer standing by a 20–car pile-up and telling onlookers ''Nothing to see here—move along.'' The agency claims that its July 16 policy spells out the practice followed by customs agents for years and across administration. But that just isn't true. The Customs Directive that governed border searches of documents through the end of the Clinton Administration stated that Customs agents could glance at documents—but not read them—''to see if they appear to be merchandise.'' At that point, ''reasonable suspicion [was] required for read and continued detention'' of the documents. The reading of personal correspondence other than merchandise was expressly prohibited. This administration's policy authorizing ''review and analysis'' of any and all electronic documents without a shred of suspicion thus represents a 180 degree turnaround from previous policy.

DHS alternatively defends its policy by arguing that the authority to conduct suspicionless searches of Americans' laptops is necessary to capture terrorists and criminals. Yet the few specific examples DHS has seen fit to give have all been cases in which the search was anything but suspicionless. For example, in one instance DHS has cited, the laptop search took place after customs agents received a tip that the traveler was a smuggler and discovered $79,000 in unlawful U.S. currency in his belongings. Despite many opportunities to do so, DHS has yet to identify a single example in which a search that was conducted ''absent individualized suspicion'' resulted in the apprehension of a dangerous criminal or terrorist.

This brings me to my next point. Both Secretary Chertoff and the Deputy Commissioner for Customs and Border Protection have tried to downplay the extent of privacy violations by pointing out that DHS has limited resources for conducting electronic searches at the border. That may be true, but it hardly justifies suspicionless searches. To the contrary, the limited nature of these resources makes it all the more important to direct them toward people who actually do present some objective basis for suspicion. As the DHS examples confirm, these are the cases in which electronic searches are most likely to yield results. Using our limited resources to search the laptops of law-abiding Americans who present no basis for suspicion is frankly irresponsible.

This is not simply a matter of what the Constitution protects or allows. In fact, a few lower courts have agreed with the administration that the Fourth Amendment does not protect Americans against suspicionless searches of their laptops at the border. I happen to believe that these decisions incorrectly applied Supreme Court precedent, but ultimately, that is beside the point. Not everything that comports with the Constitution is sound policy. A government practice can satisfy minimum constitutional requirements and still violate Americans' expectations for what they want and deserve from their government. In those cases, it is up to Congress to act.

The bill I am introducing today would require DHS agents to have reasonable suspicion before searching the contents of laptops or other electronic equipment carried by U.S. citizens or other lawful residents of the U.S. ''Reasonable suspicion'' is a lower standard than ''probable cause''; it simply requires DHS to have an objective basis for suspecting that a particular person is engaged in illegal behavior. No less should be required when the government seeks to encroach on such a significant privacy interest.

Like the current DHS policy, the bill I am introducing requires probable cause in order for DHS agents to seize electronic equipment lent. Unlike the current policy, however, the bill defines ''seize'' in a manner than is consistent with both legal precedent and common sense. If DHS keeps your laptop or any of its contents for longer than 24 hours, there has clearly been a seizure, and the bill recognizes this. The bill also reinforces the probable cause requirement by requiring DHS to obtain a warrant, while allowing DHS to hold on to the equipment pending a ruling on the warrant application.

Most of the information DHS will review, even under a reasonable suspicion standard, will prove innocuous. Recognizing this, the bill contains provisions to protect law-abiding Americans' privacy by strictly limiting disclosure of information that DHS acquires through electronic border searches. The only disclosures that are permitted in the absence of warrant or court order are limited disclosures to other federal, state, or local government agencies. Those agencies in turn may apply for a warrant—or, if the laptop appears to contain foreign intelligence information, a Foreign Intelligence Surveillance Court Order—to seize the equipment.

If DHS damages the electronic equipment in the course of a search, the

agency must compensate the owner for any resulting economic loss. The bill requires DHS to establish an administrative claims process to that end. Awards will be paid from agency funds, ensuring that the bill is deficit-neutral.

The bill prohibits profiling based on race, ethnic, religion, or national origin. Profiling based on these characteristics has no place in our society. It is repugnant to our values as a pluralistic nation, and it is counterproductive as a matter of law enforcement. At the hearing I held on this issue, all of the witnesses, those invited by myself and those invited by Senator BROWNBACK, AGREED AT THAT POINT.

Finally, the bill contains provisions to ensure that DHS provides the information about its policies and practices that Congress needs and that the public is entitled to have. The agency must provide Congress and the public with any past, existing, or future policies relating to electronic border searches, as well as information about the implementation of those policies. Our ability to know what DHS claims the right to do at the border should never depend on whether DHS chooses to send a witness to a congressional hearing.

Taken together, these provisions reverse this administration's departure from previous policy and, more importantly, bring the government's practices at the border back in line with the reasonable expectations of law-abiding Americans. Furthermore, they enhance the security of our borders by focusing the government's resources where they can do the most good. And they will enable all of us in this body to look our constituents in the eyes and say, ''You're right—that doesn't happen in the United States of America.''

Mr. President, I hope that my colleagues give this bill the enthusiastic support it deserves. 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. 3612

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 ''Travelers' Privacy Protection Act of 2008''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Law-abiding citizens and legal residents of the United States, regardless of their race, ethnicity, religion, or national origin, have a reasonable expectation of privacy in the contents of their laptops, cell phones, personal handheld devices, and other electronic equipment.

(2) The Department of Homeland Security has taken the position that laptops and other electronic devices should not be treated any differently from suitcases or other ''closed containers'' and may be inspected by customs or immigration agents at the border or in international airports without suspicion of wrongdoing.

(3) The Department of Homeland Security published a policy on July 16, 2008, allowing customs and immigration agents at the border and in international airports to ''detain'' electronic equipment and ''review and analyze'' the contents of electronic equipment ''absent individualized suspicion''. The policy applies to any person entering the United States, including citizens and other legal residents of the United States returning from overseas travel.

(4) The privacy interest in the contents of a laptop computer differs in kind and in amount from the privacy interest in other ''closed containers'' for many reasons, including the following:

(A) Unlike any other ''closed container'' that can be transported across the border, laptops and similar electronic devices can contain the equivalent of a full library of information about a person, including medical records, financial records, e-mails and other personal and business correspondence, journals, and privileged work product.

(B) Most people do not know, and cannot control, all of the information contained on their laptops, such as records of websites previously visited and deleted files.

(C) Electronic search tools render searches of electronic equipment more invasive than searches of physical locations or objects.

(5) Requiring citizens and other legal residents of the United States to submit to a government review and analysis of thousands of pages of their most personal information without any suspicion of wrongdoing is incompatible with the values of liberty and personal freedom on which the United States was founded.

(6) Searching the electronic equipment of persons for whom no individualized suspicion exists is an inefficient and ineffective use of limited law enforcement resources.

(7) Some citizens and legal residents of the United States who have been subjected to electronic border searches have reported being asked inappropriate questions about their religious practices, political beliefs, or national allegiance, indicating that the search may have been premised in part on perceptions about their race, ethnicity, religion, or national origin.

(8) Targeting citizens and legal residents of the United States for electronic border searches based on race, ethnicity, religion, or national origin is wholly ineffective as a matter of law enforcement and repugnant to the values and constitutional principles of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) BORDER.—The term ''border'' includes the border and the functional equivalent of the border.

(2) COPIES.—The term ''copies'', as applied to the contents of electronic equipment, includes printouts, electronic copies or images, or photographs of, or notes reproducing or describing, any contents of the electronic equipment.

(3) CONTRABAND.—The term ''contraband'' means any item the importation of which is prohibited by the laws enforced by officials of the Department of Homeland Security.

(4) ELECTRONIC EQUIPMENT.—The term ''electronic equipment'' has the meaning given the term ''computer'' in section 1030(e)(1) of title 18, United States Code.

(5) FOREIGN INTELLIGENCE INFORMATION.—The term ''foreign intelligence information'' means information described in section 101(e)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(e)(1)).

(6) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The term ''Foreign Intelligence Surveillance Court'' means the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

(7) OFFICIALS OF THE DEPARTMENT OF HOMELAND SECURITY.—The term ''officials of the Department of Homeland Security'' means officials and employees of the Department of Homeland Security, including officials and employees of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, who are authorized to conduct searches at the border.

(8) PERMANENTLY DESTROYED.—The term ''permanently destroyed'', with respect to information stored electronically, means the information has been deleted and cannot be reconstructed or retrieved through any means.

(9) REASONABLE SUSPICION.—The term ''reasonable suspicion'' means a suspicion that has a particularized and objective basis.

(10) SEARCH.—

(A) IN GENERAL.—The term ''search'' means any inspection of any of the contents of any electronic equipment, including a visual scan of icons or file names.

(B) EXCEPTION.—The term ''search'' does not include asking a person to turn electronic equipment on or off or to engage in similar actions to ensure that the electronic equipment is not itself dangerous.

(11) SEIZURE.—

(A) IN GENERAL.—The term ''seizure'' means the retention of electronic equipment or copies of any contents of electronic equipment for a period longer than 24 hours.

(B) EXCEPTIONS.—The term ''seizure'' does not include the retention of electronic equipment or copies of any contents of electronic equipment—

(i) for a period of not more than 3 days after the expiration of the 24-hour period specified in section 5(e) if an application for a warrant is being prepared or pending in a district court of the United States;

(ii) for a period of not more than 21 days after the expiration of the 24-hour period specified in section 5(e) if an application for an order from the Foreign Intelligence Surveillance Court with respect to such equipment or copies is being prepared; or

(iii) if an application for an order from the Foreign Intelligence Surveillance Court with respect to such equipment or copies is pending before that Court.

(12) UNITED STATES RESIDENT.—The term ''United States resident'' means a United States citizen, an alien lawfully admitted for permanent residence under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), or a nonimmigrant alien described in section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) who is lawfully residing in the United States.

SEC. 4. STANDARDS FOR SEARCHES AND SEIZURES.

(a) SEARCHES.—Except as provided in subsection (c), electronic equipment transported by a United States resident may be searched at the border only if an official of the Department of Homeland Security has a reasonable suspicion that the resident—

(1) is carrying contraband or is otherwise transporting goods or persons in violation of the laws enforced by officials of the Department of Homeland Security; or

(2) is inadmissible or otherwise not entitled to enter the United States under the laws enforced by officials of the Department of Homeland Security.

(b) SEIZURES.—Except as provided in subsection (c), electronic equipment transported by a United States resident may be seized at the border only if—

(1) the Secretary of Homeland Security obtains a warrant based on probable cause to believe that the equipment contains information or evidence relevant to a violation of any law enforced by the Department of Homeland Security;

(2) another Federal, State, or local law enforcement agency obtains a warrant based on probable cause to believe that the equipment contains information or evidence relevant to a violation of any law enforced by that agency; or

(3) an agency or department of the United States obtains an order from the Foreign Intelligence Surveillance Court authorizing the seizure of foreign intelligence information.

(c) EXCEPTIONS.—Nothing in this Act shall be construed to affect the authority of any law enforcement official to conduct a search incident to arrest, a search based upon voluntary consent, or any other search predicated on an established exception, other than the exception for border searches, to the warrant requirement of the fourth amendment to the Constitution of the United States.

SEC. 5. PROCEDURES FOR SEARCHES.

(a) INITIATING SEARCH.—Before beginning a search of electronic equipment transported by a United States resident at the border, the official of the Department of Homeland Security initiating the search shall—

(1) obtain supervisory approval to engage in the search;

(2) record—

(A) the nature of the reasonable suspicion and the specific basis or bases for that suspicion;

(B) if travel patterns are cited as a basis for suspicion, the specific geographic area or areas of concern to which the resident traveled;

(C) the age of the resident;

(D) the sex of the resident;

(E) the country of origin of the resident;

(F) the citizenship or immigration status of the resident; and

(G) the race or ethnicity of the resident, as perceived by the official of the Department of Homeland Security initiating the search.

(b) CONDITIONS OF SEARCH.—

(1) PRESENCE OF UNITED STATES RESIDENT.—The United States resident transporting the electronic equipment to be searched shall be permitted to remain present during the search, whether the search occurs on- or offsite.

(2) PRESENCE OF OFFICIALS OF THE DEPARTMENT OF HOMELAND SECURITY.—Not fewer than 2 officials of the Department of Homeland Security, including 1 supervisor, shall be present during the search.

(3) ENVIRONMENT.—The search shall take place in a secure environment where only the United States resident transporting the electronic equipment and officials of the Department of Homeland Security are able to view the contents of the electronic equipment.

(c) SCOPE OF SEARCH.—The search shall—

(1) be tailored to the reasonable suspicion recorded by the official of the Department of Homeland Security before the search began; and

(2) be confined to documents, files, or other stored electronic information that could reasonably contain—

(A) contraband;

(B) evidence that the United States resident is transporting goods or persons in violation of the laws enforced by the Department of Homeland Security; or

(C) evidence that the person is inadmissible or otherwise not entitled to enter the United States under the laws enforced by officials of the Department of Homeland Security.

(d) RECORD OF SEARCH.—At the time of the search, the official or agent of the Department of Homeland Security conducting the search shall record a detailed description of the search conducted, including the documents, files, or other stored electronic information searched.

(e) CONCLUSION OF WARRANTLESS SEARCH.—At the conclusion of the 24-hour period following commencement of a search of electronic equipment or the contents of electronic equipment at the border—

(1) no further search of the electronic equipment or any contents of the electronic equipment is permitted without a warrant or an order from the Foreign Intelligence Surveillance Court authorizing the seizure of the electronic equipment or the contents of the electronic equipment; and

(2) except as specified in section 6, the electronic equipment shall immediately be returned to the United States resident and any copies of the contents of the electronic equipment shall be permanently destroyed not later than 3 days after the conclusion of the search.

SEC. 6. PROCEDURES FOR SEIZURES.

(a) APPLICATION FOR WARRANT BY THE DEPARTMENT OF HOMELAND SECURITY.—If, after completing a search under section 5, an official of the Department of Homeland Security has probable cause to believe that the electronic equipment of a United States resident contains information or evidence relevant to a violation of any law enforced by the Department, the Secretary of Homeland Security shall immediately apply for a warrant describing with particularity the electronic equipment or contents of the electronic equipment to be searched (if further search is required) and the contents to be seized.

(b) DISCLOSURE OF INFORMATION AND APPLICATION BY OTHER FEDERAL, STATE, OR LOCAL GOVERNMENT DEPARTMENTS OR AGENCIES.—

(1) DISCLOSURE TO OTHER AGENCIES OR DEPARTMENTS.—

(A) IN GENERAL.—If an official of the Department of Homeland Security discovers, during a search that complies with the requirements of section 5, information or evidence relevant to a potential violation of a law with respect to which another Federal, State, or local law enforcement agency has jurisdiction, the Secretary of Homeland Security may transmit a copy of that information or evidence to that law enforcement agency.

(B) FOREIGN INTELLIGENCE INFORMATION.—If an official the Department of Homeland Security discovers, during a search that complies with the requirements of section 5, information that the Secretary of Homeland Security believes to be foreign intelligence information, the Secretary may transmit a copy of that information to the appropriate agency or department of the United States.

(2) PROHIBITION ON TRANSMISSION OF OTHER INFORMATION.—The Secretary may not transmit any information or evidence with respect to the contents of the electronic equipment other than the information or evidence described in paragraph (1).

(3) APPLICATION FOR WARRANT OR COURT ORDER.—

(A) IN GENERAL.—A Federal, State, or local law enforcement agency to which the Secretary of Homeland Security transmits a copy of information or evidence pursuant to paragraph (1)(A) may use the information or evidence as the basis for an application for a warrant authorizing the seizure of the electronic equipment or any other contents of the electronic equipment.

(B) FOREIGN INTELLIGENCE INFORMATION.—An agency or department of the United States to which the Secretary transmits a copy of information pursuant to paragraph (1)(B) may use the information as the basis for an application for an order from the Foreign Intelligence Surveillance Court authorizing the seizure of the electronic equipment or any contents of the electronic equipment.

(c) RETENTION WHILE AN APPLICATION FOR A WARRANT OR A COURT ORDER IS PENDING.—

(1) ELECTRONIC EQUIPMENT.—The Secretary of Homeland Security—

(A) may retain possession of the electronic equipment or copies of any contents of the electronic equipment—

(i) for a period not to exceed 3 days after the expiration of the 24-hour period specified in section 5(e) if an application for a warrant described in subsection (a) or subsection (b)(3)(A) is being prepared or pending;

(ii) for a period not to exceed 21 days after the expiration of the 24-hour period specified in section 5(e) while an application for an order from the Foreign Intelligence Surveillance Court described in subsection (b)(3)(B) is being prepared; or

(iii) while an application for an order from the Foreign Intelligence Surveillance Court described in subsection (b)(3)(B) is pending before that Court; and

(B) may not further search the electronic equipment or the contents of the electronic equipment during a period described in subparagraph (A).

(2) INFORMATION TRANSMITTED TO OTHER AGENCIES.—

(A) IN GENERAL.—Any Federal, State, or local law enforcement agency that receives a copy of information or evidence pursuant to subsection (b)(1)(A) shall permanently destroy the copy not later than 3 days after receiving the copy unless the agency has obtained a warrant authorizing the seizure of the electronic equipment or copies of any contents of the electronic equipment.

(B) FOREIGN INTELLIGENCE INFORMATION.—Any agency or department of the United States that receives a copy of information pursuant to subsection (b)(1)(B) shall permanently destroy the copy—

(i) not later than 21 days after receiving the copy if a court order authorizing the seizure of the electronic equipment or copies of any contents of the electronic equipment has not been obtained or denied and an application for such an order is not pending before the Foreign Intelligence Surveillance Court; or

(ii) not later than 3 days after a denial by the Foreign Intelligence Surveillance Court of an application for a court order.

(d) RETENTION UPON EXECUTION OF A WARRANT OR COURT ORDER.—

(1) IN GENERAL.—Upon execution of a warrant or an order of the Foreign Intelligence Surveillance Court, officials of the Department of Homeland Security, the Federal, State, or local law enforcement agency obtaining the warrant pursuant to subsection (b)(3)(A), or the agency or department of the United States obtaining the court order pursuant to subsection (b)(3)(B), as the case may be, may retain copies of the contents of the electronic equipment that the warrant or court order authorizes to be seized.

(2) DESTRUCTION OF CONTENTS NOT AUTHORIZED TO BE SEIZED.—Copies of any contents of the electronic equipment that are not authorized to be seized pursuant to the warrant or court order described in paragraph (1) shall be permanently destroyed and the electronic equipment shall be returned to the United States resident unless the warrant or court order authorizes seizure of the electronic equipment.

(e) NONRETENTION UPON DENIAL OF WARRANT OR COURT ORDER.—If the application for a warrant described in subsection (a) or subsection (b)(3)(A) or for a court order described in subsection (b)(3)(B) is denied, the electronic equipment shall be returned to the United States resident and any copies of the contents of the electronic equipment shall be permanently destroyed not later than 3 days after the denial of the warrant or court order.

(f) RECEIPT AND DISCLOSURE.—Any United States resident whose electronic equipment is removed from the resident's possession for longer than a 24-hour period shall be provided with—

(1) a receipt;

(2) a statement of the rights of the resident and the remedies available to the resident under this Act; and

(3) the name and telephone number of an official of the Department of Homeland Security who can provide the resident with information about the status of the electronic equipment.

SEC. 7. PROHIBITION ON PROFILING.

(a) IN GENERAL.—An official of the Department of Homeland Security may not consider race, ethnicity, national origin, or religion in selecting United States residents for searches of electronic equipment or in determining the scope or substance of such a search except as provided in subsection (b).

(b) EXCEPTION WITH RESPECT TO DESCRIPTIONS OF PARTICULAR PERSONS.—An official of the Department of Homeland Security may consider race, ethnicity, national origin, or religion in selecting United States resident for searches of electronic equipment only to the extent that race, ethnicity, national origin, or religion, as the case may be, is included among other factors in a description of a particular person for whom reasonable suspicion is present, based on factors unrelated to race, ethnicity, national origin, or religion.

(c) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Inspector General and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security shall jointly issue a public report that—

(A) assesses the compliance of the Department of Homeland Security with the prohibition under subsection (a);

(B) assesses the impact of searches of electronic equipment by the Department of Homeland Security on racial, ethnic, national, and religious minorities, including whether such searches have a disparate impact; and

(C) includes any recommendations for changes to the policies and procedures of the Department of Homeland Security with respect to searches of electronic equipment to improve the compliance of the Department with the prohibition under subsection (a).

(2) RESOURCES.—The Secretary of Homeland Security shall ensure that the Inspector General and the Officer for Civil Rights and Civil Liberties are provided the necessary staff, resources, data, and documentation to issue the reports required under paragraph (1), including the information described in sections 5(a)(2) and 5(d) if requested by the Inspector General or the Officer for Civil Rights and Civil Liberties.

(d) SURVEY.—To facilitate an understanding of the impact on racial, ethnic, national, and religious minorities of searches of electronic equipment at the border, the Secretary of Homeland Security shall conduct a random sampling of a statistically significant number of travelers and record for such travelers the demographic information described in subparagraphs (C) through (G) of section 5(a)(2). That information shall be maintained by the Department of Homeland Security in aggregate form only.

SEC. 8. LIMITS ON ACCESS AND DISCLOSURE.

(a) SCOPE.—The limitations on access and disclosure set forth in this section apply to any electronic equipment, copies of contents of electronic equipment, or information acquired pursuant to a search of electronic equipment at the border, other than such equipment, copies, or information seized pursuant to a warrant or court order.

(b) ACCESS.—No official, employee, or agent of the Department of Homeland Security or any Federal, State, or local government agency or department may have access to electronic equipment or copies of the contents of the electronic equipment acquired pursuant to a search of electronic equipment at the border other than such an official, employee, or agent who requires such access in order to perform a function specifically provided for under this Act.

(c) SECURITY.—The Secretary of Homeland Security and the head of any Federal, State, or local government agency or departments that comes into possession of electronic equipment or any copies of the contents of electronic equipment pursuant to a search of electronic equipment at the border shall ensure that—

(1) the electronic equipment is secured against theft or unauthorized access; and

(2) any electronic copies of the contents of electronic equipment are encrypted or otherwise secured against theft or unauthorized access.

(d) GENERAL PROHIBITION ON DISCLOSURE.—No information acquired by officials, employees, or agents of the Department of Homeland Security or any Federal, State, or local government agency or department pursuant to a search of electronic equipment at the border shall be shared with or disclosed to any other Federal, State, or local government agency or official or any private person except as specifically provided in this Act.

(e) COURT ORDER EXCEPTION.—If the Secretary of Homeland Security or any other Federal, State, or local government agency or department determines that a disclosure of information that is not authorized by this Act is necessary to prevent grave harm to persons or property, the Secretary or agency or department, as the case may be, may apply ex parte to a district court of the United States for an order permitting such disclosure.

(f) PRIVILEGES.—Any disclosure of privileged information that results directly from a search of electronic equipment at the border shall not operate as a waiver of the privilege.

(g) APPLICABILITY OF PRIVACY ACT.—The limitations on access and disclosure under this Act supplement rather than supplant any applicable limitations set forth in section 552a of title 5, United States Code.

SEC. 9. IMPLEMENTATION.

(a) REGULATIONS.—The Secretary of Homeland Security shall issue regulations to carry out this Act.

(b) TRAINING.—The Secretary of Homeland Security shall ensure that all officials and agents of the Department of Homeland Security engaged in searches of electronic equipment at the border are thoroughly and adequately trained in the laws and procedures related to such searches.

(c) ACCOUNTABILITY.—The Secretary of Homeland Security shall implement procedures to detect and discipline violations of this Act by officials, employees, and agents of the Department of Homeland Security.

SEC. 10. RECORDKEEPING AND REPORTING.

(a) REPORTS TO CONGRESS.—

(1) EXISTING POLICIES AND GUIDELINES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report that includes—

(A) the policies and guidelines of the Department of Homeland Security, including field supervision and intelligence directives, relating to searches of electronic equipment at the border in effect on the date of the enactment of this Act;

(B) any training programs or materials relating to such searches being utilized on such date of enactment; and

(C) any personnel review and accountability procedures, or memoranda of understanding with other government agencies, relating to such searches in effect on such date of enactment.

(2) UPDATED POLICIES AND GUIDELINES.—Not later than 30 days after revising any of the policies, guidelines, programs, materials, procedures, or memoranda described in paragraph (1) or developing new such policies, guidelines, programs, materials, procedures, or memoranda, the Secretary of Homeland Security shall submit to Congress a report containing the revised or new policies, guidelines, programs, materials, procedures, or memoranda.

(3) INFORMATION ABOUT IMPLEMENTATION.—

(A) REQUESTS.—The information described in subsection (b)(1)(B) and sections 5(a)(2) and 5(d) shall be made available to Congress promptly upon the request of any Member of Congress.

(B) REPORTS.—The information described in section 5(a)(2) shall be provided to Congress in aggregate form every 6 months.

(4) PUBLIC AVAILABILITY.—The Secretary of Homeland Security shall make the information in the reports required under paragraphs (1), (2), and (3)(B) available to the public, but may redact any information in those reports if the Secretary determines that public disclosure of the information would cause harm to national security.

(b) MAINTENANCE OF RECORDS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall maintain records with respect to—

(A) the information described in sections 5(a)(2) and 5(d); and

(B) any disclosures of information acquired through searches of electronic equipment at the border to other agencies, officials, or private persons, and the reasons for such disclosures.

(2) LIMITATIONS ON ACCESS AND DISCLOSURE.—The information described in paragraph (1)—

(A) may be used or disclosed only as specifically provided in this Act or another Federal law and access to that information shall be limited to officials or agents of the Department of Homeland Security who require access in order to effectuate an authorized use or disclosure; and

(B) shall be encrypted or otherwise protected against theft or authorized access.

(3) USE IN LITIGATION.—If otherwise discoverable, the information in subsection (b)(1)(B) and sections 5(a)(2) and 5(d) may be provided to a person who files a civil action under section 12(a) or a criminal defendant seeking to suppress evidence obtained through a search of electronic equipment at the border pursuant to section 12(d).

SEC. 11. COMPENSATION FOR DAMAGE OR LOSS OF ELECTRONIC EQUIPMENT.

(a) IN GENERAL.—A United States resident who believes that the electronic equipment of the resident, or contents of the electronic equipment, were damaged as a result of a search or seizure under this Act may file a claim with the Secretary of Homeland Security for compensation. If the resident demonstrates that the search or seizure resulted in damage to the electronic equipment or the contents of the electronic equipment, the Secretary shall compensate the resident for any resulting economic loss using existing appropriations available for the Department of Homeland Security.

(b) CLAIMS PROCESS.—The Secretary of Homeland Security shall establish an administrative claims process to handle the claims

described in subsection (a). The compensation decisions of the Secretary shall constitute final agency actions for purposes of judicial review under chapter 5 of title 5, United States Code.

SEC. 12. ENFORCEMENT AND REMEDIES.

(a) CIVIL ACTIONS.—

(1) IN GENERAL.—Any person injured by a violation of this Act may file a civil action in a district court of the United States against the United States or an individual officer or agent of the United States for declaratory or injunctive relief or damages.

(2) STATUTE OF LIMITATIONS.—A civil action under paragraph (1) shall be filed not later than 2 years after the later of—

(A) the date of the alleged violation of this Act; or

(B) the date on which the person who files the civil action reasonably should have known of the alleged violation.

(3) DAMAGES.—A person who demonstrates that the person has been injured by a violation of this Act may receive liquidated damages of $1,000 or actual economic damages, whichever is higher.

(4) SPECIAL RULE WITH RESPECT TO CIVIL ACTIONS FOR PROFILING.—In the case of a civil action filed under paragraph (1) that alleges a violation of section 7, proof that searches of the electronic equipment of United States residents at the border have a disparate impact on racial, ethnic, religious, or national minorities shall constitute prima facie evidence of the violation.

(5) ATTORNEY'S FEES.—In any civil action filed under paragraph (1), the district court may allow a prevailing plaintiff reasonable attorney's fees and costs, including expert fees.

(b) ADMISSIBILITY OF INFORMATION IN CRIMINAL ACTIONS.—In any criminal prosecution brought in a district court of the United States, the court may exclude evidence obtained as a direct or indirect result of a violation of this Act if the exclusion would serve the interests of justice.

By Mr. WYDEN (for himself, Ms. MIKULSKI, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 3613. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to Independence at home services in lower cost treatment settings, such as their residences, under a plan of care developed by an Independence at Home physician or Independence at Home nurse practitioner; to the Committee on Finance.

Mr. WYDEN. Mr. President, together with colleagues in the Senate and the House, I am introducing the Independence at Home, IAH, Act. This legislation will help Medicare and our Nation improve the efficiency and effectiveness of spending on Medicare beneficiaries with multiple chronic conditions. It will not only improve care for seniors suffering from serious illnesses but also save money.

Roughly 75 percent of the Nation's health care dollars are spent on chronic diseases. Yet spite this enormous investment, today's chronically ill only receive just over half, 56 percent, of the preventive and maintenance services that they need. Our Nation clearly needs to do better.

Recent Medicare demonstrations have shown that a number of key improvements could go a long way to help fix this situation: First, primary care physicians and key health professionals must assume more responsibility for care coordination; second, we need to target efforts at beneficiaries with multiple conditions; third, afterhours care needs to be available so people can access medical help when they need it and avoid calling 911; and finally, there must be better use of health information technology to help manage care.

The optimal way to address the challenges of caring for persons with chronic conditions is to better integrate their care. Medical problems are best managed and coordinated by health care professionals who know their patients, their problems, their medications, and their other health care providers. Using this approach, the IAH provides a better, more cost-effective way for Medicare patients with chronic conditions to get the care they need.

We do all these things in the legislation I am introducing along with colleagues in the Senate and House: Our bill would put in place a demonstration that improves at-home care availability for beneficiaries with multiple chronic conditions to help people remain independent in their homes. Physicians would get paid better for managing care while at the same time they would be responsible for demonstrating at least 5 percent savings in the cost of their patients' care. The bill also includes minimum performance standards for patient health outcomes, and would measure patient, caregiver and provider satisfaction.

The Independence at Home Act establishes a three-year Medicare demonstration project that uses a patient-centered health care delivery model to ensure that Medicare beneficiaries with multiple chronic conditions can remain independent for as long as possible in a comfortable environment; advances Medicare reform by creating incentives for providers to develop better and lower cost health care for the highest cost beneficiaries; incorporates lessons from past Medicare demonstration projects; provides for physician and nurse practitioner-directed programs that hold providers accountable for quality, patient satisfaction, and mandatory annual minimum savings; and generates savings by providing better care to Medicare beneficiaries with multiple chronic conditions and reducing duplicative and unnecessary services, hospitalization, and other health care costs.

The demonstration program will take place in the thirteen highest-cost states plus thirteen additional states. Persons eligible for the program include Medicare beneficiaries with functional impairments, two or more chronic health problems, and recent use of other health services. Each IAH patient will receive a comprehensive assessment at least annually. The assessment will inform a plan for care that is directed by an IAH physician or nurse-practitioner and developed in collaboration with the patient. Each patient will also have an IAH plan coordinator. Electronic medical records and health information technology will be employed to improve patient care. The IAH organization will be required to demonstrate savings of at least 5 percent annually compared with the costs of serving non-participating Medicare chronically ill beneficiaries. The IAH organization may keep 80 percent of savings beyond the required 5 percent savings as an incentive to maximize the financial benefits of being an IAH member.

I would like to thank my cosponsors in the House, Representatives ED MARKEY, CHRIS SMITH and RAHM EMANUEL for their support, along with my fellow Senate cosponsors, Senators BARBARA MIKULSKI, BENJAMIN CARDIN and SHELDON WHITEHOUSE. I would also like to thank all our staff who worked so hard on this legislation, particularly Gregory Hinrichsen in my office. Finally, we would like to thank the following groups for voicing their support for this legislation: the American Academy of Home Care Physicians; the AARP; the American Academy of Nurse Practitioners; the National Family Caregivers Association; the Family Caregiver Alliance/National Center on Caregiving; the American Association of Homes and Services for the Aging; the Maryland-National Capital Home Care Association; the Visiting Nurse Associations of America, and Intel Corp.

I urge all of my colleagues to support this important legislation to help Medicare patients get better care at lower cost.

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. 3613

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 ''Independence at Home Act of 2008''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the November 2007 Congressional Budget Office Long Term Outlook for Health Care Spending, unless changes are made to the way health care is delivered, growing demand for resources caused by rising health care costs and to a lesser extent the nation's expanding elderly population will confront Americans with increasingly difficult choices between health care and other priorities. However, opportunities exist to constrain health care costs without adverse health care consequences.

(2) Medicare beneficiaries with multiple chronic conditions account for a disproportionate share of Medicare spending compared to their representation in the overall Medicare population, and evidence suggests that such patients often receive poorly coordinated care, including conflicting information from health providers and different diagnoses of the same symptoms.

(3) People with chronic conditions account for 76 percent of all hospital admissions, 88 percent of all prescriptions filled, and 72 percent of physician visits.

(4) More than 60 percent of physicians treating patients with chronic conditions believe that their training did not adequately prepare them to coordinate in-home and community services; educate patients with chronic conditions; manage the psychological and social aspects of chronic care; provide effective nutritional guidance; and manage chronic pain.

(5) Recent studies cited by the Congressional Budget Office found substantial differences among regions of the country in the cost to Medicare of treating beneficiaries with multiple chronic conditions with lower cost regions experiencing better outcomes and lower mortality rates. These studies have suggested that Medicare spending could be reduced by 30 percent if more conservative practice styles were adopted, however, the current Medicare fee-for-service program creates incentives to provide fragmented, high cost health care services.

(6) Studies show that hospital utilization and emergency room visits for patients with multiple chronic conditions can be reduced and significant savings can be achieved through the use of interdisciplinary teams of health care professionals caring for patients in their places of residence.

(7) The Independence at Home program, designed to fund better health care and improved health care technology through savings it achieves, uses a patient-centered health care delivery model to permit the growing number of Medicare beneficiaries with multiple chronic conditions to remain as independent as possible for as long as possible and to receive care in a setting that is preferred by the beneficiary involved and the family of such beneficiary.

(8) The Independence at Home program begins Medicare reform by creating incentives for practitioners and providers to develop methods and technologies for providing better and lower cost health care to the highest cost Medicare beneficiaries with the greatest incentives provided in the case of highest cost beneficiaries.

(9) The Independence at Home program incorporates lessons learned from prior demonstration projects and phase I of the Voluntary Chronic Care Improvement program under section 1807 of the Social Security Act, enacted in sections 721 and 722 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Public Law 108–173).

(10) The Independence at Home Act provides for a chronic care coordination demonstration for the highest cost Medicare beneficiaries with multiple chronic conditions that holds providers accountable for quality outcomes, patient satisfaction, and mandatory minimum savings on an annual basis.

(11) The Independence at Home Act generates savings by providing better, more coordinated care to the highest cost Medicare beneficiaries with multiple chronic conditions, reducing duplicative and unnecessary services, and avoiding unnecessary hospitalizations and emergency room visits.

SEC. 3. ESTABLISHMENT OF VOLUNTARY INDEPENDENCE AT HOME CHRONIC CARE COORDINATION DEMONSTRATION PROJECT UNDER TRADITIONAL MEDICARE FEE-FOR-SERVICE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by amending subsection (c) of section 1807 (42 U.S.C. 1395b–8) to read as follows:

''(c) INDEPENDENCE AT HOME CHRONIC CARE COORDINATION DEMONSTRATION PROJECT.—A demonstration project for Independence at Home chronic care coordination programs for high cost Medicare beneficiaries with multiple chronic conditions is set forth in section 1807A.''; and

(2) by inserting after section 1807 the following new section:

''INDEPENDENCE AT HOME CHRONIC CARE COORDINATION DEMONSTRATION PROJECT

''SEC. 1807A. (a) IN GENERAL.—

''(1) IMPLEMENTATION.—The Secretary shall, where possible, enter into agreements with at least two unaffiliated Independence at Home organizations, as described in this section, to provide chronic care coordination services for a period of three years in each of the 13 highest cost States and the District of Columbia and in 13 additional States that are representative of other regions of the United States. Such organizations shall have documented experience in furnishing the types of services covered by this section to eligible beneficiaries in non-institutional settings using qualified teams of health care professionals that are directed by Independence at Home physicians or Independence at Home nurse practitioners and that use health information technology and individualized plans of care.

''(2) ELIGIBILITY.—Any organization shall be eligible for an Independence at Home agreement in the developmental phase if it is an Independence at Home organization (as defined in subsection (b)(7)) and has the demonstrated capacity to provide the services covered under this section to the number of eligible beneficiaries specified in subsection (e)(3)(C). No organization shall be prohibited from participating because of its small size as long as it meets the eligibility requirements of this section.

''(3) INDEPENDENT EVALUATION.—The Secretary shall contract for an independent evaluation of the Independence at Home demonstration project under this section with an interim report to be provided after the first year and a final report to be provided after the third year of the project. Such an evaluation shall be conducted by a contractor with knowledge of chronic care coordination programs for the targeted patient population and demonstrated experience in the evaluation of such programs. Each such report shall include an assessment of the following factors and shall identify the characteristics of individual Independence at Home programs that are the most effective:

''(A) Quality improvement measures.

''(B) Beneficiary, caregiver, and provider satisfaction.

''(C) Health outcomes appropriate for patients with multiple chronic conditions.

''(D) Cost savings to the program under this title.

''(4) AGREEMENTS.—The Secretary shall enter into agreements, beginning not later than one year after the date of the enactment of this section, with Independence at Home organizations that meet the participation requirements of this section, including minimum performance standards developed under subsection (e)(3), in order to provide access by eligible beneficiaries to Independence at Home programs under this section.

''(5) REGULATIONS.—At least three months before entering into the first agreement under this section, the Secretary shall publish in the Federal Register the specifications for implementing this section.

''(6) PERIODIC PROGRESS REPORTS.—Semi-annually during the first year in which this section is implemented and annually thereafter during the period of implementation of this section, the Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that describes the progress of implementation of this section and explaining any variation from the Independence at Home program as described in this section.

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

''(1) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' means bathing, dressing, grooming, transferring, feeding, or toileting.

''(2) CAREGIVER.—The term 'caregiver' means, with respect to an individual with a qualifying functional impairment, a family member, friend, or neighbor who provides assistance to the individual.

''(3) ELIGIBLE BENEFICIARY.—

''(A) IN GENERAL.—The term 'eligible beneficiary' means, with respect to an Independence at Home program, an individual who—

''(i) is entitled to benefits under part A and enrolled under part B, but not enrolled in a plan under part C;

''(ii) has a qualifying functional impairment and has been diagnosed with two or more of the chronic conditions described in subparagraph (C); and

''(iii) within the 12 months prior to the individual first enrolling with an Independence at Home program under this section, has received benefits under this title for services described in each of clauses (i), (ii) and (iii) of subparagraph (D).

''(B) DISQUALIFICATIONS.—Such term does not include an individual—

''(i) who is receiving benefits under section 1881;

''(ii) who is enrolled in a PACE program under section 1894;

''(iii) who is enrolled in (and is not disenrolled from) a chronic care improvement program under section 1807;

''(iv) who within the previous year has been a resident for more than 90 days in a skilled nursing facility, a nursing facility (as defined in section 1919), or any other facility identified by the Secretary;

''(v) who resides in a setting that presents a danger to the safety of in-home health care providers and primary caregivers; or

''(vi) whose enrollment in an Independence at Home program the Secretary determines would be inappropriate.

''(C) CHRONIC CONDITIONS DESCRIBED.—The chronic conditions described in this subparagraph are the following:

''(i) Congestive heart failure.

''(ii) Diabetes.

''(iii) Chronic obstructive pulmonary disease.

''(iv) Ischemic heart disease.

''(v) Peripheral arterial disease.

''(vi) Stroke.

''(vii) Alzheimer's Disease and other dementias designated by the Secretary.

''(viii) Pressure ulcers.

''(ix) Hypertension.

''(x) Neurodegenerative diseases designated by the Secretary which result in high costs under this title, including amyotropic lateral sclerosis (ALS), multiple sclerosis, and Parkinson's disease.

''(xi) Any other chronic condition that the Secretary identifies as likely to result in high costs to the program under this title when such condition is present in combination with one or more of the chronic conditions specified in the preceding clauses.

''(D) SERVICES DESCRIBED.—The services described in this subparagraph are the following:

''(i) Non-elective inpatient hospital services.

''(ii) Services in the emergency department of a hospital.

''(iii) Any of the following services:

''(I) Extended care services.

''(II) Services in an acute rehabilitation facility.

''(III) Home health services.

''(4) INDEPENDENCE AT HOME ASSESSMENT.—The term 'Independence at Home assessment' means, with respect to an eligible beneficiary, a comprehensive medical history, physical examination, and assessment of the beneficiary's clinical and functional status that—

''(A) is conducted by—

''(i) an Independence at Home physician or an Independence at Home nurse practitioner;

''(ii) a physician assistant, nurse practitioner, or clinical nurse specialist, as defined in section 1861(aa)(5), who is employed by an Independence at Home organization and is working in collaboration with an Independence at Home physician or Independence at Home nurse practitioner; or

''(iii) any other health care professional that meets such conditions as the Secretary may specify; and

''(B) includes an assessment of—

''(i) activities of daily living and other comorbidities;

''(ii) medications and medication adherence;

''(iii) affect, cognition, executive function, and presence of mental disorders;

''(iv) functional status, including mobility, balance, gait, risk of falling, and sensory function;

''(v) social functioning and social integration;

''(vi) environmental needs and a safety assessment;

''(vii) the ability of the beneficiary's primary caregiver to assist with the beneficiary's care as well as the caregiver's own physical and emotional capacity, education, and training;

''(viii) whether the beneficiary is likely to benefit from an Independence at Home program;

''(ix) whether the conditions in the beneficiary's home or place of residence would permit the safe provision of services in the home or residence, respectively, under an Independence at Home program; and

''(x) other factors determined appropriate by the Secretary.

''(5) INDEPENDENCE AT HOME CARE TEAM.—The term 'Independence at Home care team'—

''(A) means, with respect to a participant, a team of qualified individuals that provides services to the participant as part of an Independence at Home program; and

''(B) includes an Independence at Home physician or an Independence at Home nurse practitioner and an Independence at Home coordinator (who may also be an Independence at Home physician or an Independence at Home nurse practitioner).

''(6) INDEPENDENCE AT HOME COORDINATOR.—The term 'Independence at Home coordinator' means, with respect to a participant, an individual who—

''(A) is employed by an Independence at Home organization and is responsible for coordinating all of the elements of the participant's Independence at Home plan;

''(B) is a licensed health professional, such as a physician, registered nurse, nurse practitioner, clinical nurse specialist, physician assistant, or other health care professional as the Secretary determines appropriate, who has at least one year of experience providing and coordinating medical and related services for individuals in their homes; and

''(C) serves as the primary point of contact responsible for communications with the participant and for facilitating communications with other health care providers under the plan.

''(7) INDEPENDENCE AT HOME ORGANIZATION.—The term 'Independence at Home organization' means a provider of services, a physician or physician group practice, a nurse practitioner or nurse practitioner group practice, or other legal entity which receives payment for services furnished under this title (other than only under this section) and which—

''(A) has entered into an agreement under subsection (a)(2) to provide an Independence at Home program under this section;

''(B)(i) is able to provide all of the elements of the Independence at Home plan in a participant's home or place of residence, or

''(ii) if the organization is not able to provide all such elements in such home or residence, has adequate mechanisms for ensuring the provision of such elements by one or more qualified entities;

''(C) has Independence at Home physicians, clinical nurse specialists, nurse practitioners, or physician assistants available to respond to patient emergencies 24 hours a day, seven days a week;

''(D) accepts all eligible beneficiaries from the organization's service area except to the extent that qualified staff are not available; and

''(E) meets other requirements for such an organization under this section.

''(8) INDEPENDENCE AT HOME PHYSICIAN.—The term 'Independence at Home physician' means a physician who—

''(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the physician to be responsible for the plans of care for the physician's patients;

''(B) is certified—

''(i) by the American Board of Family Physicians, the American Board of Internal Medicine, the American Osteopathic Board of Family Physicians, the American Osteopathic Board of Internal Medicine, the American Board of Emergency Medicine, or the American Board of Physical Medicine and Rehabilitation; or

''(ii) by a Board recognized by the American Board of Medical Specialties and determined by the Secretary to be appropriate for the Independence at Home program;

''(C) has—

''(i) a certification in geriatric medicine as provided by American Board of Medical Specialties; or

''(ii) passed the clinical competency examination of the American Academy of Home Care Physicians and has substantial experience in the delivery of medical care in the home, including at least two years of experience in the management of Medicare patients and one year of experience in home-based medical care including at least 200 house calls; and

''(D) has furnished services during the previous 12 months for which payment is made under this title.

''(9) INDEPENDENCE AT HOME NURSE PRACTITIONER.—The term 'Independence at Home nurse practitioner' means a nurse practitioner who—

''(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the nurse practitioner to be responsible for the plans of care for the nurse practitioner's patients;

''(B) practices in accordance with State law regarding scope of practice for nurse practitioners;

''(C) is certified—

''(i) as a Gerontologic Nurse Practitioner by the American Academy of Nurse Practitioners Certification Program or the American Nurses Credentialing Center; or

''(ii) as a family nurse practitioner or adult nurse practitioner by the American Academy of Nurse Practitioners Certification Board or the American Nurses Credentialing Center and holds a certificate of Added Qualification in gerontology, elder care or care of the older adult provided by the American Academy of Nurse Practitioners, the American Nurses Credentialing Center or a national nurse practitioner certification board deemed by the Secretary to be appropriate for an Independence at Home program; and

''(D) has furnished services during the previous 12 months for which payment is made under this title.

''(10) INDEPENDENCE AT HOME PLAN.—The term 'Independence at Home plan' means a plan established under subsection (d)(2) for a specific participant in an Independence at Home program.

''(11) INDEPENDENCE AT HOME PROGRAM.—The term 'Independence at Home program' means a program described in subsection (d) that is operated by an Independence at Home organization.

''(12) PARTICIPANT.—The term 'participant' means an eligible beneficiary who has voluntarily enrolled in an Independence at Home program.

''(13) QUALIFIED ENTITY.—The term 'qualified entity' means a person or organization that is licensed or otherwise legally permitted to provide the specific element (or elements) of an Independence at Home plan that the entity has agreed to provide.

''(14) QUALIFYING FUNCTIONAL IMPAIRMENT.—The term 'qualifying functional impairment' means an inability to perform, without the assistance of another person, two or more activities of daily living.

''(c) IDENTIFICATION AND ENROLLMENT OF PROSPECTIVE PROGRAM PARTICIPANTS.—

''(1) NOTICE TO ELIGIBLE INDEPENDENCE AT HOME BENEFICIARIES.—The Secretary shall develop a model notice to be made available to Medicare beneficiaries (and to their caregivers) who are potentially eligible for an Independence at Home program by participating providers and by Independence at Home programs. Such notice shall include the following information:

''(A) A description of the potential advantages to the beneficiary participating in an Independence at Home program.

''(B) A description of the eligibility requirements to participate.

''(C) Notice that participation is voluntary.

''(D) A statement that all other Medicare benefits remain available to beneficiaries who enroll in an Independence at Home program.

''(E) Notice that those who enroll in an Independence at Home program may have co-payments for house calls by Independence at Home physicians or by Independence at Home nurse practitioners reduced or eliminated at the discretion of the Independence at Home physician or Independence at Home nurse practitioner involved.

''(F) A description of the services that could potentially be provided under an Independence at Home plan.

''(G) A description of the method for participating, or withdrawing from participation, in an Independence at Home program or becoming no longer eligible to so participate.

''(2) VOLUNTARY PARTICIPATION AND CHOICE.—An eligible beneficiary may participate in an Independence at Home program through enrollment in such program on a voluntary basis and may terminate such participation at any time. Such a beneficiary may also receive Independence at Home services from the Independence at Home organization of the beneficiary's choice but may not receive Independence at Home services

from more than one Independence at Home organization at a time.

''(d) INDEPENDENCE AT HOME PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—Each Independence at Home program shall, for each participant enrolled in the program—

''(A) designate—

''(i) an Independence at Home physician or an Independence at Home nurse practitioner; and

''(ii) an Independence at Home coordinator;

''(B) have a process to ensure that the participant received an Independence at Home assessment before enrollment in the program;

''(C) with the participation of the participant (or the participant's representative or caregiver), an Independence at Home physician or an Independence at Home nurse practitioner, and Independence at Home coordinator, develop an Independence at Home plan for the participant in accordance with paragraph (2);

''(D) ensure that the participant receives an Independence at Home assessment at least annually after the original assessment to ensure that the Independence at Home plan for the participant remains current and appropriate;

''(E) implement all of the elements of the participant's Independence at Home plan and in instances in which the Independence at Home organization does not provide specific elements of the Independence at Home plan, ensure that qualified entities successfully implement those specific elements;

''(F) provide for an electronic medical record and electronic health information technology to coordinate the participant's care and to exchange information with the Medicare program and electronic monitoring and communication technologies and mobile diagnostic and therapeutic technologies as appropriate and accepted by the participant; and

''(G) respect the participant's right to health information privacy and obtain permission from the participant (or responsible person) for the use and disclosure of identifiable health information necessary for treatment, payment, or health care operations.

''(2) INDEPENDENCE AT HOME PLAN.—

''(A) IN GENERAL.—An Independence at Home plan for a participant shall be developed with the participant, an Independence at Home physician or an Independence at Home nurse practitioner, an Independence at Home coordinator, and, if appropriate, one or more of the participant's caregivers and shall—

''(i) document the chronic conditions, comorbidities, and other health needs identified in the participant's Independence at Home assessment;

''(ii) determine which elements of an Independence at Home plan described in subparagraph (C) are appropriate for the participant; and

''(iii) identify the qualified entity responsible for providing each element of such plan.

''(B) COMMUNICATION OF INDIVIDUALIZED INDEPENDENCE AT HOME PLAN TO THE INDEPENDENCE AT HOME COORDINATOR.—If the Independence at Home physician or Independence at Home nurse practitioner responsible for conducting the participant's Independence at Home assessment and developing the Independence at Home plan is not the participant's Independence at Home coordinator, the Independence at Home physician or Independence at Home nurse practitioner is responsible for ensuring that the participant's Independence at Home coordinator has such plan and is familiar with the requirements of the plan and has the appropriate contact information for all of the members of the Independence at Home care team.

''(C) ELEMENTS OF INDEPENDENCE AT HOME PLAN.—An Independence at Home organization shall have the capability to provide, directly or through a qualified entity, and shall offer all of the following elements of an Independence at Home plan to the extent they are appropriate and accepted by a participant:

''(i) Self-care education and preventive care consistent with the participant's condition.

''(ii) Coordination of all medical treatment furnished to the participant, regardless of whether such treatment is covered and available to the participant under this title.

''(iii) Information about, and access to, hospice care.

''(iv) Pain and palliative care and end-of-life care.

''(v) Education for primary caregivers and family members.

''(vi) Caregiver counseling services and information about, and referral to, other caregiver support and health care services in the community.

''(vii) Monitoring and management of medications as well as assistance to participants and their caregivers with respect to selection of a prescription drug plan under part D that best meets the needs of the participant's chronic conditions.

''(viii) Referral to social services, such as personal care, meals, volunteers, and individual and family therapy.

''(ix) Access to phlebotomy and ancillary laboratory and imaging services, including point of care laboratory and imaging diagnostics.

''(3) PRIMARY TREATMENT ROLE WITHIN AN INDEPENDENCE AT HOME CARE TEAM .—An Independence at Home physician or an Independence at Home nurse practitioner may assume the primary treatment role as permitted under State law.

''(4) ADDITIONAL RESPONSIBILITIES.—

''(A) OUTCOMES REPORT.—Each Independence at Home organization offering an Independence at Home program shall monitor and report to the Secretary, in a manner specified by the Secretary, on—

''(i) patient outcomes;

''(ii) beneficiary, caregiver, and provider satisfaction with respect to coordination of the participant's care; and

''(iii) the achievement of mandatory minimum savings described in subsection (e)(6).

''(B) ADDITIONAL REQUIREMENTS.—Each such organization and program shall comply with such additional requirements as the Secretary may specify.

''(e) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—An agreement under this section with an Independence at Home organization shall contain such terms and conditions as the Secretary may specify consistent with this section.

''(2) CLINICAL, QUALITY IMPROVEMENT, AND FINANCIAL REQUIREMENTS.—The Secretary may not enter into an agreement with such an organization under this section for the operation of an Independence at Home program unless—

''(A) the program and organization meet the requirements of subsection (d), minimum quality and performance standards developed under paragraph (3), and such clinical, quality improvement, financial, and other requirements as the Secretary deems to be appropriate for participants to be served; and

''(B) the organization demonstrates to the satisfaction of the Secretary that the organization is able to assume financial risk for performance under the agreement with respect to payments made to the organization under such agreement through available reserves, reinsurance, or withholding of funding provided under this title, or such other means as the Secretary determines appropriate.

''(3) MINIMUM QUALITY AND PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—The Secretary shall develop mandatory minimum quality and performance standards for Independence at Home organizations and programs.

''(B) STANDARDS TO BE INCLUDED.—Such standards shall include measures of—

''(i) participant outcomes;

''(ii) satisfaction of the beneficiary, caregiver, and provider involved; and

''(iii) cost savings consistent with paragraph (6).

''(C) MINIMUM PARTICIPATION STANDARD.—Such standards shall include a requirement that, for any year after the first year, an Independence at Home program had an average number of participants during the previous year of at least 100 participants.

''(4) TERM OF AGREEMENT AND MODIFICATION.—The agreement under this subsection shall be, subject to paragraphs (3)(C) and (5), for a period of three years, and the terms and conditions may be modified during the contract period only upon the request of the Independence at Home organization.

''(5) TERMINATION AND NON-RENEWAL OF AGREEMENT.—

''(A) IN GENERAL.—If the Secretary determines that an Independence at Home organization has failed to meet the minimum performance standards under paragraph (3) or other requirements under this section, the Secretary may terminate the agreement of the organization at the end of the contract year.

''(B) REQUIRED TERMINATION WHERE RISK TO HEALTH OR SAFETY OF A PARTICIPANT.—The Secretary shall terminate an agreement with an Independence at Home organization at any time the Secretary determines that the care being provided by such organization poses a threat to the health and safety of a participant.

''(C) TERMINATION BY INDEPENDENCE AT HOME ORGANIZATIONS.—Notwithstanding any other provision of this subsection, an Independence at Home organization may terminate an agreement with the Secretary under this section to provide an Independence at Home program at the end of a contract year if the organization provides to the Secretary and to the beneficiaries participating in the program notification of such termination more than 90 days before the end of such year. Paragraphs (6), (8), and (9)(B) shall apply to the organization until the date of termination.

''(D) NOTICE OF INVOLUNTARY TERMINATION.—The Secretary shall notify the participants in an Independence at Home program as soon as practicable if a determination is make to terminate an agreement with the Independence at Home organization involuntarily as provided in subparagraphs (A) and (B). Such notice shall inform the beneficiary of any other Independence at Home organizations that might be available to the beneficiary.

''(6) MANDATORY MINIMUM SAVINGS.—

''(A) IN GENERAL.—Under an agreement under this subsection, each Independence at Home organization shall ensure that during any year of the agreement for its Independence at Home program, there is an aggregate savings in the cost to the program under this title for participating beneficiaries, as calculated under subparagraph (B), that is not less than the product of—

''(i) 5 percent of the estimated average monthly costs that would have been incurred under parts A, B, and D if those beneficiaries had not participated in the Independence at Home program; and

''(ii) the number of participant-months for that year.

''(B) COMPUTATION OF AGGREGATE SAVINGS.—

''(i) MODEL FOR CALCULATING SAVINGS.—The Secretary shall contract with a nongovernmental organization or academic institution to independently develop an analytical model for determining whether an Independence at Home program achieves at least savings required under subparagraph (A) relative to costs that would have been incurred by Medicare in the absence of Independence at Home programs. The analytical model developed by the independent research organization for making these determinations shall utilize state-of-the-art econometric techniques, such as Heckman's selection correction methodologies, to account for sample selection bias, omitted variable bias, or problems with endogeneity.

''(ii) APPLICATION OF THE MODEL.—Using the model developed under clause (i), the Secretary shall compare the actual costs to Medicare of beneficiaries participating in an Independence at Home program to the predicted costs to Medicare of such beneficiaries to determine whether an Independence at Home program achieves the savings required under subparagraph (A).

''(iii) REVISIONS OF THE MODEL.—The Secretary shall require that the model developed under clause (i) for determining savings shall be designed according to instructions that will control, or adjust for, inflation as well as risk factors including, age, race, gender, disability status, socioeconomic status, region of country (such as State, county, metropolitan statistical area, or zip code), and such other factors as the Secretary determines to be appropriate, including adjustment for prior health care utilization. The Secretary may add to, modify, or substitute for such adjustment factors if such changes will improve the sensitivity or specificity of the calculation of costs savings.

''(iv) PARTICIPANT-MONTH.—In making the calculation described in subparagraph (A), each month or part of a month in a program year that a beneficiary participates in an Independence at Home program shall be counted as a 'participant-month'.

''(C) NOTICE OF SAVINGS CALCULATION.—No later than 120 days before the beginning of any Independence at Home program year, the Secretary shall publish in the Federal Register a description of the model developed under subparagraph (B)(i) and information for calculating savings required under subparagraph (A), including any revisions, sufficient to permit Independence at Home organizations to determine the savings they will be required to achieve during the program year to meet the savings requirement under such subparagraph. In order to facilitate this notice, the Secretary may designate a single annual date for the beginning of all Independence at Home program years that shall not be later than one year from the date of enactment of this section.

''(7) MANNER OF PAYMENT.—Subject to paragraph (8), payments shall be made by the Secretary to an Independence at Home organization at a rate negotiated between the Secretary and the organization under the agreement for—

''(A) Independence at Home assessments; and

''(B) on a per-participant, per-month basis for the items and services required to be provided or made available under subsection (d).

''(8) ENSURING MANDATORY MINIMUM SAVINGS.—The Secretary shall require any Independence at Home organization that fails in any year to achieve the mandatory minimum savings described in paragraph (6) to provide those savings by refunding payments made to the organization under paragraph (7) during such year.

''(9) BUDGET NEUTRAL PAYMENT CONDITION.—

''(A) IN GENERAL.—Under this section, the Secretary shall ensure that the cumulative, aggregate sum of Medicare program benefit expenditures under parts A, B, and D for participants in Independence at Home programs and funds paid to Independence at Home organizations under this section, shall not exceed the Medicare program benefit expenditures under such parts that the Secretary estimates would have been made for such participants in the absence of such programs.

''(B) TREATMENT OF SAVINGS.—If an Independence at Home organization achieves aggregate savings in a year in excess of the mandatory minimum savings described in paragraph (6), 80 percent of such aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title.

''(f) WAIVER OF COINSURANCE FOR HOUSE CALLS.—A physician or nurse practitioner furnishing services in the home or residence of a participant in an Independence at Home program may waive collection of any coinsurance that might otherwise be payable under section 1833(a) with respect to such services.

''(g) REPORT.—Not later than one year after the end of the Independence at Home demonstration project under this section, the Secretary shall submit to Congress a report on such project. Such report shall include information on—

''(1) whether Independence at Home programs under the project met the performance standards for beneficiary, caregiver, and provider satisfaction; and

''(2) participant outcomes and cost savings, as well as the characteristics of the programs that were most effective and whether the participant eligibility criteria identified beneficiaries who were in the top ten percent of the highest cost Medicare beneficiaries.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended, in the matter before paragraph (1), by inserting ''and section 1807A(f)'' after ''section 1876''.

(2) Section 1128B(b)(3) of such Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (G);

(B) by striking ''1853(a)(4).'' at the end of the first subparagraph (H) and inserting ''1853(a)(4);'';

(C) by redesignating the second subparagraph (H) as subparagraph (I) and by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following new subparagraph:

''(J) a waiver of coinsurance under section 1807A(f).''.

By Mr. CASEY:

S. 3614. A bill to require semiannual indexing of mandatory Federal food assistance programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CASEY. Mr. President, I rise today to talk about an issue that, in the midst of this devastating economic crisis, continues to plague more and more Americans every day—hunger. Although hunger in this country may not be as obvious as it is in other nations, it nonetheless exists and has devastating consequences for those it affects. It weakens the body, making it more susceptible to illness. It impedes child development and reduces a child's ability to learn. It saps valuable energy, resulting in lowered productivity and less earning potential. In short, hunger has a devastating effect on those it touches.

In 2006 alone, the United States Department of Agriculture, USDA, reported that 35.5 million Americans did not have enough money or resources to get food for at least some period during the year. This figure was an increase of 400,000 over 2005 and an increase of 2.3 million since 2000. And, with the fragile state of our economy, we can only assume that when the figures for 2007 and 2008 are released, the number of Americans living with hunger will be even greater.

Unfortunately, for these millions of Americans facing hunger, the ability to afford the food they so desperately need has not become any easier over the past year. According to the Department of Labor, the cost of food at home rose 7.1 percent from July 2007 to July 2008. But, for the nearly 28 million Americans receiving food stamps, the effects of food price inflation during that time period were even more devastating. From July 2007 to July 2008, the cost of the ''Thrifty Food Plan''—the Government's estimate of what constitutes a nutritious, minimal cost meal plan—rose by 10 percent. As a result, the benefits currently provided to food stamp participants are not enough to even cover the cost of this minimally adequate diet.

Each summer, the United States Department of Agriculture sets new food stamp benefit levels based on the average of the previous year's food price inflation. However, these new benefit levels are not implemented until the first day of October each year, by which time they already lag behind current prices. For instance, when updated food stamp benefit levels were provided to an average family of four in October 2007, they were already lagging $12.20 behind the monthly cost of the Thrifty Food Plan. By July of this year, that same family of four was receiving $56 per month less than they needed to afford the cost of this minimal diet. for such low-income families, already facing rising home energy and transportation costs, and having non-negotiable expenditures like rent or mortgage payments and child care expenses needing to be paid, food purchases are often the only area of the monthly budget where cuts can be made.

But, food price inflation is not only affecting the price families are paying for food at home. It is also affecting the prices schools are paying for foods provided through child nutrition programs like school breakfasts, lunches, and after-school snack programs. While the Federal Government does reimburse schools for the costs of providing these programs to children from low-income families, with ever rising food prices, these reimbursements are not enough to cover the expenses of providing these meals.

Like food stamps, school meal reimbursement rates are updated every

summer to account for inflation. But, by the time the school year begins, these reimbursements already lag behind the true cost of producing the meal. In fact, a recent survey by the School Nutrition Association found that 88 percent of responding school districts indicated that Federal reimbursement rates were not sufficient to cover the costs of producing a meal during the 2007/08 school year. As a result, 73 percent of these school districts said they plan to increase the price other students pay for food services in this coming school year to make up for the increased costs.

Congress can and must do more to ensure that Federal nutrition assistance programs can adequately cover the costs of food for those most in need. That's why today I'm pleased to introduce the National Hunger Relief Act of 2008. This act will make critical changes needed to help low-income families and schools cover the costs of purchasing healthy, nutritious foods.

Under this act, when setting benefit levels for food stamps, Congress would anticipate the food price inflation that will occur in the coming fiscal year, and would act to offset it by setting a higher benefit rate for October 1 than is currently provided. Beginning in fiscal year 2010, recipients would receive 102 percent of the cost of the Thrifty Food Plan in the previous June. By fiscal year 2012, this benefit rate would be ramped up to 103 percent of the cost of the Thrifty Food Plan in the previous June. This change would be consistent with the way food stamp benefits were regularly adjusted for food price inflation for many years prior to 1996. By providing this higher benefit rate, food stamp benefits would be adequate to meet rising food prices over the course of the following year. As a result, low-income families participating in the food stamp program would have the necessary resources to purchase the foods their families need and be able to ensure that their families do not suffer from the adverse effects of hunger.

To solve the problem of inadequate reimbursement rates for certain child nutrition programs, this bill would provide for semi-annual reimbursement rate adjustments. In addition to the current annual update in July to reimbursement rates for school meal programs, reimbursement rates would also be adjusted for inflation each January. As a result of this change, reimbursement rates for the National School Lunch and Breakfast Programs, the Special Milk Program, the Child and Adult Day Care Program, and the Summer Food Service Program would more accurately reflect the costs that schools or service providers incur to provide foods through these programs. This, in turn, would help to keep the prices charged for foods provided to other children at schools more in line with the costs of procuring and providing those foods.

I am introducing this legislation today because it is critically important to begin the dialogue on finding ways to ensure that our nutrition assistance programs can continue to prevent hunger by providing necessary nourishment to Americans of all ages. However, I also recognize that we have a challenge to ensure that these nutrition assistance programs can operate in the most efficient and cost-effective manner possible while adequately serving the more than 35.5 million Americans who continue to be plagued by the threat of hunger. Over the coming months, as we continue to work on ways to eradicate hunger in this Nation and begin to consider the reauthorization of the Child Nutrition Act, I will continue seeking out ways to make reforms to this and other nutrition assistance legislation to ensure that—at the end of the day—these programs can continue to effectively reach those most in need.

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. 3614

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 Hunger Relief Act of 2008''.

SEC. 2. NUTRITION PROGRAMS.

(a) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—Section 3(u) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(u)) is amended—

(1) by striking ''(u) 'Thrifty food plan' means'' and inserting the following:

''(u) THRIFTY FOOD PLAN.—

''(1) IN GENERAL.—The term 'thrifty food plan' means'';

(2) in the second sentence—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(B) by striking ''The cost of such diet'' and inserting the following:

''(2) ADJUSTMENTS.—The cost of the diet described in paragraph (1)''; and

(C) by striking subparagraph (D) (as redesignated by subparagraph (A)) and inserting the following:

''(D)(i) on October 1, 2009, adjust the cost of the diet to reflect 102 percent of the cost of the diet in the preceding June, and round the result to the nearest higher dollar increment for each household size, except that the Secretary may not reduce the cost of the diet below that in effect during the immediately preceding fiscal year;

''(ii) on October 1, 2010, adjust the cost of the diet to reflect 102.5 percent of the cost of the diet in the preceding June, and round the result to the nearest higher dollar increment for each household size, except that the Secretary may not reduce the cost of the diet below that in effect during the immediately preceding fiscal year; and

''(iii) on October 1, 2011, and each October 1 thereafter, adjust the cost of the diet to reflect 103 percent of the cost of the diet in the preceding June, and round the result to the nearest higher dollar increment for each household size, except that the Secretary may not reduce the cost of the diet below that in effect during the immediately preceding fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking ''3(u)(4)'' and inserting ''3(u)(2)''.

(2) Section 27(a)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)(2)(C)) is amended by striking ''3(u)(4)'' and inserting ''3(u)(2)''.

SEC. 3. SCHOOL MEALS.

(a) COMMODITIES.—Section 6(c)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)(1)) is amended—

(1) in subparagraph (A), by striking ''on July 1, 1982, and each July 1 thereafter'' and inserting ''in accordance with subparagraph (B)''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) ADJUSTMENT.—The Secretary shall—

''(i) on each January 1, increase the value of food assistance for each meal by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for September, October, and November each year;

''(ii) on each July 1, increase the value of food assistance for each meal by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year; and

''(iii) round the result of each increase to the nearest higher ¼ cent.''.

(b) OVERALL ADJUSTMENT.—Section 11(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)) is amended—

(1) in paragraph (2), by striking ''98.75 cents'' and inserting ''the amount computed under paragraph (3)''; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter before clause (i), by striking ''July 1, 1982, and on each subsequent July 1, an annual adjustment'' and inserting ''each January 1 and July 1, a semiannual increase''; and

(ii) in clause (ii), by striking ''(as established under paragraph (2) of this subsection)'';

(B) in subparagraph (B)—

(i) in clause (i), by striking ''annual adjustment'' and inserting ''semiannual increase'';

(ii) in clause (ii)—

(I) by striking ''annual adjustment'' and inserting ''semiannual increase''; and

(II) by striking ''12-month period'' and inserting ''6-month period''; and

(iii) by striking clause (iii) and inserting the following:

''(iii) ROUNDING.—On each January 1 and July 1, the national average payment rates for meals and supplements shall be—

''(I) increased to the nearest higher cent; and

''(II) based on the unrounded amount previously in effect.''.

(c) PAYMENTS TO SERVICE INSTITUTIONS.—Section 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) ADJUSTMENTS.—The Secretary shall—

''(i) on each January 1, increase each amount specified in subparagraph (A) as adjusted through the preceding July 1 to reflect changes for the 6-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor;

''(ii) on each July 1, increase each amount specified in subparagraph (A) as adjusted through the preceding January 1 to reflect changes for the 6-month period ending the preceding May 31 in the series for food away

from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor;

''(iii) base each increase on the unrounded amount previously in effect; and

''(iv) round each increase described in clauses (i) and (ii) to the nearest higher cent increment.''.

(d) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(1) TIER I.—Section 17(f)(3)(A)(ii)(IV) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(A)(ii)(IV)) is amended by striking subclause (IV) and inserting the following:

''(IV) ADJUSTMENTS.—On each July 1 and January 1, the Secretary shall—

''(aa) increase each reimbursement factor under this subparagraph to reflect the changes in the Consumer Price Index for food at home for the most recent 6-month period for which the data are available;

''(bb) base each increase on the unrounded amount previously in effect; and

''(cc) round each increase described in item (aa) to the nearest higher cent increment.''.

(2) TIER II.—Section 17(f)(3)(A)(iii)(I) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(A)(iii)(I)) is amended by striking item (bb) and inserting the following:

''(bb) ADJUSTMENTS.—On each July 1 and January 1, the Secretary shall increase the reimbursement factors to reflect the changes in the Consumer Price Index for food at home for the most recent 6-month period for which the data are available, base the increases on the unrounded amount previously in effect, and round the increases to the nearest higher cent increment.''.

(e) SPECIAL MILK PROGRAM.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) by striking paragraph (7) and inserting the following:

''(7) MINIMUM RATE OF REIMBURSEMENT.—For each school year, the minimum rate of reimbursement for a ½ pint of milk served in schools and other eligible institutions shall be not less than minimum rate of reimbursement in effect on September 30, 2008, as increased on a semiannual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.''; and

(2) in paragraph (8), by inserting ''higher'' after ''nearest''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2008.

By Ms. COLLINS (for herself and Mrs. FEINSTEIN):

S. 3618. A bi11 to establish a research, development, demonstration, and commercial application program to promote research of appropriate technologies for heavy duty plug-in hybrid vehicles, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. COLLINS. Mr. President, today I am introducing the Heavy Duty Hybrid Vehicle Research, Development, and Demonstration Act, along with my colleague from California, Senator FEINSTEIN. This bill will accelerate research of plug-in hybrid technologies for heavy duty trucks.

The Department of Energy, DOE, administers several grants to speed production of hybrid cars, but DOE does not have a single grant specifically intended for trucks. Truck operators in Maine and around the country are being hit hard by high diesel prices. In 1999, a Maine truck driver could purchase $500 of diesel fuel and drive from Augusta, ME, all the way to Albuquerque, NM. Today, a driver who purchases $500 of diesel and leaves Augusta would not even make it to Altoona, PA, and because diesel prices may well continue to increase, the problem is only getting worse. Plug-in hybrid trucks would make them less susceptible to dramatic swings in oil prices.

Industries turn their trucks over faster than consumers do their cars and can therefore adopt new technologies faster. This means reducing oil consumption by heavy duty trucks could go a long way toward reduce our Nation's oil consumption. DOE's National Renewable Energy Laboratory estimates that hybrid trucks could reduce fuel use by as much as 60 percent.

Current hybrid technology works well for cars because they can be made with lightweight materials and run shorter distances. Trucks need to be able to carry heavy loads and, if they are going to be plug-in hybrids, travel long distances in between charges. So, the battery and other technologies needed to make plug-in trucks a reality are more advanced than for cars.

The Heavy Duty Hybrid Vehicle Research, Development, and Demonstration Act would direct DOE to expand its research in advanced energy storage technologies to include heavy hybrid trucks as well as passenger vehicles. The focus on plug-ins builds on a proven technology for cars that can drastically reduce our use of foreign oil and enhance the efficiency of the electric grid.

Grant recipients will be required to complete two phases. In phase one, recipients must build one plug-in hybrid truck, collect data and make comparisons to traditional trucks, and report on the fuel savings. In phase two, recipients must produce 50 plug-in hybrid trucks and report on the technological and market obstacles to widespread production. To help with this second phase, grant applicants can partner with other manufacturers. The bill authorizes $16 million for each of fiscal years 2009–2011 for the grant program.

We need a comprehensive approach to addressing the energy crisis. The Heavy Duty Hybrid Vehicle Research, Development, and Demonstration Act is one vital piece of that approach. I urge my colleagues to support this important legislation.

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

S. 3619. A bill to establish the Susquehana Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today to introduce legislation that would establish the Susquehanna Gateway National Heritage Area in York and Lancaster Counties, Pennsylvania. Since 1984, Congressionally-designated National Heritage Areas have fostered partnerships between the public and private sectors for undertaking preservation, educational, and recreational initiatives in diverse regions throughout the country. Through these efforts, National Heritage Areas have helped to protect our Nation's natural and cultural resources while promoting local economic development. Today, I am proud to join my colleague from Pennsylvania Senator ARLEN SPECTER to propose a bill that would grant national recognition to the Susquehanna Gateway region, an area that has played a key role in the development of our nation's cultural, political, and economic identity.

While the region boasts an impressive catalogue of historic and scenic resources, perhaps two examples in particular best underscore how the distinct traditions and natural landscape of the Susquehanna Gateway offer an insight into the broader American experience. For centuries, the Susquehanna River, which forms a natural border between Pennsylvania's York and Lancaster Counties and represents the heart of the proposed National Heritage Area, has been at the center of agricultural, industrial, and recreational activity in the Mid-Atlantic United States. The river provided colonial settlers with a trading route to Native American communities. It was an important shipping lane for timber, iron, coal, and agricultural products throughout the nineteenth century and into the twentieth century. With the decline of industry and commercial shipping in the region, the river today has assumed a new identity as a center of recreation for millions of boaters, fishermen, hunters, birders, and others. In tracing these developments, we recognize that the story of the Susquehanna River Valley reflects much of the American story. Passing the Susquehanna Gateway National Heritage Area Act will allow more Americans to discover and better appreciate this narrative.

No less than in this tremendous natural resource, the Susquehanna Gateway region's national significance is rooted in its populace. As the Commonwealth of Pennsylvania was founded in the spirit of providing refuge to those suffering religious and cultural persecution, so did York and Lancaster Counties offer a home to German Baptist immigrants who created Amish and Mennonite farming communities. By their example of humility, hard work, environmental stewardship, and respect for others, these ''Plain'' people continue to inspire millions of Americans. Designating the Susquehanna Gateway National Heritage Area is the proper way to acknowledge their contributions to the story of American agriculture and its transformative influence on the natural landscape.

Finally, I would like to recognize the leadership of Mark Platts, President of the Lancaster-York Heritage Region, and his colleague Jonathan Pinkerton, Deputy Director. Through their tireless efforts, they have developed a feasibility study for the Susquehanna Gateway National Heritage Area that meets the National Parks Service's ten interim criteria for designation of a National Heritage Area. I look forward to working with my colleagues in the Senate to pass the Susquehanna Gateway National Heritage Area Act soon so that the region can begin to play a national role in sharing America's story.

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. 3619

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 ''Susquehanna Gateway National Heritage Area Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) numerous sites of significance to the heritage of the United States are located within the boundaries of the proposed Susquehanna Gateway National Heritage Area, which includes the Lower Susquehanna River corridor and all of Lancaster and York Counties in the State of Pennsylvania;

(2) included among the more than 200 historically significant sites, structures, districts, and tours in the area are—

(A) the home of a former United States President;

(B) the community where the Continental Congress adopted the Articles of Confederation;

(C) the homes of many prominent figures in the history of the United States;

(D) the preserved agricultural landscape of the Plain communities of Lancaster County, Pennsylvania;

(E) the exceptional beauty and rich cultural resources of the Susquehanna River Gorge;

(F) numerous National Historic Landmarks, National Historic Districts, and Main Street communities; and

(G) many thriving examples of the nationally significant industrial and agricultural heritage of the region, which are collectively and individually of significance to the history of the United States;

(3) in 1999, a regional, collaborative public-private partnership of organizations and agencies began an initiative to assess historic sites in Lancaster and York Counties, Pennsylvania, for consideration as a Pennsylvania Heritage Area;

(4) the initiative—

(A) issued a feasibility study of significant stories, sites, and structures associated with Native American, African American, European American, Colonial American, Revolutionary, and Civil War history; and

(B) concluded that the sites and area—

(i) possess historical, cultural, and architectural values of significance to the United States; and

(ii) retain a high degree of historical integrity;

(5) in 2001, the feasibility study was followed by development of a management action plan and designation of the area by the State of Pennsylvania as an official Pennsylvania Heritage Area;

(6) in 2008, a feasibility study report for the Heritage Area—

(A) was prepared and submitted to the National Park Service—

(i) to document the significance of the area to the United States; and

(ii) to demonstrate compliance with the interim criteria of the National Park Service for National Heritage Area designation; and

(B) found that throughout the history of the United States, Lancaster and York Counties and the Susquehanna Gateway region have played a key role in the development of the political, cultural, and economic identity of the United States;

(7) the people of the region in which the Heritage Area is located have—

(A) advanced the cause of freedom; and

(B) shared their agricultural bounty and industrial ingenuity with the world;

(8) the town and country landscapes and natural wonders of the area are visited and treasured by people from across the globe;

(9) for centuries, the Susquehanna River has been an important corridor of culture and commerce for the United States, playing key roles as a major fishery, transportation artery, power generator, and place for outdoor recreation;

(10) the river and the region were a gateway to the early settlement of the ever-moving frontier;

(11) the area played a critical role as host to the Colonial government during a turning point in the Revolutionary War;

(12) the rural landscape created by the Amish and other Plain people of the region is of a scale and scope that is rare, if not entirely unknown in any other region, in the United States;

(13) for many people in the United States, the Plain people of the region personify the virtues of faith, honesty, community, and stewardship at the heart of the identity of the United States;

(14) the regional stories of people, land, and waterways in the area are essential parts of the story of the United States and exemplify the qualities inherent in a National Heritage Area;

(15) in 2008, the National Park Service found, based on a comprehensive review of the Susquehanna Gateway National Heritage Area Feasibility Study Report, that the area meets the 10 interim criteria of the National Park Service for designation of a National Heritage Area;

(16) the preservation and interpretation of the sites within the Heritage Area will make a vital contribution to the understanding of the development and heritage of the United States for the education and benefit of present and future generations;

(17) the Secretary of the Interior is responsible for protecting the historic and cultural resources of the United States;

(18) there are significant examples of historic and cultural resources within the Heritage Area that merit the involvement of the Federal Government, in cooperation with the management entity and State and local governmental bodies, to develop programs and projects to adequately conserve, support, protect, and interpret the heritage of the area;

(19) partnerships between the Federal Government, State and local governments, regional entities, the private sector, and citizens of the area offer the most effective opportunities for the enhancement and management of the historic sites throughout the Heritage Area to promote the cultural and historic attractions of the Heritage Area for visitors and the local economy; and

(20) the Lancaster-York Heritage Region, a 501(c)(3) nonprofit corporation and State-designated management entity of the Pennsylvania Heritage Area, would be an appropriate management entity for the Heritage Area.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Susquehanna Gateway National Heritage Area established by section 4(a).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by section 5(a).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the management entity under section 6(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Pennsylvania.

SEC. 4. ESTABLISHMENT OF SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA.

(a) IN GENERAL.—There is established in the State the Susquehanna Gateway National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include a core area located in south-central Pennsylvania consisting of an 1869-square-mile region east and west of the Susquehanna River and encompassing Lancaster and York Counties.

(c) MAP.—A map of the Heritage Area shall be—

(1) included in the management plan; and

(2) on file in the appropriate offices of the National Park Service.

SEC. 5. DESIGNATION OF MANAGEMENT ENTITY.

(a) MANAGEMENT ENTITY.—The Lancaster-York Heritage Region shall be the management entity for the Heritage Area.

(b) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan, use Federal funds made available under this Act—

(1) to prepare reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the Heritage Area;

(2) to pay for operational expenses of the management entity;

(3) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(4) to enter into cooperative agreements with the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(5) to hire and compensate staff;

(6) to obtain funds or services from any source, including funds and services provided under any other Federal program or law; and

(7) to contract for goods and services.

(c) DUTIES OF MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare a management plan for the Heritage Area in accordance with section 6;

(2) give priority to the implementation of actions, goals, and strategies set forth in the management plan, including assisting units of government and other persons in—

(A) carrying out programs and projects that recognize and protect important resource values in the Heritage Area;

(B) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(C) establishing and maintaining interpretive exhibits in the Heritage Area;

(D) developing heritage-based recreational and educational opportunities for residents and visitors in the Heritage Area;

(E) increasing public awareness of and appreciation for the natural, historic, and cultural resources of the Heritage Area;

(F) restoring historic buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area; and

(G) installing throughout the Heritage Area clear, consistent, and appropriate signs identifying public access points and sites of interest;

(3) consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the Heritage Area in developing and implementing the management plan;

(4) conduct public meetings at least semiannually regarding the development and implementation of the management plan; and

(5) for any fiscal year for which Federal funds are received under this Act—

(A) submit to the Secretary an annual report that describes—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) the entities to which the management entity made any grants;

(B) make available for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records relating to the expenditure of the Federal funds.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or any interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes, including the acquisition of real property or any interest in real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the management entity shall prepare and submit to the Secretary a management plan for the Heritage Area.

(b) CONTENTS.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies, and recommendations for the conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(4) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; and

(5) include an analysis of, and recommendations for, ways in which Federal, State, and local programs, may best be coordinated to further the purposes of this Act, including recommendations for the role of the National Park Service in the Heritage Area.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this Act, the management entity may not receive additional funding under this Act until the date on which the Secretary receives the proposed management plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date on which the management entity submits the management plan to the Secretary, the Secretary shall approve or disapprove the proposed management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has provided adequate opportunities (including public meetings) for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials, the cooperation of which is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) DISAPPROVAL AND REVISIONS.—

(A) IN GENERAL.—If the Secretary disapproves a proposed management plan, the Secretary shall—

(i) advise the management entity, in writing, of the reasons for the disapproval; and

(ii) make recommendations for revision of the proposed management plan.

(B) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a revised management plan not later than 180 days after the date on which the revised management plan is submitted.

(e) APPROVAL OF AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve or disapprove substantial amendments to the management plan in accordance with subsection (d).

(2) FUNDING.—Funds appropriated under this Act may not be expended to implement any changes made by an amendment to the management plan until the Secretary approves the amendment.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity to the extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to the management entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the management entity with respect to—

(A) accomplishing the purposes of this Act for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried

out using funds made available under this Act shall be not more than 50 percent.

SEC. 11. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

Mr. SPECTER. Mr. President, I have sought recognition to thank my colleague and fellow Senator from Pennsylvania, BOB CASEY, for introducing a bill designating the Susquehanna Gateway National Heritage Area. I am pleased to be an original cosponsor of this legislation.

National heritage areas are designated by Congress and recognized by the National Park Service for their natural, cultural, and historic significance. The proposed National Heritage Area is currently a State heritage area known as the Lancaster-York Heritage Region and meets the criteria for national designation.

This region of southern Pennsylvania encompasses Lancaster and York counties and the portion of the Susquehanna River that connects the two counties. This area is home to numerous nature and wildlife preserves, State and local parks, trail systems and conservation areas, which celebrate and utilize the natural resources of the Susquehanna River and surrounding rural landscape. Both Lancaster and York counties have demonstrated a strong commitment to maintaining the open space and agricultural heritage for which this area of Pennsylvania is known throughout the State and country.

This region is perhaps most renowned and culturally distinctive for the Amish and Mennonite communities that have made Lancaster County their home for hundreds of years. Pennsylvania has the largest Amish population in the world, and Lancaster County has one of the largest Old Order Amish communities. The Old Order Amish have retained a traditional way of life and have resisted the incorporation of modern technology into their society. Visitors to Amish Country have a unique opportunity to observe how the world looked and people behaved hundreds of years ago.

This area is also rich in historical significance. Among the sites located in Lancaster and York counties that tell the story of our Nation's history is the home of James Buchanan, the only President from Pennsylvania, and the location where the Continental Congress adopted the Articles of Confederation. Scattered throughout the two counties are centuries-old churches, train stations, homes, and other structures, many of which played important roles in history including stops on the Underground Railroad and sites visited by President Lincoln on his way to Gettysburg to deliver the Gettysburg Address.

This region is defined by the natural, cultural, and historical qualities that most certainly qualify it for National Heritage Area designation. I have been contacted by all six county commissioners, other local public officials, chambers of commerce, large corporations, small businesses, historical societies, preservation advocacy groups and others, urging congressional designation of the Susquehanna Gateway National Heritage Area. Additionally, I am informed that National Park Service Northeast Regional Director Dennis Reidenbach has stated that this region meets Park Service standards for recognition as a national heritage area. Accordingly, I again thank Senator CASEY and urge my colleagues to support this bill.

By Mrs. LINCOLN (for herself, Mr. SMITH, and Mr. PRYOR):

S. 3620. A bill to amend the Social Security Act to enable States to carry out quality initiatives, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today with my colleague, Senator BLANCHE LINCOLN to introduce a very important bill for our Nation's working families, the Child Care Investment Act of 2008. Throughout our Nation, so many families today are struggling to provide for their families. One important action we can take to support working parents is to help ensure that their children are taken care of in safe and affordable childcare, and, most importantly, that this childcare is available to them. Unfortunately, we know that so many families are not able to access childcare, much less childcare that is high quality. This leads some to leave their children with unqualified caregivers, and, too often, in a dangerous situation.

Because families were facing such dire shortages of affordable child care, Congress developed the Child Care and Development Block Grant Act of 1990 that founded the CCDBG program. Since that time, this program has benefited low-income families by providing them with the help they need to remain employed, care for their children and have the peace of mind that their children are being well cared for. However, much more can be done to support and increase the funding for this important program. Recently, the National Association of Child Care Resource and Referral Agencies, NACCRRA, released a report on the cost of child care for parents in our Nation.Their findings were startling and further underline the call to action that Senator LINCOLN and I feel is necessary for working parents. The NACCRRA report says that the cost of child care is rising at nearly twice the rate of inflation in most states. In fact, my home state of Oregon is the ninth least affordable state for infant care in a child care center. They found that in Oregon, on average, nearly 46 percent of a single parent's salary goes towards child care for an infant. This study also found that in every region of our Nation, child care costs more than food.

During difficult economic times, the resources of families in our Nation become even more stretched. Decisions are often made within family budgets and sacrifices are made during times of lean. However, we owe it to our Nation's children to ensure that they are safe and cared for by responsible care providers while their parents work. Low-income parents should not be placed in a situation when they have to choose between their job and the safety of their children.

The bill that Senator LINCOLN and I are introducing today will work to ensure more quality children care is available as the cost of this care increase and family budgets are squeezed. This bill will increase funding for the CCDBG program from $2.9 billion to $4 billion. It will also incorporate new quality goals for States to ensure quality care is given to our Nation's children.

I thank Senator LINCOLN for her continuing commitment to this issue and to children in our Nation and ask my colleagues for their support of this legislation and quick passage.

By Mr. DURBIN (for himself, Mr. LEVIN, and Mr. BROWN):

S. 3622. A bill to establish a grant program to promote the conservation of the Great Lakes and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, today I am introducing the Great Lakes Conservation Education Act.

From orbit in space, the Great Lakes are the most recognizable feature of the North American landscape. And no wonder. The Great Lakes are the largest single source of fresh surface water in the world. They hold 90 percent of America's fresh surface water. They hold 20 percent of the world's fresh surface water.

Forty-two million people call the Great Lakes basin home and rely on it for clean, safe water.

What is not evident from space, though, is the trash and other debris that litter the shorelines of the Great Lakes. Debris, in fact, is one of the most pervasive pollution problems affecting America's waterways. Debris detracts from the beauty of our Nation's coasts, threatens freshwater life, poses public health and safety concerns, and interferes with commercial and recreational boats and ships.

Over the weekend, I participated in the Adopt-a-Beach clean-up on Lake Michigan. We started at Montrose Beach, stopped at both North Ave. and the 12th Street Beaches, and worked our way down to the 57th Street Beach. It was heartening to meet so many people who are committed to cleaning up the lake.

The Adopt-a-Beach program is one volunteer effort to clean up the beaches of the Great Lakes and increase public awareness of the seriousness of the litter problem. The program is run by the Alliance for the Great Lakes, a group dedicated to the conservation and restoration of this national treasure.

Adopt-a-Beach began in Illinois in 2002 and has quickly spread to neighboring states. It is a year-round program, but its chief event is a beach clean-up day each September, coordinated with the Ocean Conservancy's annual International Coastal Clean-up.

Citizens, organizations, and businesses are working together on efforts to restore the Great Lakes shorelines clean. We need to expand on these efforts and educate people throughout the Great Lakes about how they can help to cleanup and restore the lakes.

That is why I am introducing the Great Lakes Conservation Education Act. This bill would authorize a new program within the Department of Commerce to provide funding for nongovernmental organizations, museums, school, consortiums, and others to support conservation education and outreach programs to restore the Great Lakes.

I am looking forward to working with my colleagues to make this program a reality. We have a long way to go to restore the lakes and this legislation will make it possible for organizations through out the Great Lakes to educate students, teachers, and the general public about the steps they can take to improve the lakes.

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. 3622

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 ''Great Lakes Conservation Education Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish a competitive grant program to increase knowledge about, raise awareness of, and educate the public on the importance of conservation of the Great Lakes in order to improve the overall health of the Great Lakes.

SEC. 3. GREAT LAKES EDUCATION GRANTS.

(a) AUTHORITY TO AWARD.—The Secretary of Commerce is authorized to award grants to eligible entities to carry out eligible activities.

(b) ELIGIBLE ENTITY DEFINED.—In this Act, the term ''eligible entity'' means an educational entity or a nonprofit nongovernmental organization, consortium, or other entity that the Secretary of Commerce finds has a demonstrated record of success in carrying out conservation education or outreach programs.

(c) ELIGIBLE ACTIVITY DEFINED.—In this Act, the term ''eligible activity'' means an activity carried out in a State, or across multiple States, that is adjacent to one of the Great Lakes that provides hands-on or real world experiences to increase knowledge about, raise awareness of, or provide education regarding the importance of conservation of the Great Lakes and on actions individuals can take to promote such conservation, including—

(1) educational activities for students that are consistent with elementary and secondary learning standards established by a State;

(2) professional development activities for educators;

(3) Great Lakes conservation activities that have been identified by a State and adjacent States as a regional priority; or

(4) Great Lakes stewardship and place-based education activities.

(d) USE OF SUBCONTRACTORS.—An eligible entity awarded a grant under subsection (a) to carry out an eligible activity may utilize subcontractors to carry out such activity.

SEC. 4. REPORTS.

(a) REPORTS FROM GRANTEES.—The Secretary of Commerce may require an eligible entity awarded a grant under section 3(a) to submit to the Secretary a report describing each activity that was carried out with the grant funds. The Secretary may require such report to include information on any subcontractor utilized by the eligible entity to carry out an activity.

(b) REPORTS FROM THE SECRETARY.—Not later than December 31, 2010, and once every 3 years thereafter, the Secretary of Commerce shall submit to Congress a report on the grant program authorized by section 3(a). Each such report shall include a description—

(1) of the eligible activities carried out with grants awarded under section 3(a) during the previous fiscal year and an assessment of the success of such activities;

(2) of the type of education and outreach programs carried out with such grants, disaggregated by State; and

(3) of the number of schools, and schools reached through a formal partnership with an eligible entity awarded such a grant, involved in carrying out such programs.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $15,000,000 for each fiscal year to carry out this Act.

By Mr. LIEBERMAN (for himself and Ms. COLLINS): . 3623. A bill to authorize appropriations for the Department of Homeland Security for fiscal years 2008 and 2009, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce a bill to authorize appropriations for the Department of Homeland Security—the first comprehensive DHS authorization bill introduced in the Senate in the 5-year history of this agency created in response to the attacks of 9/11.

This bipartisan bill is cosponsored by my friend and colleague, ranking member Senator SUSAN COLLINS, who has long been one of the Senate's great leaders in our efforts to make our nation more secure.

I understand there is not time in this session for full consideration and passage of this legislation but we offer it as a blueprint for the next administration and the 111th Congress outlining key areas of improvement we think can make DHS more efficient and effective in its mission to safeguard our homeland.

Before I offer more detail on this bill, I would like to briefly review the history of the Department that has brought us to where we are today.

The attacks of 9/11 made it clear that oceans are no longer a defense against those who mean to harm our Nation. After a series of hearings, the Homeland Security and Governmental Affairs Committee proposed legislation pulling more than 22 different agencies responsible for different areas of homeland defense into one Department whose overarching mission was the protection of the American people.

Success was not guaranteed. The administration and many in Congress at first opposed the creation of a Department of Homeland Security. But we persevered in our mission and President Bush signed legislation creating the Department in January 2003.

We all knew at the time that creating a new Department with a single identity out of 22 different agencies would be difficult. Each agency came into the Department with its own culture—not to mention its own procurement, personnel and computer systems. In some cases, they came after having been neglected in other Departments where homeland security had been an afterthought. There was, and remains, much work to be done.

But over the past 5 years, the men and women who work at the Department, under the leadership first of Secretary Tom Ridge and now of Michael Chertoff, have worked hard, often under difficult circumstances, to systematically improve the Nation's security.

Our committee has also written and helped pass several pieces of important legislation to strengthen and guide DHS as it evolved into a more mature agency. I would like to briefly mention some of them because I am proud of the Homeland Security and Governmental Affairs Committee's work under former Chairman SUSAN COLLINS and during my own tenure as chairman, because we truly worked as partners across party lines.

In the 108th Congress, our committee led the effort to enact the recommendations of the National Commission on Terrorist Attacks upon the United States—otherwise known as the 9/11 Commission—a Commission which, had been created through the Committee's work in the previous Congress. The resulting Intelligence Reform and Terrorism Prevention Act of 2004 implemented most of the 41 recommendations of the 9/11 Commission, including a number directed at the work of the new Department.

In the 109th Congress, in the wake of the catastrophe of Hurricane Katrina, our committee conducted a far-reaching investigation into the actions at all levels of government that contributed to the disastrous response to the hurricane.

The Homeland Security and Governmental Affairs Committee held 22 hearings, interviewed hundreds of witnesses, reviewed hundreds of thousands of pages of documents, and issued a comprehensive, 700-page report on what went wrong.

The committee's findings on shortcomings at FEMA and DHS led us to draft the Post-Katrina Emergency Management Reform Act, which strengthened and elevated FEMA within the Department, brought together

into a single agency those charged with preparing for disasters with those responsible for responding to them; required planning for catastrophic events; and helped ensure that the resources of the whole Department would be available in a catastrophe.

The Post-Katrina Emergency Management Reform Act was signed into law in October 2006, and the results of that Act can be seen in the much improved—though admittedly still imperfect—Federal response to the series of recent tornadoes in the Midwest and devastating hurricanes that have hit the Gulf Coast.

In the 109th Congress, our Committee helped draft and pass the SAFE Ports Act, to strengthen the Department's port security efforts, and we passed legislation to provide DHS authority to better secure dangerous chemical facilities.

In this Congress, after many hearings and much hard work, legislation implementing the final recommendations of the 9/11 Commission was signed into law. This legislation addressed a diverse array of issues at DHS, from homeland security grants to information sharing to interoperable communications to transportation security.

So while we offer this authorization bill as DHS readies for its sixth year as a department—and its first Presidential transition—this committee has been working hard all along to give DHS both the support it needed and the oversight—sometimes harsh—to steadily improve its capacity to carry out its critical mission.

With this authorization act we continue that important work and I would like to touch on key portions of the bill.

This bill can be summarized under three major themes: integration, accountability, and effectiveness.

As I have already noted, we knew when we passed the Homeland Security Act that the process of creating a new, unified Department out of many diverse component agencies would be both challenging and time consuming—and the process is not yet complete. Therefore, a number of provisions of this bill would improve the integration of the Department. These provisions are collectively intended to help the Department to perform its missions at a level that is greater than the sum of its parts.

First, the bill would create an Under Secretary for Policy, to ensure that there is policy coordination across the Department.

The bill would also require the Secretary to develop and maintain the capability to coordinate operations and strategically plan across all of the component organizations of the Department. To this end, it permits the establishment of an Office of Operations Coordination and Planning within the Department, making it easier for the staffs of agencies such as the Coast Guard, Customs and Border Protection, CBP, Immigration and Customs Enforcement, ICE, and FEMA to work together on key operational activities, such as planning for the upcoming DHS transition.

The bill would enhance the statutory authorities of the Chief Information Officer, allowing for greater control over IT investments in the Department. It also gives the Assistant Secretary for International Affairs of DHS new authority to coordinate the international activities of the Department. The bill would establish the Office of the Chief Learning Officer, who would coordinate training and workforce development activities on a Department-wide basis.

Finally, the bill would require the establishment of a consolidated headquarters for the Department of Homeland Security, which is long overdue. Currently, the Department is spread throughout 70 buildings and 40 sites across the National Capital Region making communication, coordination, and cooperation among DHS components a significant challenge. The deplorable condition of the present headquarters complex also makes it harder for DHS to recruit and retain talented professionals—directly affecting homeland security—and I will continue to push Congress and the administration to get the funding necessary for the headquarters consolidation to proceed.

The second major theme of the bill is accountability. The bill contains a number of provisions intended to enhance oversight and ensure that the Department is held accountable for the decisions that it makes.

The bill requires that DHS have certified program managers for all major acquisition programs, and directs the Department to report to Congress on its use of various contracting authorities and on task orders within two of its major acquisition vehicles.

The bill creates a statutory requirement for a formal investment review process within the Department, and for investments where there are significant technological challenges, requires a formal testing and evaluation process prior to investment. These provisions will help to ensure that the Department does not again move forward with costly acquisitions without first proving that the underlying technology will work.

The bill also requires reports to Congress on a number of other activities, including the Comprehensive National Cybersecurity Initiative and the Department's efforts to improve minority representation among its employees.

The third major theme of the bill is effectiveness. There are a number of homeland security mission areas where the Federal government needs new or expanded authorities to effectively address threats that face us.

For example, the bill addresses growing concerns about the cybersecurity threat by establishing a robust National Cyber Security Center with the mission of coordinating and enhancing Federal efforts to protect government networks, and by enhancing the statutory authorities of the National Cyber Security Division.

The bill would enhance our nation's border security by authorizing an increase in the number of CBP officers and ensuring that they receive sufficient and appropriate training. It also recognizes the essential work of the agriculture specialists at the border, who perform plant inspections and help protect against both devastating pests and potential bioterrorism events, authorizes an increase in the number of agriculture specialists and requires measures to improve their recruitment and retention.

The bill addresses the threat of improvised explosive devices, IEDs, by including provisions that would authorize the DHS Office of Bombing Prevention, OBP, as well as authorize an increase in its budget to $25 million. OBP would lead bombing prevention activities within DHS, and would coordinate with other Federal, State, and local agencies to ensure that existing gaps in Federal bombing prevention efforts are filled.

Building upon changes already being implemented in the Post Katrina Act, the bill also seeks to continue improvement in the Nation's preparedness. It would require that DHS work with other Federal agencies to develop plans for responding to potential catastrophic scenarios, and would authorize a pilot program to assign National Guard planners to State emergency planning offices, to foster better State-Federal planning coordination. In addition, it would authorize the Metropolitan Medical Rescue System to assist States and localities prepare for mass casualty events. It would reauthorize the Pre-Disaster Hazard Mitigation Program, which provides grants to States for mitigation measures designed to reduce losses in disasters.

Collectively the measures in this bill will improve the ability of the Department to carry out its missions and become a more mature and effective entity.

I believe that the reforms and enhancements contained in this legislation, along with continued, vigorous oversight, will make DHS a stronger agency in the years to come. And reform, not thoughtless reorganization, is the course future Ccngresses should follow when it comes to DHS. Five years into its mission, and ignoring some noticeable improvements in its performance, there are still those who believe DHS should be chopped up and its parts shipped off to other agencies.

I believe that is exactly the wrong course to take. It makes no sense to disrupt the development of the Department, and weaken the hand of the next Secretary, at a time when the challenges she or he must face, from preventing nuclear terrorism, to securing our borders, to ensuring more effective responses to catastropies of all kinds remain daunting. It took decades for the Department of Defense to become a

coherent whole, and its work is still not complete. Just as DHS and its component arts are beginning to gel into an effective organization ready to deal with disasters visited upon our nation by nature or terrorists, it makes no sense to plunge responsibility for our homeland back into the chaos that existed before 9/11.

This is a course I have fought and will fight in the years to come.

In their report to the nation, the 9/11 Commissioners wrote: ''The men and women of the World War II generation rose to the challenges of the 1940s and the 1950s. They restructured the government so it could protect the country. That is now the job of the generation that experienced 9/11.''

The Department of Homeland Security was part of that response to the new dangers we face and must remain so.

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. 3623

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 ''Department of Homeland Security Authorization Act of 2008 and 2009''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Department'' means the Department of Homeland Security; and

(2) the term ''Secretary'' means the Secretary of Homeland Security.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. DEPARTMENT OF HOMELAND SECURITY.

(a) FISCAL YEAR 2008.—There is authorized to be appropriated to the Secretary such sums as may be necessary for the necessary expenses of the Department for fiscal year 2008.

(b) FISCAL YEAR 2009.—There is authorized to be appropriated to the Secretary $42,186,000,000 for the necessary expenses of the Department for fiscal year 2009.

TITLE II—POLICY, MANAGEMENT, AND INTEGRATION IMPROVEMENTS

SEC. 201. UNDER SECRETARY FOR POLICY.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by—

(1) redesignating section 601 as section 890A and transferring that section to after section 890; and

(2) striking the heading for title VI and inserting the following:

''TITLE VI—POLICY, PLANNING, AND OPERATIONS COORDINATION

''SEC. 601. UNDER SECRETARY FOR POLICY.

''(a) IN GENERAL.—There shall be in the Department an Under Secretary for Policy, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(b) RESPONSIBILITIES.—Subject to the direction and control of the Secretary, the Under Secretary for Policy shall—

''(1) serve as the principal policy advisor to the Secretary;

''(2) provide overall direction and supervision of policy development for the programs, offices, and activities of the Department;

''(3) establish and direct a formal policymaking process for the Department;

''(4) ensure that the budget of the Department (including the development of future year budgets) is compatible with the statutory and regulatory responsibilities of the Department and with the priorities, strategic plans, and policies established by the Secretary;

''(5) conduct long-range, strategic planning for the Department, including overseeing each quadrennial homeland security review under section 621;

''(6) coordinate policy development undertaken by the component agencies and offices of the Department; and

''(7) carry out such other responsibilities as the Secretary determines are appropriate, consistent with this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) in the table of contents in section 1(b)—

(i) by striking the item relating to title IV and inserting the following:

''TITLE IV—BORDER AND TRANSPORTATION SECURITY''.

(ii) by striking the item relating to subtitle A of title IV and inserting the following:

''Subtitle A—Border and Transportation Security''.

(iii) by striking the item relating to section 441 and inserting the following:

''Sec. 441. Transfer of functions.'';

(iv) by striking the items relating to title VI and section 601 and inserting the following:

''TITLE VI—POLICY, PLANNING, AND OPERATIONS COORDINATION

''Sec. 601. Under Secretary for Policy.''; and

(v) by inserting after the item relating to section 890 the following:

''Sec. 890A. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations.'';

(B) in section 102(f)(10), by striking ''the Directorate of Border and Transportation Security'' and inserting ''U.S. Customs and Border Protection'';

(C) in section 103(a)(3), by striking ''for Border and Transportation Security'' and inserting ''for Policy'';

(D) by striking the heading for title IV and inserting the following:

''TITLE IV—BORDER AND TRANSPORTATION SECURITY'';

(E) by striking the heading for subtitle A of title IV and inserting the following:

''Subtitle A—Border and Transportation Security'';

(F) in section 402, by striking '', acting through the Under Secretary for Border and Transportation Security,'';

(G) in section 411(a), by striking ''under the authority of the Under Secretary for Border and Transportation Security,'';

(H) in section 441—

(i) in the section heading, by striking ''**TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY**''; and

(ii) by striking ''Under Secretary for Border and Transportation Security'' and inserting ''Secretary'';

(I) in section 442(a)—

(i) in paragraph (2), by striking ''who—'' and all that follows through ''(B) shall'' and inserting ''who shall''; and

(ii) in paragraph (3)—

(I) in subparagraph (A), by striking ''Under Secretary for Border and Transportation Security'' each place it appears and inserting ''Secretary''; and

(II) in subparagraph (C), by striking ''Border and Transportation Security'' and inserting ''Policy'';

(J) in section 443, by striking ''The Under Secretary for Border and Transportation Security'' and inserting ''The Secretary'';

(K) in section 444, by striking ''The Under Secretary for Border and Transportation Security'' and inserting ''The Secretary'';

(L) in section 472(e), by striking ''or the Under Secretary for Border and Transportation Security''; and

(M) in section 878(e), by striking ''the Directorate of Border and Transportation Security'' and inserting ''U.S. Customs and Border Protection, Immigration and Customs Enforcement''.

(2) OTHER LAWS.—

(A) VULNERABILITY AND THREAT ASSESSMENT.—Section 301 of the REAL ID Act of 2005 (8 U.S.C. 1778) is amended—

(i) in subsection (a)—

(I) in the first sentence, by striking ''Under Secretary of Homeland Security for Border and Transportation Security'' and inserting ''Secretary of Homeland Security''; and

(II) in the second sentence, by striking ''Under'';

(ii) in subsection (b)—

(I) by striking ''Under''; and

(II) by striking ''Under Secretary's findings and conclusions'' and inserting ''Secretary's findings and conclusions''; and

(iii) in subsection (c), by striking ''Directorate of Border and Transportation Security''.

(B) AIR CHARTER PROGRAM.—Section 44903(l)(1) of title 49, United States Code, is amended by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''.

(C) BASIC SECURITY TRAINING.—Section 44918(a)(2)(E) of title 49, United States Code, is amended by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''.

(D) AIRPORT SECURITY IMPROVEMENT PROJECTS.—Section 44923 of title 49, United States Code, is amended—

(i) in subsection (a), in the matter preceding paragraph (1), by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of'';

(ii) by striking ''Under Secretary'' each place it appears and inserting ''Secretary of Homeland Security''; and

(iii) in subsection (d)(3), in the paragraph heading, by striking ''UNDER''.

(E) REPAIR STATION SECURITY.—Section 44924 of title 49, United States Code, is amended—

(i) in subsection (a), by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''; and

(ii) by striking ''Under Secretary'' each place it appears and inserting ''Secretary of Homeland Security''.

(F) CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.—Section 46111 of title 49, United States Code, is amended—

(i) in subsection (a), by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''; and

(ii) by striking ''Under Secretary'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 202. OPERATIONS COORDINATION AND PLANNING.

(a) IN GENERAL.—Title VI of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), as amended by section 201 of this Act, is amended by adding at the end the following:

''Subtitle B—Operations Coordination and Planning

''SEC. 611. OPERATIONS COORDINATION AND PLANNING.

''(a) IN GENERAL.—The Secretary shall ensure that the Department develops and maintains the capability to coordinate operations and strategically plan across all of the component organizations of the Department, including, where appropriate, through the use of a joint staff comprising personnel from those component organizations.

''(b) OFFICE.—In order to carry out the responsibilities described in subsection (a), the Secretary may establish in the Department an Office of Operations Coordination and Planning, which may be headed by a Director for Operations Coordination and Planning.

''(c) RESPONSIBILITIES.—The responsibilities of a Director for Operations Coordination and Planning, subject to the direction and control of the Secretary, may include—

''(1) operations coordination and strategic planning, consistent with the responsibilities described in subsection (a);

''(2) supervision of a joint staff comprised of personnel detailed from the component organizations of the Department in order to carry out the responsibilities under paragraph (1);

''(3) overseeing the National Operations Center described in section 515; and

''(4) any other responsibilities, as determined by the Secretary.

''(d) LIMITATION.—Nothing in this section may be construed to modify or impair the authorities of the Secretary or the Administrator of the Federal Emergency Management Agency under title V of this Act.

''Subtitle C—Quadrennial Homeland Security Review''.

(b) TRANSFER.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by redesignating section 707 as section 621 and transferring that section to after the heading for subtitle C of title VI, as added by subsection (a) of this section.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by inserting after the item relating to section 601, as added by section 201 of this Act, the following:

''Subtitle B—Operations Coordination and Planning

''Sec. 611.Operations Coordination and Planning.

''Subtitle C—Quadrennial Homeland Security Review

''Sec. 621. Quadrennial Homeland Security Review.''; and

(2) by striking the item relating to section 707.

SEC. 203. DEPARTMENT OF HOMELAND SECURITY HEADQUARTERS.

(a) FINDINGS.—Relating to the consolidation of the operations of the Department in a secure location, Congress finds the following:

(1) The headquarters facilities of the Department are currently spread throughout 40 sites across the National Capital Region, making communication, coordination, and cooperation among the components of the Department a significant challenge and disrupting the ability of the Department to effectively fulfill the homeland security mission.

(2) The General Services Administration has determined that the only site under the control of the Federal Government within the National Capital Region with the size, capacity, and security features to meet the minimum consolidation needs of the Department as identified in the National Capital

Region Housing Master Plan of the Department submitted to the Congress on October 24, 2006, is the West Campus of Saint Elizabeth's Hospital in the District of Columbia.

(b) CONSOLIDATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law and not later than the end of fiscal year 2016, the Secretary shall consolidate key headquarters and components of the Department, as determined by the Secretary, in accordance with this subsection.

(2) ST. ELIZABETH'S HOSPITAL.—The Secretary shall ensure that at the West Campus of Saint Elizabeth's Hospital in the District of Columbia, in a secure setting, there are—

(A) not less than 4,500,000 gross square feet of office space for use by the Department; and

(B) all necessary parking and infrastructure to support approximately 14,000 employees.

(3) OTHER MISSION SUPPORT ACTIVITIES.—

(A) IN GENERAL.—The Secretary shall consolidate the physical location of all components and activities of the Department in the National Capitol Region that do not relocate to the West Campus of St. Elizabeth's Hospital to as few locations within the National Capitol Region as possible.

(B) LIMITATION.—The Secretary may only consolidate components and activities described in subparagraph (A) if the consolidation can be accomplished without negatively affecting the specific mission of the components or activities being consolidated.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2016.

SEC. 204. CHIEF INFORMATION OFFICER.

Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by redesignating subsection (b) as subsection (c); and

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

''(b) RESPONSIBILITIES.—The Chief Information Officer shall—

''(1) advise and assist the Secretary, heads of the components of the Department, and other senior officers in carrying out the responsibilities of the Department for all activities relating to the programs and operations of the information technology functions of the Department;

''(2) establish the information technology priorities, policies, processes, standards, guidelines, and procedures of the Department;

''(3) in accordance with guidance from the Director of the Office of Management and Budget, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions as required by section 3506(b)(2) of title 44, United States Code;

''(4) be responsible for information technology capital planning and investment management in accordance with section 3506(h) of title 44, United States Code and sections 11312 and 11313 of title 40, United States Code;

''(5) develop, maintain, and facilitate the implementation of a sound, secure, and integrated information technology architecture for the Department, as required by section 11315 of title 40, United States Code;

''(6) in coordination with the Chief Procurement Officer of the Department, assume responsibility for information systems acquisition, development and integration as required by section 3506(h)(2) of title 44, United States Code, and section 11312 of title 40, United States Code;

''(7) in coordination with the Chief Procurement Officer of the Department, review and approve any information technology acquisition with a total value greater than a threshold level to be determined by the Secretary;

''(8) implement initiatives to use information technology to improve government services to the public under section 101 of title 44, United States Code, (commonly known as the E-Government Act) and as required by section 3506(h)(3) of title 44, United States Code;

''(9) in coordination with the Executive Agent for Information Sharing of the Department, as designated by the Secretary, ensure that information technology systems meet the standards established under the information sharing environment, as defined in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

''(10) ensure that the Department meets its information technology and information resources management workforce or human capital needs in its hiring, training and professional development policies as required by section 3506(b) of title 44, United States Code, and section 11315(c) of title 40, United States Code;

''(11) collaborate with the heads of the components of the Department in recruiting and selecting key information technology officials in the components of the Department; and

''(12) perform other responsibilities, as determined by the Secretary.''.

SEC. 205. DEPARTMENT OF HOMELAND SECURITY INTERNATIONAL AFFAIRS OFFICE.

(a) OFFICE OF INTERNATIONAL AFFAIRS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking section 879 and inserting the following:

''SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

''(a) ESTABLISHMENT.—There is established within the Department an Office of International Affairs, headed by the Assistant Secretary for International Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—The Assistant Secretary for International Affairs shall—

''(1) coordinate international activities within the Department, including the components of the Department, in coordination with other Federal officers with responsibility for counterterrorism and homeland security matters;

''(2) develop and update, in consultation with all components of the Department with international activities, an international strategic plan for the Department and establish a process for managing its implementation;

''(3) provide guidance to components of the Department on executing international activities and to employees of the Department who are deployed overseas, including—

''(A) establishing predeployment preparedness criteria for employees and any accompanying family members;

''(B) establishing, in coordination with the Under Secretary for Management, minimum support requirements for Department employees abroad, to ensure the employees have the proper resources and have received adequate and timely support prior to and during tours of duty;

''(C) providing information and training on administrative support services available to overseas employees from the Department of State and other Federal agencies;

''(D) establishing guidance on how Department attaches are expected to coordinate with other component staff and activities; and

''(E) developing procedures and guidance for employees of the Department returning to the United States;

''(4) maintain full awareness regarding the international travel of senior officers of the Department, in order to fully inform the Secretary and Deputy Secretary of the Department's international activities;

''(5) promote information and education exchange with the international community of nations friendly to the United States in order to promote the sharing of homeland security information, best practices, and technologies relating to homeland security, in coordination with the Science and Technology Homeland Security International Cooperative Programs Office established under section 317, including—

''(A) exchange of information on research and development on homeland security technologies;

''(B) joint training exercises of emergency response providers;

''(C) exchange of expertise on terrorism prevention, preparedness, response, and recovery;

''(D) exchange of information with appropriate private sector entities with international exposure; and

''(E) international training and technical assistance to representatives of foreign countries who are collaborating with the Department;

''(6) identify areas for homeland security information and training exchange in which the United States has a demonstrated weakness and a country that is a friend or ally of the United States has a demonstrated expertise;

''(7) review and provide input to the Secretary on budget requests relating to the international expenditures of the elements and components of the Department;

''(8) participate, in coordination with other appropriate Federal agencies, in the development and implementation of international agreements relating to homeland security; and

''(9) perform other duties, as determined by the Secretary.

''(c) RESPONSIBILITIES OF THE COMPONENTS OF THE DEPARTMENT.—

''(1) IN GENERAL.—All components of the Department shall notify the Office of International Affairs of the intent of the component to pursue negotiations with foreign governments.

''(2) TRAVEL.—All components of the Departments shall inform the Office of International Affairs about the international travel of senior officers of the Department, including contacts with foreign governments.

''(d) EXCLUSIONS.—This section does not apply to international activities related to the protective mission of the United States Secret Service or to the United States Coast Guard when operating under the direct authority of the Secretary of Defense or Secretary of the Navy.''.

(b) REVIEW OF HOMELAND SECURITY INTERNATIONAL AFFAIRS ACTIVITIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall develop a plan to improve the coordination of the activities of the Department outside of the United States.

(2) CONTENTS OF PLAN.—The plan developed under paragraph (1) shall include—

(A) an assessment of the strategic priorities for the Department in the outreach and liaison activities of the Department with international partners;

(B) an inventory and cost analysis of the international offices, workforce, and fixed assets of the Department;

(C) a plan for improving the coordination of the activities and resources of the Department outside of the United States, including at United States embassies overseas; and

(D) recommendations relating to the appropriate role for Senior Homeland Security Representatives and attaches of the Department at United States embassies overseas.

(3) REPORTING.—Not later than 210 days after the date of enactment of this Act, the Secretary shall submit the plan developed under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Homeland Security and the Committee on Foreign Affairs of the House of Representatives.

SEC. 206. DEPARTMENT OF HOMELAND SECURITY REORGANIZATION AUTHORITY.

Section 872(b) of the Homeland Security Act of 2002 (6 U.S.C. 452(b)) is amended—

(1) in paragraph (1), in the paragraph heading, by striking ''IN GENERAL'' and inserting ''LIMITATIONS ON INITIAL REORGANIZATION PLAN''; and

(2) by striking paragraph (2) and inserting the following:

''(2) LIMITATIONS ON OTHER REORGANIZATION AUTHORITY.—

''(A) IN GENERAL.—Authority under subsection (a)(2) does not extend to the discontinuance, abolition, substantial consolidation, alteration, or transfer of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

''(B) EXCEPTION.—Notwithstanding paragraph (1), if the President determines it to be necessary because of an imminent threat to homeland security, a function, power, or duty vested by law in the Department, or an officer, official, or agency thereof, may be transferred, reassigned, or consolidated within the Department. A transfer, reassignment, or consolidation under this subparagraph shall remain in effect only until the President determines that the threat to homeland security has terminated or is no longer imminent.''.

SEC. 207. HOMELAND SECURITY INSTITUTE.

Section 312 of the Homeland Security Act of 2002 (6 U.S.C. 192) is amended by striking subsection (g), and inserting the following:

''(g) PUBLICATION OF INSTITUTE REPORTS.—To the maximum extent possible, the Homeland Security Institute shall make available unclassified versions of reports by the Homeland Security Institute on the website of the Homeland Security Institute.''.

SEC. 208. OFFICE OF THE INSPECTOR GENERAL.

Of the amount authorized to be appropriated under section 101, there are authorized to be appropriated to the Secretary for operations of the Office of the Inspector General of the Department—

(1) $108,500,000 for fiscal year 2008; and

(2) $111,600,000 for fiscal year 2009.

SEC. 209. DEPARTMENT MANAGEMENT DIRECTIVE SYSTEM.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall make available on the website of the Department all unclassified directives and management directives of the Department, including relevant attachments and enclosures. Any directive that contains controlled unclassified information may be redacted, as appropriate.

(b) REPORT.—Not later than 7 days after the date on which the Secretary makes all directives available under subsection (a), the Secretary shall submit a report that includes any directive or management directive of the Department (including attachments and enclosures) that was redacted or not published on the website of the Department because the directive or management directive contains classified information or controlled unclassified information to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

TITLE III—PROCUREMENT POLICY AND RESOURCES IMPROVEMENTS

SEC. 301. DEPARTMENT OF HOMELAND SECURITY INVESTMENT REVIEW.

(a) IN GENERAL.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.), as amended by section 202 of this Act, is amended by adding at the end the following:

''SEC. 707. DEPARTMENT INVESTMENT REVIEW.

''(a) ESTABLISHMENT.—The Secretary shall establish a process for the review of proposed investments by the Department.

''(b) PURPOSE.—The Secretary shall use the process established under subsection (a) to inform investment decisions, strengthen acquisition oversight, and improve resource management across the Department.

''(c) BOARDS AND COUNCILS.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Department-wide Acquisition Review Board for the purpose of carrying out the investment review process established under subsection (a).

''(2) MEMBERSHIP.—The Secretary shall designate appropriate officers of the Department to serve on the Acquisition Review Board.

''(3) SUBORDINATE BOARDS AND COUNCILS.—The Secretary may establish subordinate boards and councils reporting to the Acquisition Review Board to review certain categories of investments on a Department-wide basis.

''(d) INVESTMENT THRESHOLDS.—The Secretary shall establish threshold amounts for the review of investments by the Acquisition Review Board and any subordinate boards and councils.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report on the implementation of the amendments made by this section, including providing all directives, instructions, memoranda, manuals, guidebooks, and other materials relevant to the implementation of the amendments made by this section to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

(2) ANNUAL REPORT.—

(A) IN GENERAL.—The Secretary shall submit an annual report on the activities of the Acquisition Review Board and subordinate boards and councils established within the Department for the purpose of Department-wide investment review and acquisition oversight under section 707 of the Homeland Security Act of 2002, as added by this section, including detailed statistics on programs and activities reviewed, to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Homeland Security of the House of Representatives.

(B) ANNUAL FINANCIAL REPORT.—The report under this paragraph may be included as part of the performance and accountability report submitted by the Department under section 3516(f) of title 31, United States Code.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 706 the following:

''Sec. 707. Department investment review.''.

SEC. 302. REQUIRED CERTIFICATION OF PROJECT MANAGERS FOR LEVEL ONE PROJECTS.

Not later than 12 months after the date of enactment of this Act, the Secretary shall assign to each Level 1 project of the Department (as defined by the Acquisition Review Board established under section 707 of the Homeland Security Act of 2002, as added by this Act) with an estimated value of more than $100,000,000 at least 1 project manager certified by the Secretary as competent to administer programs of that size. The designation of project level and the certification of project managers shall be in accordance with the Federal IT Project Manager Guidance issued by the Chief Information Officers Council.

SEC. 303. REVIEW AND REPORT ON EAGLE AND FIRST SOURCE CONTRACTS.

(a) REVIEW.—Not later than 6 months after the date of enactment of this Act, the Secretary shall review the Enterprise Acquisition Gateway for Leading Edge Solutions and First Source contract vehicles and determine whether each contract vehicle is cost effective or redundant considering all contracts in effect on the date of enactment of this Act that are available for multi-agency use. In determining whether a contract is cost effective, the Secretary shall consider all direct and indirect costs to the Department of awarding and administering the contract and the impact the contract will have on the ability of the Federal Government to leverage its purchasing power. The Secretary shall submit the results of the review to the Administrator of the Office of Federal Procurement Policy and the Committees listed in subsection (b).

(b) IN GENERAL.—On a quarterly basis, the Chief Procurement Officer of the Department shall submit a report on contracts awarded and orders issued in an amount greater than $1,000,000 by the Department under the Enterprise Acquisition Gateway for Leading Edge Solutions and First Source contract vehicles to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

(c) CONTENTS.—Each report submitted under this section shall contain—

(1) a description of each contract awarded or order issued by the Department under the Enterprise Acquisition Gateway for Leading Edge Solutions and First Source contract vehicles during the applicable quarter, including the name of the contractor, the estimated cost, and the type of contract or order and, if applicable, the award fee structure;

(2) for each contract or order described in paragraph (1), a copy of the statement of work;

(3) for each contract or order described in paragraph (1), an explanation of why other Governmentwide contract vehicles are not suitable to meet the needs of the Department; and

(4) for any contract or order described in paragraph (1) that is a cost reimbursement or time and materials contract or order, an explanation of why a fixed price arrangement was not an appropriate solution.

SEC. 304. REPORT ON USE OF PERSONAL SERVICES CONTRACTS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report on the use by the Department of the authority granted for procurement of personal services under section 832 of the Homeland Security Act of 2002 (6 U.S.C. 392) to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of each procurement for temporary or intermittent personal services acquired under the authority granted for procurement of personal services under section 832 of the Homeland Security Act of 2002 (6 U.S.C. 392), including the duration of any contract for such services.

SEC. 305. PROHIBITION ON USE OF CONTRACTS FOR CONGRESSIONAL AFFAIRS ACTIVITIES.

The Department may not enter into a contract under which the person contracting with the Department will—

(1) provide responses to requests for information from a Member of Congress or a committee of Congress; or

(2) prepare written or oral testimony of an officer or employee of the Department in response to a request to appear before Congress.

SEC. 306. SMALL BUSINESS UTILIZATION REPORT.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Chief Procurement Officer of the Department shall submit a report regarding the use of small business concerns by the Department to—

(A) the Secretary;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall identify each component of the Department that did not meet the goals for small business participation by the component the previous fiscal year.

(b) ACTION PLAN.—For a component meeting or exceeding the goals for small business participation an action plan is not required. For a component not meeting the goals for small business participation, not later than 90 days after the date on which the report under subsection (a) is submitted, the Chief Procurement Officer of the Department, in consultation with the Director of Small and Disadvantaged Business Utilization of the Department, shall, for each component develop, submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and begin implementing an action plan, including a timetable, for achieving small business participation goals.

SEC. 307. DEPARTMENT OF HOMELAND SECURITY MENTOR-PROTEGE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish within the Office of Small and Disadvantaged Business Utilization of the Department a mentor-protégé program.

(b) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department shall conduct a review of the mentor-protégé program established under this section, which shall include—

(1) an assessment of the effectiveness of the program under this section;

(2) identification of any barriers that restrict contractors from participating in the program under this section;

(3) a comparison of the program under this section with the Department of Defense mentor-protégé program; and

(4) development of recommendations to strengthen the program.

SEC. 308. OTHER TRANSACTION AUTHORITY.

Section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) is amended—

(1) in subsection (a)—

(A) by striking ''Until September 30, 2008, the Secretary may carry out a pilot program'' and inserting ''If the Secretary issues policy guidance by September 30, 2008, detailing the appropriate use of other transaction authority and provides mandatory other transaction training to each employee who has the authority to handle procurements under other transaction authority, the Secretary may, before September 30, 2010, carry out a program''; and

(B) in paragraph (1), by striking ''subsection (b)'' and inserting ''subsection (b)(1)'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and realigning such subparagraphs, as so redesignated, so as to be indented 4 ems from the left margin;

(B) by striking ''(b) REPORT.—Not later than 2 years'' and inserting the following:

''(b) REPORTS.—

''(1) IN GENERAL.—Not later than 2 years''; and

(C) by adding at the end the following:

''(2) ANNUAL REPORT ON EXERCISE OF OTHER TRANSACTION AUTHORITY.—

''(A) IN GENERAL.—The Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an annual report on the exercise of other transaction authority under subsection (a).

''(B) CONTENT.—The report required under subparagraph (A) shall include the following:

''(i) The technology areas in which research projects were conducted under other transaction authority.

''(ii) The extent of the cost-sharing among Federal and non-Federal sources.

''(iii) The extent to which the use of the other transaction authority—

''(I) has contributed to a broadening of the technology and industrial base available for meeting the needs of the Department; and

''(II) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

''(iv) The total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report.

''(v) The rationale for using other transaction authority, including why grants or Federal Acquisition Regulation-based contracts were not used, the extent of competition, and the amount expended for each such project.''.

SEC. 309. INDEPENDENT VERIFICATION AND VALIDATION.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and semi-annually thereafter, the Chief Procurement Officer of the Department shall submit a report regarding the use of independent verification and validation by the Department to—

(A) the Secretary;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) identify each program in the Department where independent verification and validation was used and a description of the use;

(B) include recommendations for implementing independent verification and validation in future procurements; and

(C) for all Level 1 projects of the Department (as defined by the Acquisition Review Board established under section 707 of the Homeland Security Act of 2002, as added by this Act) not using independent verification and validation, provide an explanation of why independent verification and validation was not used.

SEC. 310. STRATEGIC PLAN FOR ACQUISITION WORKFORCE.

(a) STRATEGIC PLAN.—Not later than 6 months after the date of enactment of this Act, the Chief Procurement Officer and the Chief Human Capital Officer of the Department shall develop and deliver to relevant congressional committees a 5-year strategic plan for the acquisition workforce of the Department.

(b) ELEMENTS OF PLAN.—The plan required under subsection (a) shall, at a minimum—

(1) designate, in coordination with the Office of Federal Procurement Policy, positions in the Department that are acquisition positions which—

(A) shall include, at a minimum—

(i) program management positions;

(ii) systems planning, research, development, engineering, and testing positions;

(iii) procurement, including contracting positions;

(iv) industrial property management positions;

(v) logistics positions;

(vi) quality control and assurance positions;

(vii) manufacturing and production positions;

(viii) business, cost estimating, financial management, and auditing positions;

(ix) education, training, and career development positions;

(x) construction positions; and

(xi) positions involving joint development and production with other government agencies and foreign countries; and

(B) may include positions that are in management headquarters activities and in management headquarters support activities and perform acquisition-related functions;

(2) identify acquisition workforce needs of each component and of units performing Department-wide acquisition functions, including workforce gaps and strategies for filling those gaps;

(3) include Departmental guidance and policies on the use of contractors to perform acquisition functions;

(4) describe specific steps for the recruitment, hiring, training, and retention of the workforce identified in paragraph (2); and

(5) set forth goals for achieving integration and consistency with governmentwide training and accreditation standards, acquisition training tools and training facilities.

(c) OTHER ACQUISITION POSITIONS.—The plan required under subsection (a) may provide that the Chief Acquisition Officer or Senior Procurement Executive, as appropriate, may designate as acquisition positions those additional positions that perform significant acquisition-related functions within that component of the Department.

(d) RELEVANT CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ''relevant congressional committees'' means the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.

SEC. 311. BUY AMERICAN REQUIREMENT; EXCEPTIONS.

(a) REQUIREMENT.—Except as provided in subsections (c) through (e), funds appropriated or otherwise available to the Transportation Security Administration may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is, if the item is directly related to the national security interests of the United States, an article or item of—

(1) clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof);

(2) tents, tarpaulins, or covers; or

(3) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to—

(1) procurements by vessels in foreign waters; or

(2) emergency procurements.

(e) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the threshold for a public notice of solicitation described in section 18(a)(1)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)).

(f) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section shall apply to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(g) GEOGRAPHIC COVERAGE.—In this section, the term ''United States'' includes the possessions of the United States.

(h) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subsection (b), if the Secretary applies an exception set forth in subsection (c) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration know as FedBizOpps.gov (or any successor site).

(i) TRAINING DURING FISCAL YEAR 2008.—

(1) IN GENERAL.—The Secretary shall ensure that each member of the acquisition workforce in the Department who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2008 on the requirements of this section and the regulations implementing this section.

(2) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition workforce developed or implemented after the date of enactment of this Act includes comprehensive information on the requirements described in paragraph (1).

(j) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—A provision of this section shall not apply to the extent the Secretary, in consultation with the United States Trade Representative, determines that the provision is inconsistent with United States obligations under an international agreement.

(2) REPORT.—The Secretary shall submit to Congress a report each year containing, with respect to the year covered by the report—

(A) a list of each provision of this section that did not apply during that year pursuant to a determination by the Secretary under paragraph (1); and

(B) a list of each contract awarded by the Department during that year without regard to a provision in this section because that provision was made inapplicable pursuant to such a determination.

(k) EFFECTIVE DATE.—This section applies with respect to contracts entered into by or on behalf of the Transportation Security Administration after the date of the enactment of this Act.

TITLE IV—WORKFORCE PROVISIONS

SEC. 401. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT AT THE OFFICE OF INTELLIGENCE AND ANALYSIS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 845 the following:

''SEC. 846. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT AT THE OFFICE OF INTELLIGENCE AND ANALYSIS.

''(a) AUTHORITY TO ESTABLISH POSITIONS IN EXCEPTED SERVICE.—

''(1) IN GENERAL.—With the concurrence of the Director of National Intelligence and in coordination with the Director of the Office of Personnel Management, the Secretary may—

''(A) convert competitive service positions, and the incumbents of such positions, within the Office of Intelligence and Analysis to excepted service positions as the Secretary determines necessary to carry out the intelligence functions of the Department; and

''(B) establish new positions within the Office of Intelligence and Analysis in the excepted service, if the Secretary determines such positions are necessary to carry out the intelligence functions of the Department.

''(2) CLASSIFICATION AND PAY RANGES.—In coordination with the Director of National Intelligence, the Secretary may establish the classification and ranges of rates of basic pay for any position converted under paragraph (1)(A) or established under paragraph (1)(B), notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

''(3) APPOINTMENT AND COMPENSATION.—The Secretary may appoint individuals for service in positions converted under paragraph (1)(A) or established under paragraph (1)(B) without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service, and to fix the compensation of such individuals within the applicable ranges of rates of basic pay established under paragraph (2).

''(4) MAXIMUM RATE OF BASIC PAY.—The maximum rate of basic pay the Secretary may establish under this subsection is the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(b) EXTENSION OF FLEXIBLE PERSONNEL MANAGEMENT AUTHORITIES.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'compensation authority'—

''(i) means authority involving basic pay (including position classification), premium pay, awards, bonuses, incentives, allowances, differentials, student loan repayments, and special payments; and

''(ii) shall not include—

''(I) authorities relating to benefits such as leave, severance pay, retirement, and insurance;

''(II) authority to grant a rank award by the President under section 4507, 4507a, or 3151(c) of title 5, United States Code, or any other provision of law; or

''(III) compensation authorities and performance management authorities provided under provisions of law relating to the Senior Executive Service; and

''(B) the term 'intelligence community' has the meaning given under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(2) IN GENERAL.—Notwithstanding any other provision of law, in order to ensure the equitable treatment of employees across the intelligence community, the Secretary, with the concurrence of the Director of National Intelligence, or for those matters that fall under the responsibilities of the Office of Personnel Management under statute or executive order, in coordination with the Director of the Office of Personnel Management, may authorize the Office of Intelligence and Analysis to adopt compensation authority, performance management authority, and scholarship authority that have been authorized for another element of the intelligence community if the Secretary and the Director of National Intelligence—

''(A) determine that the adoption of such authority would improve the management and performance of the intelligence community; and

''(B) not later than 60 days before such authority is to take effect, submit notice of the adoption of such authority by the Office of Intelligence and Analysis, including the authority to be so adopted, and an estimate of the costs associated with the adoption of such authority to—

''(i) the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate; and

''(ii) the Committee on Homeland Security and the Permanent Select Committee on Intelligence of the House of Representatives.

''(3) EQUIVALENT APPLICATION OF COMPENSATION AUTHORITY.—To the extent that a compensation authority within the intelligence community is limited to a particular category of employees or a particular situation, the authority may be adopted by the Office of Intelligence and Analysis under this subsection only for employees in an equivalent category or in an equivalent situation.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 845 the following:

''Sec. 846. Authority for flexible personnel management at the Office of Intelligence and Analysis.''.

SEC. 402. DIRECT HIRE AUTHORITY FOR CERTAIN POSITIONS AT THE SCIENCE AND TECHNOLOGY DIRECTORATE.

(a) DEFINITION.—In this section, the term ''employee'' has the meaning given under section 2105 of title 5, United States Code.

(b) AUTHORITY.—The Secretary may make appointments to a position described under subsection (c) without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title.

(c) POSITIONS.—This section applies with respect to any scientific or engineering position within the Science and Technology Directorate which requires an advanced degree.

(d) LIMITATION.—

(1) IN GENERAL.—Authority under this section may not, in any calendar year and with respect to any laboratory, be exercised with respect to a number of positions greater than the number equal to 2 percent of the total number of positions within such laboratory that are filled as of the end of the most recent fiscal year before the start of such calendar year.

(2) FULL-TIME EQUIVALENT BASIS.—For purposes of this subsection, positions shall be counted on a full-time equivalent basis.

(e) TERMINATION.—The authority to make appointments under this section shall terminate on January 1, 2014.

SEC. 403. APPOINTMENT OF THE CHIEF HUMAN CAPITAL OFFICER BY THE SECRETARY OF HOMELAND SECURITY.

Section 103(d) of the Homeland Security Act of 2002 (6 U.S.C. 113(d)) is amended—

(1) by striking paragraph (3); and

(2) redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 404. PLAN TO IMPROVE REPRESENTATION OF MINORITIES IN VARIOUS CATEGORIES OF EMPLOYMENT.

(a) REPRESENTATION OF MINORITIES.—

(1) IN GENERAL.—The Department shall implement policies and procedures Department-wide in accordance with section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(2) TERMS.—In this section, the terms defined in section 7201(a) of title 5, United States Code, have the meanings given such terms in that section 7201(a).

(b) PLAN FOR IMPROVING REPRESENTATION OF MINORITIES.—

(1) IN GENERAL.—

(A) SUBMISSION OF PLAN.—Not later than 90 days after the date of enactment of this Act, the Chief Human Capital Officer of the Department shall submit a plan to achieve the objective of addressing any underrepresentation of minorities in the various categories of civil service employment within the Department to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate;

(ii) the Committee on Homeland Security and the Committee on Oversight and Government Reform of the House of Representatives; and

(iii) the Comptroller General of the United States.

(B) CONTENTS.—The plan submitted under this subsection shall identify and describe—

(i) any barriers to achieving the objective described under subparagraph (A); and

(ii) the strategies and measures to overcome such barriers.

(2) DETERMINATION BY EQUAL EMPLOYMENT OPPORTUNITY COMMISSION .—In consultation with the Office of Personnel Management, the Equal Employment Opportunity Commission shall make the determination of the number of members of a minority group for purposes of applying definitions under section 7201(a) of title 5, United States Code, in this section.

(c) ASSESSMENTS.—Not later than 1 year after the date on which Chief Human Capital Officer submits the plan under subsection (b), the Comptroller General of the United States shall assess—

(1) any programs and other measures currently being implemented to achieve the objective described under subsection (b)(1); and

(2) the likelihood that the plan will allow the Department to achieve such objective.

SEC. 405. OFFICE OF THE CHIEF LEARNING OFFICER.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 707 the following:

"SEC. 708. CHIEF LEARNING OFFICER.

''(a) ESTABLISHMENT.—There is established within the Department an Office of the Chief Learning Officer.

''(b) CHIEF LEARNING OFFICER.—The Chief Learning Officer shall be the head of the Office of the Chief Learning Officer.

''(c) RESPONSIBILITIES.—The responsibilities of the Chief Learning Officer shall include—

''(1) establishing a Learning and Development strategy for the Department, and managing the implementation of that strategy;

''(2) managing the Department of Homeland Security University System;

''(3) coordinating with the components of the Department to ensure that training and education activities at the component level are consistent, as appropriate, with the objectives of the Learning and Development strategy;

''(4) identifying training and education requirements throughout the Department for career fields not otherwise managed by another office or component of the Department as directed by statute;

''(5) filling gaps in training and education through analysis and creation of courses or programs;

''(6) coordinating with the Administrator of the Federal Emergency Management Agency on activities under section 845;

''(7) ensuring that training and education programs and activities are adequately publicized to Department employees and to other stakeholders, including other Federal, State, local and tribal officials, as appropriate; and

''(8) other responsibilities, as directed by the Secretary.''.

(b) LEARNING AND DEVELOPMENT STRATEGY.—Not later than 15 days after the date of enactment of this Act, the Department shall publish the Department of Homeland Security Learning and Development strategy, dated September 28, 2007, on the Department website.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by inserting after the item relating to section 707 the following:

''Sec. 708. Chief Learning Officer.''.

SEC. 406. EXTENSION OF RELOCATION EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5739(e) of title 5, United States Code, is amended by striking ''11 years'' and inserting ''14 years''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2355).

TITLE V—INTELLIGENCE AND INFORMATION-SHARING PROVISIONS

SEC. 501. FULL AND EFFICIENT USE OF OPEN SOURCE INFORMATION.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

"SEC. 210F. FULL AND EFFICIENT USE OF OPEN SOURCE INFORMATION.

''(a) DEFINITION OF OPEN SOURCE INFORMATION.—In this section, the term 'open source information' means publicly available information that can be lawfully obtained by a member of the public by request, purchase, or observation.

''(b) RESPONSIBILITIES OF SECRETARY.—In coordination with the Assistant Deputy Director of National Intelligence for Open Source and the Director of National Intelligence, the Secretary shall establish an open source collection, analysis, and dissemination program within the Office of Intelligence and Analysis. The program shall make full and efficient use of open source information to develop and disseminate open source alerts, warnings, and other intelligence products relating to the mission of the Department.

''(c) INTELLIGENCE ANALYSIS.—The Secretary shall ensure that the Department makes full and efficient use of open source information in carrying out paragraphs (1) and (2) of section 201(d).

''(d) DISSEMINATION.—The Secretary shall make open source information of the Department available to appropriate officers of the Federal Government, State, local, and tribal governments, and private-sector entities, using systems and networks for the dissemination of homeland security information.

''(e) PROTECTION OF PRIVACY.—

''(1) COMPLIANCE WITH OTHER LAWS.—The Secretary shall ensure that the manner in which open source information is gathered and disseminated by the Department complies with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974), provisions of law enacted by the E-Government Act of 2002 (Public Law 107–347), and all other relevant Federal laws.

''(2) DESCRIPTION IN ANNUAL REPORT BY PRIVACY OFFICER.—The Privacy Officer of the Department shall include in the annual report submitted to Congress under section 222 an assessment of compliance by Federal departments and agencies with the laws described in paragraph (1), as they relate to the use of open source information.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. et seq.) is amended by inserting after the item relating to section 210E the following:

''Sec. 210F. Full and efficient use of open source information.''.

SEC. 502. AUTHORIZATION OF INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Funds authorized or made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal years 2008 and 2009.

(b) RULE OF CONSTRUCTION.—The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 503. UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS TECHNICAL CORRECTION.

Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) by inserting after paragraph (8) the following:

''(9) An Under Secretary for Intelligence and Analysis.''.

TITLE VI—CYBER SECURITY INFRASTRUCTURE PROTECTION IMPROVEMENTS

SEC. 601. NATIONAL CYBER SECURITY DIVISION.

(a) IN GENERAL.—Subtitle C of title II of the Homeland Security Act of 2002 (6 U.S.C. 141 et seq.) is amended by adding at the end the following:

"SEC. 226. NATIONAL CYBER SECURITY DIVISION.

''(a) DEFINITIONS.—In this section—

''(1) the term 'critical information infrastructure' means a system or asset, whether physical or virtual, used in processing, transferring, and storing information so vital to the United States that the incapacity or destruction of such system or asset would have a debilitating impact on security, national economic security, or national public health or safety; and

''(2) the term 'Division' means the National Cyber Security Division.

''(b) ESTABLISHMENT.—There shall be within the Office of the Assistant Secretary for Cyber Security and Communications a National Cyber Security Division.

''(c) RESPONSIBILITIES.—

''(1) IN GENERAL.—The Division shall be responsible for overseeing preparation, situational awareness, response, reconstitution, and mitigation necessary for cyber security, including—

''(A) establishing and maintaining a capability within the Department to identify threats to critical information infrastructure to aid in detection of vulnerabilities and

warning of potential acts of terrorism and other attacks;

''(B) establishing and maintaining a capability to share useful, timely information regarding cyber vulnerabilities, threats, and attacks with officers of the Federal Government and State and local governments, the private sector, and the general public;

''(C) conducting comprehensive risk assessments on critical information infrastructure with respect to acts of terrorism and other large-scale disruptions, identifying and prioritizing vulnerabilities in non-Federal critical information infrastructure, and coordinating the mitigation of such vulnerabilities;

''(D) coordinating with the Assistant Secretary for Infrastructure Protection to ensure that cyber security is appropriately addressed in carrying out the infrastructure protection responsibilities described in section 201(d);

''(E) developing, with input from the owners and operators of relevant assets and systems, a plan for the continuation of critical information operations in the event of a cyber attack or other large-scale disruption of the information infrastructure of the United States;

''(F) defining what qualifies as a cyber incident of national significance for purposes of the National Response Plan or any successor plan prepared under section 504(a)(6);

''(G) ensuring that the priorities, procedures, and resources of the Department are in place to reconstitute critical information infrastructures in the event of an act of terrorism or other large-scale disruption of such infrastructures;

''(H) developing, in coordination with the National Cyber Security Center, a national cyber security awareness, training, and education program that promotes cyber security awareness within the Federal Government and throughout the Nation; and

''(I) consulting and coordinating with the Under Secretary for Science and Technology on cyber security research and development to strengthen critical information infrastructure against acts of terrorism and other large-scale disruptions.

''(2) STAFFING.—The Division shall establish a capability to attract and retain qualified information technology experts at the Department to help analyze cyber threats and vulnerabilities.

''(3) FEDERAL NETWORK SECURITY.—The Division, in coordination with the National Cyber Security Center, shall monitor, consistent with the Constitution and other applicable laws of the United States, network traffic for all Federal civilian departments and agencies to determine any potential cyber incidents or vulnerabilities.

''(4) COLLABORATION.—

''(A) IN GENERAL.—Wherever possible, the Division shall work collaboratively with relevant members of the private sector, academia, other cyber security experts, and officers of the Federal Government and State, local, and tribal governments in carrying out the responsibilities under this subsection.

''(B) SINGLE CONTACT.—The Division shall provide a single Federal Government contact for State, local, and tribal governments and academia and other private sector entities to exchange information and work collaboratively regarding the security of critical information infrastructure.''.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 225 the following:

''Sec. 226. National Cyber Security Division.''.

SEC. 602. NATIONAL CYBER SECURITY CENTER.

(a) IN GENERAL.—Subtitle C of title II of the Homeland Security Act of 2002 (6 U.S.C. 141 et seq.), as amended by section 601 of this Act, is amended by adding at the end the following:

''SEC. 227. NATIONAL CYBER SECURITY CENTER.

''(a) DEFINITIONS.—In this section—

''(1) the term 'agency'—

''(A) means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

''(B) does not include the governments of the District of Columbia and of the territories and possessions of the United States and their various subdivisions;

''(2) the term 'Director' means the Director of the National Cyber Security Center;

''(3) the term 'Federal information infrastructure' means the information infrastructure that is operated by an agency; and

''(4) the term 'information infrastructure' means the underlying framework that information systems and assets rely on in processing, transmitting, receiving, or storing information electronically.

''(b) ESTABLISHMENT.—There is established within the Department a National Cyber Security Center.

''(c) DIRECTOR.—

''(1) ESTABLISHMENT AND APPOINTMENT.—There is a Director of the National Cyber Security Center, who shall be—

''(A) the head of the National Cyber Security Center;

''(B) a member of the Chief Information Officers Council; and

''(C) appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—The Director shall have significant expertise in matters relating to the security of information technology systems or other relevant experience.

''(3) LIMITATION ON SERVICE.—The individual serving as the Director may not, while so serving, serve in any other capacity in the Federal Government, except to the extent that the individual serving as Director is doing so in an acting capacity.

''(4) SUPERVISION.—The Director shall report to—

''(A) the President on matters relating to the interagency missions described in subparagraph (B), (C), or (E) of subsection (e)(1); and

''(B) the Secretary on all other matters, without being required to report through any other official of the Department.

''(d) DEPUTY DIRECTORS.—

''(1) ESTABLISHMENT AND APPOINTMENT.—There are 2 Deputy Directors of the National Cyber Security Center, who shall report to the Director.

''(2) DETAILEE AND EMPLOYEE.—

''(A) DETAILEE.—The Director shall enter into a memorandum of understanding with the Director of National Intelligence for the assignment of an employee of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) with relevant experience to work at the National Cyber Security Center as a Deputy Director.

''(B) EMPLOYEE.—One Deputy Director shall be a permanent employee of the Department and a member of the Senior Executive Service.

''(e) PRIMARY MISSIONS.—

''(1) IN GENERAL.—The primary missions of the National Cyber Security Center shall be to—

''(A) coordinate and integrate information to—

''(i) provide cross-domain situational awareness; and

''(ii) analyze and report on the composite state of the Federal information infrastructure;

''(B) unify strategy for the security of the Federal information infrastructure;

''(C) coordinate the development of interagency plans in response to an incident of national significance relating to the security of the Federal information infrastructure;

''(D) coordinate in conjunction with the Director of the Office of Management and Budget the development of uniform standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3);

''(E) develop performance measures to evaluate the security of the Federal information infrastructure; and

''(F) ensure, in coordination with the Privacy Office and the Office for Civil Rights and Civil Liberties, that all policies and procedures for securing the Federal information infrastructure comply with all applicable policies, regulations, and laws protecting the privacy and civil liberties of individuals.

''(2) AWARENESS OF SECURITY STATUS.—The National Cyber Security Center shall establish electronic connections to ensure timely awareness of the security status of the information infrastructure and overall United States Cyber Networks and Systems with—

''(A) the United States Computer Emergency Readiness Team;

''(B) the National Security Agency Threat Operations Center;

''(C) the Joint Task Force-Global Network Operations;

''(D) the Department of Defense Cyber Crime Center;

''(E) the National Cyber Investigative Joint Task Force;

''(F) the Intelligence Community Incident Response Center;

''(G) any other agency identified by the Director, with the concurrence of the head of that agency; and

''(H) any other nongovernmental organization identified by the Director, with the concurrence of the owner or operator of that organization.

''(f) AUTHORITIES OF THE DIRECTOR.—

''(1) ACCESS TO INFORMATION.—Unless otherwise directed by the President—

''(A) the Director shall access, receive, and analyze law enforcement information, intelligence information, terrorism information (as defined in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485)), and other information as determined by the Director, relevant to the security of the Federal information infrastructure from agencies of the Federal Government, State, and local government agencies (including law enforcement agencies), and as appropriate, private sector entities related to the security of Federal information infrastructure; and

''(B) any agency in possession of law enforcement information, intelligence information, and terrorism information (as defined in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485)) relevant to the security of the Federal information infrastructure shall provide that information to the Director in a timely manner.

''(2) BREACH OF ANY GOVERNMENT INFORMATION TECHNOLOGY SYSTEM.—Unless otherwise directed by the President, upon notification or detection of any act or omission by any person or entity that substantially jeopardizes the security of the Federal information infrastructure, the entities described under subsection (e)(2) shall immediately inform the Director of such act or omission.

''(3) DEVELOPMENT OF BUDGETS.—Based on standards and guidelines developed under subsection (e)(1)(D) and any other relevant information, the Director shall—

''(A) provide to the head of each agency that operates a Federal computer system, guidance for developing the budget pertaining to the information security activities of each agency;

''(B) provide such guidance to the Director of the Office of Management and Budget who shall, to the maximum extent practicable, ensure that each agency budget conforms with such guidance;

''(C) regularly evaluate each agency budget to determine if that budget is adequate to meet the performance measures established under subsection (e)(1)(E); and

''(D) provide copies of that evaluation to—

''(i) the head of each relevant agency;

''(ii) the Director of the Office of Management and Budget;

''(iii) the Committee on Appropriations of the Senate;

''(iv) the Committee on Appropriations of the House of Representatives;

''(v) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(vi) the Committee on Oversight and Government Reform of the House of Representatives; and

''(vii) and the Committee on Homeland Security of the House of Representatives.

''(4) REVIEW AND INSPECTION.—

''(A) IN GENERAL.—The Director may—

''(i) review the enterprise architecture, acquisition plans, contracts, policies, and procedures of any agency relevant to the information security of the Federal information infrastructure; and

''(ii) physically inspect any facility to determine if the performance measures established by the National Cyber Security Center have been satisfied.

''(B) REMEDIAL MEASURES.—If the Director determines, through review, inspection, or audit, that the applicable security performance measures have not been satisfied, the Director, in coordination with the Director of the Office of Management and Budget, may recommend remedial measures to be taken to prevent any damage, loss of information, or other threat to information security as a result of the failure to satisfy the applicable performance measures. Such measures shall be implemented or the head of the agency shall certify that, and explain how, the identified vulnerability has been mitigated.

''(5) OPERATIONAL EVALUATIONS.—Unless otherwise directed by the President, the Director, in coordination with the Director of the National Security Agency, shall support strategic planning for the operational evaluation of the security of the Federal information infrastructure. Such planning may include the determination of objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities, but the Director shall not, unless otherwise directed by the Secretary, direct the execution of operational evaluations.

''(6) INFORMATION SHARING.—The Director shall provide information to the Director of the National Cyber Security Division on potential vulnerabilities, attacks, and exploitations of the Federal information infrastructure to the extent that such information might assist State, local, tribal, private, and other entities in securing their own information systems.

''(g) REPORTS.—

''(1) IN GENERAL.—Not less than once in each calendar year, the National Cyber Security Center shall submit a report to Congress.

''(2) CONTENTS.—

''(A) IN GENERAL.—Each report submitted under this subsection shall include—

''(i) a general assessment of the security of the information technology infrastructure of the Federal Government;

''(ii) a description of the activities of the National Cyber Security Center in the preceding year;

''(iii) a description of all vulnerabilities, attacks, and exploitations of Federal Government information technology infrastructure in the preceding year and actions taken in response; and

''(iv) an assessment of the amount and frequency of information shared with the Center by the entities described under subsection (e)(2).

''(B) CLASSIFIED ANNEX.—To the extent that any information in a report submitted under this subsection is classified, the report may include a classified annex.

''(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to create any new authority to collect, maintain, or disseminate personally identifiable information concerning United States citizens.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $30,000,000 for fiscal year 2009; and

''(2) such sums as necessary for each of fiscal years 2010, 2011, 2012, and 2013.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 226, as added by section 601 of this Act, the following:

''Sec. 227. National Cyber Security Center.''.

SEC. 603. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT FOR CYBER SECURITY POSITIONS IN THE DEPARTMENT.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 846, as added by section 401 of this Act, the following:

''SEC. 847. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT FOR CYBER SECURITY POSITIONS AT THE DEPARTMENT.

''(a) IN GENERAL.—With the concurrence of the Director of the National Cyber Security Center or the Assistant Secretary for Cyber Security and Communications, as appropriate, and in coordination with the Director of the Office of Personnel Management, the Secretary may establish new positions within the National Cyber Security Center and the National Cyber Security Division in the excepted service, if the Secretary determines such positions are necessary to carry out the cyber security functions of the Department.

''(b) CLASSIFICATION AND PAY RANGES.—In coordination with the Director of the National Cyber Security Center and the Assistant Secretary for Cyber Security and Communications, the Secretary may establish the classification and ranges of rates of basic pay for any position established under subsection (a), notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

''(c) APPOINTMENT AND COMPENSATION.—The Secretary may appoint individuals for service in positions established under subsection (a) without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service, and to fix the compensation of such individuals within the applicable ranges of rates of basic pay established under subsection (b).

''(d) MAXIMUM RATE OF BASIC PAY.—The maximum rate of basic pay the Secretary may establish under this section is the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 846, as added by section 401 of this Act, the following:

''Sec. 847. Authority for flexible personnel management for cyber security positions at the department.''.

SEC. 604. CYBER THREAT.

(a) DEFINITION.—In this section, the term ''critical infrastructure'' has the meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(b) SHARING OF CYBER THREAT INFORMATION.—The Inspector General of the Department, in coordination with the Inspector General of the Office of the Director of National Intelligence, shall—

(1) assess the sharing of cyber threat information, including—

(A) how cyber threat information, including classified information, is shared with the owners and operators of United States critical infrastructure;

(B) the mechanisms by which classified cyber threat information is distributed; and

(C) the effectiveness of the sharing of cyber threat information; and

(2) not later than 180 days after the date of enactment of this Act, submit a report regarding the assessment under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

(c) CYBER THREAT ASSESSMENT.—The Secretary, in coordination with the Director of National Intelligence, shall—

(1) perform a comprehensive, up-to-date assessment of the cyber threat to critical infrastructure, including threats to electric power command and control systems in the United States; and

(2) not later than 180 days after the date of enactment of this Act, submit a report regarding the assessment under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

SEC. 605. CYBER SECURITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

''SEC. 318. CYBER SECURITY RESEARCH AND DEVELOPMENT.

''(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary for Science and Technology, in coordination with the Assistant Secretary for Cyber Security and Communications and the Director of the National Cyber Security Center, shall carry out a research and development program for the purpose of improving the security of information systems.

''(b) ELIGIBLE PROJECTS.—The research and development program under this section may include projects to—

''(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

''(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

''(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully;

''(4) develop and support infrastructure and tools to support cyber security research and

development efforts, including modeling, testbeds, and data sets for assessment of new cyber security technologies;

''(5) assist the development and support of technologies to reduce vulnerabilities in process control systems;

''(6) test, evaluate, and facilitate the transfer of technologies associated with the engineering of less vulnerable software and securing the information technology software development lifecycle; and

''(7) address other vulnerabilities and risks identified by the Secretary.

''(c) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary for Science and Technology—

''(1) shall ensure that the research and development program is consistent with the National Strategy to Secure Cyberspace, or any succeeding strategy;

''(2) shall, to the extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security-related initiatives, including research being conducted by—

''(A) the National Institutes of Standards and Technology;

''(B) the National Academy of Sciences;

''(C) other Federal departments and agencies; and

''(D) other Federal and private research laboratories, research entities, and universities and institutions of higher education;

''(3) shall carry out any research and development project authorized by this section through a reimbursable agreement with an appropriate Federal agency, if the agency—

''(A) is sponsoring a research and development project in a similar area; or

''(B) has a unique facility or capability that would be useful in carrying out the project; and

''(4) may award grants, or enter into cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in paragraph (2).

''(d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—

''(1) CONSULTATION.—In carrying out research and development projects under this section, the Secretary shall consult with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department.

''(2) PRIVACY IMPACT ASSESSMENTS.—In accordance with sections 222 and 705, the Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section that the Secretary determines could have an impact on privacy, civil rights, or civil liberties.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—From funds appropriated under section 114(w) of title 49, United States Code, there shall be made available to the Secretary to carry out this section $50,000,000 for each fiscal year 2009 through 2012.

''(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization under this subsection shall remain available until expended.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 317 the following:

''Sec. 318. Cyber security research and development.''.

SEC. 606. COMPREHENSIVE NATIONAL CYBER SECURITY INITIATIVE.

Not later than 90 days after the date of enactment of this Act, the Secretary, in coordination with the Director of National Intelligence, shall submit a report containing comprehensive and detailed program and budget information and delineating plans for and linking expenditures to the goals of the Comprehensive National Cyber Security Initiative, as described in National Security Policy Directive 54/Homeland Security Policy Directive 23 signed by the President on January 8, 2008, as modified by the President under this Act and the amendments made by this Act, including implementation guidance and personnel recruiting, retention, and assignment goals to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

SEC. 607. NATIONAL CYBER SECURITY PRIVATE SECTOR ADVISORY BOARD.

(a) DEFINITION.—In this section, the term ''Board'' means the National Cyber Security Private Sector Advisory Board established under subsection (b).

(b) ESTABLISHMENT.—There is established the National Cyber Security Private Sector Advisory Board.

(c) FUNCTIONS.—

(1) IN GENERAL.—The Board shall provide advice and comment to the Secretary on—

(A) the cyber security standards, practices, and policies of the Department;

(B) the state of security of information technology infrastructure in the United States; and

(C) any other issue relating to cyber security that the members of the Board determine is relevant.

(2) THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(d) CHAIRPERSON.—

(1) IN GENERAL.—The chairperson of the Board shall be the Secretary.

(2) DELEGATION.—Through the Secretary, the Board shall provide advice to both the National Cyber Security Division and the National Cyber Security Center. The chairpersonship of the Board shall not be delegated solely to 1 of these entities.

(e) VICE CHAIRPERSON.—The vice chairperson of the Board shall be selected from among the private sector members of the Private-Sector Advisory Board by means determined by the members of the Board.

(f) MEMBERS.—The Board shall be composed of academics, business leaders, and other nongovernment individuals with relevant expertise in the area of cyber security appointed by the Secretary.

(g) MEETINGS.—The Board shall meet not less than twice each calendar year.

SEC. 608. INFRASTRUCTURE PROTECTION.

Section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121) is amended—

(1) in subsection (b)(3), by adding at the end the following: ''The Assistant Secretary for Infrastructure Protection shall report to the Under Secretary with responsibility for overseeing critical infrastructure protection established in section 103(a)(8).''; and

(2) in subsection (d)—

(A) by redesignating paragraphs (2) through (25) as paragraphs (3) through (26), respectively;

(B) by inserting after paragraph (1) the following:

''(2) To promote, prioritize, coordinate, and plan for the protection, security, resiliency, and postdisaster restoration of critical infrastructure and key resources of the United States against or in the event of an act of terrorism, natural disaster, or other manmade disaster, in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.'';

(C) in paragraph (6), as so redesignated—

(i) by inserting '', implement, and coordinate'' after ''develop''; and

(ii) by inserting '', in partnership with the private sector,'' after ''comprehensive national plan'';

(D) in paragraph (7), as so redesignated, by inserting ''and facilitate the implementation of'' after ''recommend''; and

(E) in paragraph (9), as so redesignated, by inserting '', including owners and operators of critical infrastructure, in a timely and effective manner'' after ''such responsibilities''.

TITLE VII—BIOLOGICAL, MEDICAL, AND SCIENCE AND TECHNOLOGY PROVISIONS

SEC. 701. CHIEF MEDICAL OFFICER AND OFFICE OF HEALTH AFFAIRS.

Section 516 of the Homeland Security Act of 2002 (6 U.S.C. 321e) is amended to read as follows:

''SEC. 516. CHIEF MEDICAL OFFICER.

''(a) IN GENERAL.—There is in the Department an Office of Health Affairs, which shall be headed by a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate. The Chief Medical Officer shall also have the title of Assistant Secretary for Health Affairs.

''(b) QUALIFICATIONS.—The individual appointed as the Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

''(c) RESPONSIBILITIES.—

''(1) IN GENERAL.—The Chief Medical Officer shall have the primary responsibility within the Department for medical and public health issues relating to the mission and operations of the Department, including medical and public health issues relating to natural disasters, acts of terrorism, and other man-made disasters.

''(2) SPECIFIC RESPONSIBILITIES.—The responsibilities of the Chief Medical Officer shall include—

''(A) serving as the principal advisor to the Secretary and the Administrator on the medical care, public health, and agrodefense responsibilities of the Department;

''(B) providing oversight of all medically-related actions and of protocols of the medical personnel of the Department;

''(C) administering the responsibilities of the Department for medical readiness, including providing guidance to support State and local training, equipment, and exercises funded by the Department;

''(D) serving as the primary point of contact in the Department with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments and agencies, on medical and public health matters;

''(E) serving as the primary point of contact in the Department for State, local, and tribal governments, the medical community, and the private sector, with respect to medical and public health matters;

''(F) coordinating the biodefense and biosurveillance activities of the Department, including managing the National Biosurveillance Integration Center under section 316;

''(G) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department under Project BioShield under sections 319F-1 and 319F-2 of the Public Health Service Act (42 U.S.C. 247d-6a and 247d-6b);

''(H) ensuring that the workforce of the Department has science-based policy, standards, requirements, and metrics for occupational safety and health;

''(I) providing medical expertise for the components of the Department with respect

to prevention, preparedness, protection, response, and recovery for medical and public health matters;

''(J) working in conjunction with appropriate Department entities and other appropriate Federal departments and agencies to develop guidance for prevention, preparedness, protection, response, and recovery from catastrophic events with human, animal, agricultural, or environmental health consequences; and

''(K) performing such other duties as the Secretary may require.''.

SEC. 702. TEST, EVALUATION, AND STANDARDS DIVISION.

(a) TEST, EVALUATION, AND STANDARDS DIVISION.—Section 308 of the Homeland Security Act of 2002 (6 U.S.C. 188) is amended—

(1) in subsection (a), by inserting ''and through the Test, Evaluation, and Standards Division of the Directorate'' after ''programs''; and

(2) by adding at the end the following:

''(d) TEST, EVALUATION, AND STANDARDS DIVISION.—

''(1) ESTABLISHMENT.—There is established in the Directorate of Science and Technology a Test, Evaluation, and Standards Division.

''(2) LEADERSHIP.—The Test, Evaluation, and Standards Division shall be headed by a Director of Test, Evaluation, and Standards.

''(3) RESPONSIBILITIES, AUTHORITIES, AND FUNCTIONS.—The Secretary, acting through the Director of Test, Evaluation, and Standards, shall—

''(A) ensure the effectiveness, reliability, and suitability of testing and evaluation activities conduct by or on behalf of components and agencies of the Department in acquisition programs that are designated as high-risk major acquisition programs;

''(B) provide the Department with independent and objective assessments of the adequacy of testing and evaluation activities conducted in support of acquisition programs that are designed as high-risk major acquisition programs;

''(C) review and approve all Testing and Evaluation Master Plans, test plans, and testing evaluation procedures for acquisition programs that are designated as high-risk major acquisition programs;

''(D) develop testing and evaluation policies for the Department;

''(E) develop a testing and evaluation infrastructure investment plan to modernize departmental test-bed facilities that conduct developmental, performance, or operational testing in support of acquisition programs that are designated as high-risk major acquisition programs;

''(F) accredit test facilities or test-beds, as necessary, that will be used by the Department for testing and evaluation activities; and

''(G) support the development and adoption of voluntary standards in accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

''(4) DEFINITION.—In this subsection, the term 'high-risk major acquisition program' means any acquisition program that is—

''(A) designated as a Level 1 acquisition under the policies of the Acquisition Review Board of the Department established under section 707; or

''(B) otherwise designated by the Secretary as a complex, high-risk, or major acquisition programs requiring enhanced oversight by the Department.''.

(b) OVERSIGHT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that identifies each current or planned high-risk major acquisition program, as defined in this section.

SEC. 703. DIRECTOR OF OPERATIONAL TESTING.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by section 605 of this Act, is amended by adding at the end the following:

''SEC. 319. DIRECTOR OF OPERATIONAL TESTING.

''(a) DEFINITIONS.—In this section—

''(1) the term 'high-risk major acquisition program' has the meaning given that term in section 308(d)(4); and

''(2) the term 'operational test and evaluation' means testing conducted under realistic operational conditions of any item or key component of a high-risk major acquisition program for the purpose of determining the operational effectiveness, performance, suitability, reliability, availability, and maintenance of the system for the intended mission.

''(b) ESTABLISHMENT.—There is in the Department a Director of Operational Testing, who shall report to the Under Secretary for Science and Technology and the Under Secretary for Management on the operational testing and evaluation of all high-risk major acquisition programs.

''(c) ACCESS TO RECORDS AND DATA.—

''(1) IN GENERAL.—The Director of Operational Testing shall have prompt and full access to test and evaluation documents, data, and test results of the Department that the Director considers necessary to review in order to carry out the duties of the Director under this section.

''(2) OBSERVERS.—The Director of Operational Testing may require that observers designated by the Director shall be present during the preparation for and the conduct of any operational test and evaluation conducted of a high-risk major acquisition program.

''(3) REPORTING BY PROGRAM MANAGERS.—The program manager of a high-risk major acquisition program shall promptly report to the Director of Operational Testing the results of any operational test and evaluation conducted for a system in that program.

''(d) SAFETY CONCERNS.—The Director of Operational Testing shall ensure that any safety concern developed during the test and evaluation of a system in a high-risk major acquisition program are communicated in a timely manner to the Program Manager and Component Head for the applicable program.

''(e) REPORTING TO CONGRESS.—The Director shall promptly comply with any request made by the Committee on Homeland Security and Governmental Affairs of the Senate or the Committee on Homeland Security of the House of Representatives for information or reports relating to the operational test and evaluation of a high-risk major acquisition program.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 318, as added by section 605 of this Act, the following:

''Sec. 319. Director of Operational Testing.''.

SEC. 704. AVAILABILITY OF TESTING FACILITIES AND EQUIPMENT.

(a) AUTHORITY.—The Under Secretary for Science and Technology may make available to any person or entity, for an appropriate fee, the services of any center or other testing facility owned and operated by the Department for the testing of materials, equipment, models, computer software, and other items designed to advance the homeland security mission.

(b) INTERFERENCE WITH FEDERAL PROGRAMS.—The Under Secretary for Science and Technology shall ensure that the testing of materials, equipment, models, computer software, or other items not owned by the Federal Government shall not cause personnel or other resources of the Federal Government to be diverted from scheduled Federal Government tests or otherwise interfere with Federal Government mission requirements.

(c) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available under subsection (a) and any associated data provided by the person or entity for the conduct of the tests—

(1) are trade secrets and commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code; and

(2) may not be disclosed outside the Federal Government without the consent of the person or entity for whom the tests are performed.

(d) FEES.—The fee for using the services of a center or facility under subsection (a) may not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel, that are incurred by the Federal Government to provide for the testing.

(e) USE OF FEES.—Any fee collected under subsection (a) shall be credited to the appropriations or other funds of the Directorate of Science and Technology and shall be used to directly support the research and development activities of the Department.

(f) OPERATIONAL PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Under Secretary for Science and Technology shall submit to Congress a report detailing a plan for exercising the authority to make available a center or other testing facility under this section.

(2) CONTENTS.—The plan submitted under paragraph (1) shall include—

(A) a list of the facilities and equipment that could be made available to a person or entity under this section;

(B) a 5-year budget plan, including the costs for facility construction, staff training, contract and legal fees, equipment maintenance and operation, and any incidental costs associated with exercising the authority to make available a center or other testing facility under this section;

(C) a 5-year estimate of the number of persons and entities that may use a center or other testing facility and fees to be collected under this section;

(D) a list of criteria to be used by the Under Secretary for Science and Technology in selecting persons and entities to use a center or other testing facility under this section, including any special requirements for foreign applicants; and

(E) an assessment of the effect the authority to make available a center or other testing facility under this section would have on the ability of a center or testing facility to meet its obligations under other Federal programs.

(g) REPORT TO CONGRESS.—The Under Secretary for Science and Technology shall submit to Congress an annual report containing a list of the centers and testing facilities that have collected fees under this section, the amount of fees collected, a brief description of each use of a center or facility under this section, and the purpose for which the testing was conducted.

SEC. 705. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 311(j) of the Homeland Security Act of 2002 (6 U.S.C. 191(j)) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department should fully use the Homeland Security Science and Technology Advisory Committee to address the science and technology challenges of the Department.

SEC. 706. NATIONAL ACADEMY OF SCIENCES REPORT.

(a) IN GENERAL.—The Under Secretary for Science and Technology shall enter into an agreement with the National Research Council of the National Academy of Sciences to produce a report updating the 2002 report of the National Research Council entitled ''Making the Nation Safer'' (in this section referred to as the ''2002 report'').

(b) CONTENT OF REPORT.—The report produced under subsection (a) shall—

(1) reexamine the framework in the 2002 report for the application of science and technology for countering terrorism and homeland security;

(2) reassess the research agendas in the 9 areas addressed in the 2002 report, and in any new areas the National Research Council determines to address;

(3) define priority research areas that have not been sufficiently addressed by Federal Government research and development activities since 2002;

(4) assess the efficacy of the organizational structure and processes of the Federal Government for conducting research and development relating to counterterrorism and homeland security;

(5) assess the efficacy of the science and technology workforce in the United States in terms of supporting research and development relating to counterterrorism and homeland security; and

(6) address other related topics that the National Research Council determines to examine.

(c) PUBLICATION.—Not later than 1 year after the date of enactment of this Act, the National Research Council shall release the report produced under subsection (a) and make the report available free of charge on the website of the National Academies.

(d) AUTHORIZATION.—Of the total authorized in section 101 of this Act for fiscal year 2009, $1,000,000 is authorized to carry out this section.

SEC. 707. MATERIAL THREATS.

(a) IN GENERAL.—

(1) MATERIAL THREATS.—Section 319F–2(c)(2)(A) of the Public Health Service Act (42 U.S.C. 247d–6b(c)(2)(A)) is amended—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by moving each of such subclauses 2 ems to the right;

(C) by striking ''(A) MATERIAL THREAT.—The Homeland Security Secretary'' and inserting the following:

''(A) MATERIAL THREAT.—

''(i) IN GENERAL.—The Homeland Security Secretary''; and

(D) by adding at the end the following clauses:

''(ii) GROUPINGS TO FACILITATE ASSESSMENT OF COUNTERMEASURES.—

''(I) IN GENERAL.—In conducting threat assessments and determinations under clause (i) of chemical, biological, radiological, and nuclear agents, the Homeland Security Secretary may consider the completion of such assessments and determinations for groups of agents toward the goal of facilitating the assessment of countermeasures under paragraph (3) by the Secretary.

''(II) CATEGORIES OF COUNTERMEASURES.—The grouping of agents under subclause (I) by the Homeland Security Secretary shall be designed, in consultation with the Secretary, to facilitate assessments under paragraph (3) by the Secretary regarding the following two categories of countermeasures:

''(aa) Countermeasures that may address more than one agent identified under clause (i)(II).

''(bb) Countermeasures that may address adverse health consequences that are common to exposure to different agents.

''(III) RULE OF CONSTRUCTION.—A particular grouping of agents pursuant to subclause (II) is not required under such subclause to facilitate assessments of both categories of countermeasures described in such subclause. A grouping may concern one category and not the other.

''(iii) TIMEFRAME FOR COMPLETION OF CERTAIN NATIONAL SECURITY DETERMINATIONS.—With respect to chemical and biological agents and particular radiological isotopes and nuclear materials, or appropriate groupings of such agents, known to the Homeland Security Secretary as of the day before the date of the enactment of this clause, and which such Secretary considers to be capable of significantly affecting national security, such Secretary shall complete the determinations under clause (i)(II) not later than December 31, 2009.

''(iv) REPORT TO CONGRESS.—Not later than 30 days after the date on which the Homeland Security Secretary completes a material threat assessment under clause (i) or a risk assessment for the purpose of satisfying such clause, such Secretary shall submit to Congress a report containing the results of such assessment.

''(v) DEFINITION.—For purposes of this subparagraph, the term 'risk assessment' means a scientific, technically-based analysis of agents that incorporates threat, vulnerability, and consequence information.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 319F–2(c) of the Public Health Service Act (42 U.S.C. 247d–6b(c)) is amended—

(A) in paragraph (1)(B)(i)(I), by striking ''paragraph (2)(A)(ii)'' and inserting ''paragraph (2)(A)(i)(II)''; and

(B) in paragraph (2)—

(i) in subparagraph (B)—

(I) in clause (i), by striking ''subparagraph (A)(ii)'' and inserting ''subparagraph (A)(i)(II)''; and

(II) in clause (ii), by striking ''subparagraph (A)(ii)'' and inserting ''subparagraph (A)(i)(II)'';

(ii) in subparagraph (C), by striking ''subparagraph (A)'' and inserting ''subparagraph (A)(i)''; and

(iii) in subparagraph (D), by striking ''subparagraph (A)'' and inserting ''subparagraph (A)(i)''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 521(d) of the Homeland Security Act of 2002 (6 U.S.C. 321–j(d)) is amended—

(1) in paragraph (1), by striking ''2006,'' and inserting ''2010,''; and

(2) by adding at the end the following:

''(3) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS REGARDING CERTAIN THREAT ASSESSMENTS.—For the purpose of providing an additional amount to the Secretary to assist the Secretary in meeting the requirements of clause (iii) of section 319F–2(c)(2)(A)) of the Public Health Service Act (relating to time frames), there are authorized to be appropriated such sums as may be necessary for fiscal year 2009, in addition to the authorization of appropriations established in paragraph (1). The purposes for which such additional amount may be expended include conducting risk assessments regarding clause (i)(II) of such section when there are no existing risk assessments that the Secretary considers credible.''.

TITLE VIII—BORDER SECURITY PROVISIONS

Subtitle A—Border Security Generally

SEC. 801. INCREASE OF CUSTOMS AND BORDER PROTECTION OFFICERS AND SUPPORT STAFF AT PORTS OF ENTRY.

(a) CUSTOMS AND BORDER PROTECTION OFFICERS.—For each of the fiscal years 2009 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose and in accordance with subsection (c), increase annually by not less than 1,000, the total number of full-time, active-duty Customs and Border Protection Officers within U.S. Customs and Border Protection for posting at United States ports of entry over the number of such Officers authorized on the last day of the previous fiscal year.

(b) BORDER SECURITY SUPPORT PERSONNEL.—For each of the fiscal years 2009 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase annually by not less than a total of 171, the number of full-time border security support personnel assigned to United States ports of entry over the number of such support personnel authorized on the last day of the previous fiscal year.

(c) WORKFORCE STAFFING MODEL.—

(1) IN GENERAL.—Not later than December 31, 2008, and every 2 years thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a workforce staffing model—

(A) detailing the optimal level of staffing required to carry out the responsibilities of U.S. Customs and Border Protection; and

(B) describing the process through which U.S. Customs and Border Protection makes workforce allocation decisions.

(2) REVIEW BY GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 45 days after the date on which the Secretary submits the workforce staffing model under paragraph (1), the Comptroller General of the United States shall review and submit an assessment of the workforce staffing model to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for the purpose of meeting the staffing requirements provided for in subsections (a) and (b) such sums as are necessary.

(2) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to paragraph (1) shall supplement and not supplant any other amounts authorized to be appropriated to U.S. Customs and Border Protection for staffing.

SEC. 802. CUSTOMS AND BORDER PROTECTION OFFICER TRAINING.

(a) ENSURING CUSTOMS AND BORDER PROTECTION OFFICER TRAINING.—The Commissioner responsible for U.S. Customs and Border Protection (in this section referred to as the ''Commissioner'') shall incorporate into an existing database or develop a database system, by June 30, 2009, that identifies for each Customs and Border Protection Officer—

(1) the assigned port placement location;

(2) the specific assignment and responsibilities;

(3) the required initial training courses completed;

(4) the required ongoing training courses available and completed;

(5) for each training course completed, the method by which the training was delivered (classroom, internet/computer, on-the-job, CD-ROM);

(6) for each training course, the time allocated during on-duty hours within which training must be completed;

(7) for each training course offered, the duration of training and the amount of time an employee must be absent from work to complete the training;

(8) if training has been postponed, the basis for postponing training;

(9) the date training was completed;

(10) certification or evidence of completion of each training course; and

(11) certification by a supervising officer that the Officer is able to carry out the function for which the training was provided.

(b) IDENTIFYING AND ENHANCING ON-THE-JOB TRAINING.—Not later than June 30, 2009, the Commissioner shall—

(1) review the mission and responsibilities of Customs and Border Protection Officers carried out at air, land, and sea ports of entry in both primary and secondary inspections areas;

(2) develop an inventory of specific tasks that must be performed by Customs and Border Protection Officers throughout the entire inspection process at ports of entry, including tasks to be performed in primary and secondary inspections areas;

(3) ensure that on-the-job training includes supervised and evaluated performance of those tasks identified in paragraph (2) or a supervised and evaluated practical training exercise that simulates the on-the-job experience; and

(4) develop criteria to measure officer proficiency in performing those tasks identified in paragraph (2) and for providing feedback to officers on a regular basis.

(c) USE OF DATA.—The Commissioner shall use the information developed under subsection (a) and subsection (b)(2) to—

(1) develop specific training requirements for Customs and Border Protection Officers to ensure that Officers have sufficient training to conduct primary and secondary inspections at land, air, and sea ports of entry;

(2) measure progress toward achieving those training requirements; and

(3) make staffing allocation decisions.

(d) COMPETENCY.—Supervisors of on-the-job training shall—

(1) attest to the competency of Customs and Border Protection Officers to carry out the functions for which the Officers received training; and

(2) provide feedback to the Officers on performance.

SEC. 803. MOBILE ENROLLMENT TEAMS PILOT PROJECT.

Section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by adding at the end the following:

''(3) MOBILE ENROLLMENT TEAMS.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—Not later than November 1, 2008, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall establish 20 temporary mobile enrollment teams along the international borders to assist United States citizens in applying for passport cards and passports. Not more than a total of 40 personnel shall be assigned to participate on the teams.

''(ii) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL.—

''(I) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the purpose of meeting the staffing requirements under this paragraph such sums as may be necessary.

''(II) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to subclause (I) shall supplement and not supplant any other amounts authorized to be appropriated to the U.S. Customs and Border Protection for staffing.

''(B) DEPLOYMENT.—Enrollment teams established under subparagraph (A) shall be deployed to communities in each State that has a land or maritime border with Canada or Mexico. In allocating teams among the States, consideration shall be given to the number of passport acceptance facilities in the State and the length of the international border of the State.

''(C) COORDINATION; OUTREACH.—In deploying enrollment teams under subparagraph (B), the Secretary shall—

''(i) implement this provision in conjunction with the Secretary of State;

''(ii) develop an awareness and outreach campaign for the mobile enrollment program; and

''(iii) coordinate with Federal, State, and local government officials in strategic locations along the northern and southern international borders to temporarily secure suitable space to conduct enrollments.

''(D) FEES.—

''(i) EXECUTION FEES.—Notwithstanding any other provision of law, the Secretary of Homeland Security and the Secretary of State may not charge an execution fee for a passport or a passport card obtained through a mobile enrollment team established under this paragraph.

''(ii) APPLICATION FEES.—The Secretary of State may charge an application fee for a passport card obtained through a mobile enrollment team in an amount not to exceed—

''(I) $20 for individuals who are 16 years of age or older; and

''(II) $10 for individuals who are younger than 16 years of age.

''(E) REPORT.—Not later than November 1, 2008, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees that describes—

''(i) the status of the implementation of the mobile enrollment team pilot project;

''(ii) the number and location of the enrollment teams that have been deployed; and

''(iii) the amount of Federal appropriations needed to expand the number of mobile enrollment teams.

''(F) SUNSET.—The mobile enrollment team pilot project established under this paragraph shall terminate on July 1, 2010.''.

SEC. 804. FEDERAL-STATE BORDER SECURITY COOPERATION.

(a) IN GENERAL.—Title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended by adding at the end the following:

''Subtitle C—Other Grant Programs

''SEC. 2041. BORDER SECURITY ASSISTANCE PROGRAM.

''(a) BORDER SECURITY TASK FORCES.—The Commissioner responsible for U.S. Customs and Border Protection (in this section referred to as the 'Commissioner'), in conjunction with appropriate State, local, and tribal officials, may establish State or regional task forces to facilitate the coordination of the activities of State, local, or tribal law enforcement and other officials with Federal efforts to enhance the Nation's border security.

''(b) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—In support of the task forces authorized under subsection (a), the Secretary, through the Administrator, and in consultation with the Commissioner, is authorized to make grants to States to facilitate and enhance State, local, and tribal participation in border security efforts.

''(2) ELIGIBILITY.—A State is eligible to apply for a grant under this section if—

''(A) the State is located on the international border between the United States and Mexico or the United States and Canada; and

''(B) the State, local, or tribal governments within the State, participate in a task force described in subsection (a).

''(3) AVAILABILITY OF FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—Not later than 45 days after receiving grant funds, any State that receives a grant under this section shall obligate or otherwise make available to local and tribal governments—

''(A) not less than 80 percent of the grant funds;

''(B) with the consent of local and tribal governments, eligible expenditures having a value of not less than 80 percent of the amount of the grant; or

''(C) with the consent of local and tribal governments, grant funds combined with other eligible expenditures having a total value of not less than 80 percent of the amount of the grant.

''(4) LIMITATIONS ON USE OF FUNDS.—Funds provided under this section may not be used—

''(A) to supplant State, local, or tribal government funds;

''(B) to pay salaries and benefits for personnel, other than overtime expenses;

''(C) to purchase vehicles, vessels or aircraft; and

''(D) to construct and renovate buildings or other physical facilities.

''(5) PRIORITIZATION.—In allocating funds among eligible States applying for grants under this section, the Administrator shall consider for each eligible State—

''(A) the relative threat, vulnerability, and consequences from acts of terrorism to that State, including consideration of—

''(i) the most current threat assessments available to the Department relevant to the border of that State;

''(ii) the length of the international border of that State; and

''(iii) such other factors as the Administrator may provide; and

''(B) the anticipated effectiveness of the proposed use of the grant by the State to enhance border security capabilities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $20,000,000 for each of the fiscal years 2009 through 2013.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 2022 the following:

''Subtitle C—Other Grant Programs

''Sec. 2041. Border security assistance program.''.

Subtitle B—Customs and Border Protection Agriculture Specialists

SEC. 811. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) agriculture specialists in U.S. Customs and Border Protection at the Department serve a critical role in protecting the United States from both the unintentional and the intentional introduction of diseases or pests that threaten the economy and human health of the United States through—

(A) applying advanced scientific education and expertise to the examination of foreign agriculture products;

(B) identifying and intercepting harmful pests and plant and animal diseases; and

(C) seizing and destroying infested products that would result in harm to the United States;

(2) customs and border protection agriculture specialists enhance the security of the United States and are an integral part of the border protection force of the Department by working synergistically and sharing information with others in the Department who are responsible for protecting the borders and keeping dangerous people and things out of the United States; and

(3) there should be continued and additional support for customs and border protection agriculture specialists and their unique mission.

SEC. 812. INCREASE IN NUMBER OF U.S. CUSTOMS AND BORDER PROTECTION AGRICULTURE SPECIALISTS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall increase the number of full-time customs and border protection agriculture specialists for United States ports of entry by not fewer than 195 each fiscal year, for fiscal years 2009 through 2013, over the number of customs and border protection agriculture specialists authorized on the last day of the previous fiscal year.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department for the purpose of increasing the number of customs and border protection agriculture specialists such sums as necessary for fiscal years 2009 through 2013.

SEC. 813. AGRICULTURE SPECIALIST CAREER TRACK.

(a) IN GENERAL.—The Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection—

(1) shall ensure that appropriate career paths for customs and border protection agriculture specialists are identified, including the education, training, experience, and assignments necessary for career progression within U.S. Customs and Border Protection;

(2) shall publish information on the career paths described in paragraph (1); and

(3) may establish criteria by which appropriately qualified U.S. Customs and Border Protection technicians may be promoted to customs and border protection agriculture specialists.

(b) EDUCATION, TRAINING, AND EXPERIENCE.—The Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall ensure that all customs and border protection agriculture specialists are provided the opportunity to acquire the education, training, and experience necessary to qualify for promotion within U.S. Customs and Border Protection.

SEC. 814. AGRICULTURE SPECIALIST RECRUITMENT AND RETENTION.

Not later than 270 days after the date of enactment of this Act, the Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall develop a plan for more effective recruitment and retention of qualified customs and border protection agriculture specialists, including numerical goals for increased recruitment and retention and the use of bonuses and other incentives where appropriate and permissible under existing laws and regulations.

SEC. 815. RETIREMENT PROVISIONS FOR AGRICULTURE SPECIALISTS AND SEIZED PROPERTY SPECIALISTS.

(a) AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (30);

(B) by striking the period at the end of paragraph (31) and inserting a semicolon; and

(C) by adding at the end the following:

''(32) 'customs and border protection agriculture specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–0401 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to preventing the introduction of harmful pests, plant and animal diseases, and other biological threats at ports of entry, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described in subparagraph (A)) for at least 3 years;

''(33) 'customs and border protection seized property specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–1801 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to the efficient and effective custody, management, and disposition of seized or forfeited property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described in subparagraph (A)) for at least 3 years; and''.

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1)(A), by striking ''or customs and border protection officer,'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''; and

(B) in the table contained in subsection (c), by adding at the end the following:

''Customs and border protection agriculture specialist and customs and border protection seized property specialist	7.5	After April 1, 2009.''.

(3) MANDATORY SEPARATION.—The first sentence of section 8335(b)(1) of title 5, United States Code, is amended by striking ''or customs and border protection officer'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(4) IMMEDIATE RETIREMENT.—Section 8336 of title 5, United States Code, is amended—

(A) in subsection (c)(1), by striking ''or customs and border protection officer'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''; and

(B) in subsections (m) and (n), by striking ''or as a customs and border protection officer'' and inserting ''or as a customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(b) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (35), by striking ''and'' at the end;

(B) in paragraph (36), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(37) 'customs and border protection agriculture specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–0401 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to preventing the introduction of harmful pests, plant and animal diseases, and other biological threats at ports of entry, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties (as described in subparagraph (B)) in 1 or more positions (as described in subparagraph (A)) for at least 3 years;

''(38) 'customs and border protection seized property specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–1801 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to the efficient and effective custody, management, and disposition of seized or forfeited property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties (as described in subparagraph (B)) in 1 or more positions (as described in subparagraph (A)) for at least 3 years; and''.

(2) IMMEDIATE RETIREMENT.—Paragraphs (1) and (2) of section 8412(d) of title 5, United States Code, are amended by striking ''or customs and border protection officer'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(h)(2) of title 5, United States Code, is amended by striking ''or customs and border protection officer''; and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(4) DEDUCTIONS FROM PAY.—The table contained in section 8422(a)(3) of title 5, United States Code, is amended by adding at the end the following:

Customs and border protection agriculture specialist and customs and border protection seized property specialist	7.5	After April 1, 2009.

(5) GOVERNMENT CONTRIBUTIONS.—Paragraphs (1)(B)(i) and (3) of section 8423(a) of title 5, United States Code, are amended by inserting ''customs and border protection agriculture specialists, and customs and border protection seized property specialists'' after ''customs and border protection officers,'' each place it appears.

(6) MANDATORY SEPARATION.—Section 8425(b)(1) of title 5, United States Code, is amended—

(A) by striking ''or customs and border protection officer who'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist who''; and

(B) by striking ''or customs and border protection officer as the case may be'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist as the case may be''.

(c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—Section 3307(g) of title 5, United States Code, is amended by striking ''customs and border protection officer, as defined by section 8401(36)'' and inserting ''customs and border protection officer, customs and border protection agriculture specialist, and customs and border protection seized property specialist, as defined by section 8401 (36), (37), and (38), respectively''.

(d) REGULATIONS.—Any regulations necessary to carry out the amendments made by

this section shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary.

(e) EFFECTIVE DATE; TRANSITION RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first pay period beginning at least 6 months after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) NONAPPLICABILITY OF MANDATORY SEPARATION PROVISIONS TO CERTAIN INDIVIDUALS.—The amendments made by subsections (a)(3) and (b)(6), respectively, shall not apply to an individual first appointed as a customs and border protection agriculture specialist or customs and border protection seized property officer before the effective date under paragraph (1).

(B) TREATMENT OF PRIOR SERVICE.—

(i) GENERAL RULE.—Except as provided in clause (ii), nothing in this section or any amendment made by this section shall be considered to apply with respect to any service performed as a customs and border protection agriculture specialist or customs and border protection seized property specialist before the effective date under paragraph (1).

(ii) EXCEPTIONS.—

(I) Service described in section 8331(32) or 8401(37) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a customs and border protection agriculture specialist by virtue of holding a supervisory or administrative position in the Department.

(II) Service described in section 8331(33) or 8401(38) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a customs and border protection agriculture specialist by virtue of holding a supervisory or administrative position in the Department.

(C) MINIMUM ANNUITY AMOUNT.—The annuity of an individual serving as a customs and border protection agriculture specialist or customs and border protection seized property specialist on the effective date under paragraph (1) pursuant to an appointment made before that date shall, to the extent that its computation is based on service rendered as a customs and border protection agriculture specialist or customs and border protection seized property specialist, respectively, on or after that date, be at least equal to the amount that would be payable—

(i) to the extent that such service is subject to the Civil Service Retirement System, by applying section 8339(d) of title 5, United States Code, with respect to such service; and

(ii) to the extent such service is subject to the Federal Employees Retirement System, by applying section 8415(d) of title 5, United States Code, with respect to such service.

(D) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (c) shall be considered to apply with respect to any appointment made before the effective date under paragraph (1).

(3) ELECTION.—

(A) INCUMBENT DEFINED.—For purposes of this paragraph, the term ''incumbent'' means an individual who is serving as a customs and border protection agriculture specialist or customs and border protection seized property specialist on the date of the enactment of this Act.

(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

(C) ELECTION AVAILABLE TO INCUMBENTS.—

(i) IN GENERAL.—An incumbent may elect, for all purposes, either—

(I) to be treated in accordance with the amendments made by subsection (a) or (b), as applicable; or

(II) to be treated as if subsections (a) and (b) had never been enacted.

Failure to make a timely election under this paragraph shall be treated in the same way as an election made under subclause (I) on the last day allowable under clause (ii).

(ii) DEADLINE.—An election under this paragraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term ''customs and border protection agriculture specialist'' has the meaning given such term by section 8331(32) or 8401(37) of title 5, United States Code (as amended by this section).

(B) the term ''customs and border protection seized property specialist'' has the meaning given such term by section 8331(33) or 8401(38) of title 5, United States Code (as amended by this section).

(5) EXCLUSION.—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

(A) holds a position within U.S. Customs and Border Protection; and

(B) is considered a law enforcement officer for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.

SEC. 816. EQUIPMENT SUPPORT.

Not later than 90 days after the date of enactment of this Act, the Commissioner responsible for U.S. Customs and Border Protection shall—

(1) determine the minimum equipment and other resources at U.S. Customs and Border Protection agriculture inspection stations and facilities that are necessary for customs and border protection agriculture specialists to carry out their mission fully and effectively;

(2) complete an inventory of the equipment and other resources available at each U.S. Customs and Border Protection agriculture inspection station and facility;

(3) identify the gaps between the necessary level of equipment and other resources and those available at agriculture inspection stations and facilities; and

(4) develop a plan to address any gaps identified under paragraph (3).

SEC. 817. REPORTS.

(a) IMPLEMENTATION OF ACTION PLANS AND EQUIPMENT SUPPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

(1) the status of the implementation of action plans developed by the Animal and Plant Health Inspection Service-U.S. Customs and Border Protection Joint Task Force on Improved Agriculture Inspection;

(2) the findings of the Commissioner under section 816; and

(3) the plan described in section 816(4).

(b) IMPLEMENTATION OF SUBTITLE.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

(1) the implementation of the requirements of this subtitle not addressed in the report required under subsection (a); and

(2) any additional legal authority believed necessary to carry out the Department's agriculture inspection mission effectively.

TITLE IX—PREPAREDNESS AND RESPONSE PROVISIONS

SEC. 901. NATIONAL PLANNING.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311) is amended by adding at the end the following:

''SEC. 525. NATIONAL PLANNING.

''(a) DEFINITIONS.—In this section—

''(1) the term 'operations plan' means a plan that—

''(A) identifies the resource, personnel, and asset allocations necessary to execute the objectives of a strategic plan and turn strategic priorities into operational execution; and

''(B) contains a full description of specific roles, responsibilities, tasks, integration, and actions required under the plan; and

''(2) the term 'strategic plan' means a plan that—

''(A) outlines strategic priorities and broad national strategic objectives, and describes intended outcomes; and

''(B) defines the mission, identifies authorities, delineates roles, responsibilities, and essential tasks, and determines and prioritizes required capabilities.

''(b) NATIONAL PLANNING SYSTEM.—The President, through the Secretary and the Administrator, in conjunction with the heads of appropriate Federal departments and agencies, and in consultation with the National Advisory Council established under section 508, shall develop a national planning system that—

''(1) provides common processes across Federal departments and agencies for developing plans to prevent, prepare for, protect against, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters;

''(2) includes a process for modifying plans described under paragraph (1) to reflect developments in risk, capabilities, or policies and incorporate lessons learned from exercises and events;

''(3) provides for the development of—

''(A) strategic guidance that outlines broad national strategic objectives and priorities and is intended to guide the development of strategic and operations plans;

''(B) strategic plans to address those hazards that pose the greatest risk, including natural disasters, acts of terrorism, and other man-made disasters, and, where appropriate, the national planning scenarios prescribed in section 645 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 745); and

''(C) operations plans by all relevant Federal departments and agencies, including operations plans required under section 653(b) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 753(b)) and such other operations plans as necessary for the execution of the roles and responsibilities identified by such strategic plans; and

''(D) such other plans as the Secretary determines necessary;

''(4) includes practical planning instruction and planning templates that may be voluntarily used or adapted by State, local, and tribal governments, in order to promote consistent planning for all hazards, including

natural disasters, acts of terrorism, and other man-made disasters, across Federal, State, local, and tribal governments; and

''(5) includes processes for linking Federal plans with those of State, local, and tribal governments.

''(c) STATE, LOCAL, AND TRIBAL PLANNING.—The Secretary, through the Administrator, shall—

''(1) promote the planning system developed under subsection (b) to State and local governments and provide assistance, as appropriate, with the development of plans to prevent, prepare for, protect against, respond to, and recover from all hazards, including natural disasters, acts of terrorism and other man-made disasters; and

''(2) develop a means by which strategic and operations plans developed by State, local, and tribal governments and Federal strategic and operations plans developed under the national planning system required under subsection (b), may be coordinated and aligned.

''(d) REPORT.—Not later than 1 year after the date of enactment of this section, and every year thereafter until the date that is 11 years after such date of enactment, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

''(1) the status of the national planning system required under subsections (b), and a document describing the system;

''(2) the status of strategic guidance and strategic and operations plans and other plans developed under the national planning system;

''(3) the current ability of Federal departments and agencies to execute the plans developed under the national planning system and any additional resources required to enable execution of such plans; and

''(4) the extent to which State, local, and tribal planning efforts and Federal planning efforts are being coordinated.''.

SEC. 902. PREDISASTER HAZARD MITIGATION.

(a) IN GENERAL.—

(1) ALLOCATION OF FUNDS.—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(f)) is amended to read as follows:

''(f) ALLOCATION OF FUNDS.—

''(1) IN GENERAL.—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

''(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

''(A) is not less than the lesser of—

''(i) $575,000; and

''(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

''(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended to read as follows:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $210,000,000 for fiscal year 2009;

''(2) $220,000,000 for fiscal year 2010;

''(3) $230,000,000 for fiscal year 2011;

''(4) $240,000,000 for fiscal year 2012; and

''(5) $250,000,000 for fiscal year 2013.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 204(b) (42 U.S.C. 5134(b)), by striking ''Director'' and inserting ''Administrator'';

(2) in section 303(b) (42 U.S.C. 5144(b)), by striking ''Director'' each place it appears and inserting ''Administrator'';

(3) in section 326(c)(3) (42 U.S.C. 5165d(c)(3)), by striking ''Director'' and inserting ''Administrator'';

(4) in section 404(b) (42 U.S.C. 5170c(b)), by striking ''Director'' each place it appears and inserting ''Administrator'';

(5) in section 406 (42 U.S.C. 5172), by striking ''Director'' each place it appears and inserting ''Administrator'';

(6) in section 602(a) (42 U.S.C. 5195a(a))—

(A) in paragraph (4), by striking ''Director'' and inserting ''Administrator''; and

(B) by striking paragraph (7) and inserting the following:

''(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.'';

(7) in sections 603 through 613 (42 U.S.C. 5195b et seq.), by striking ''Director'' each place it appears and inserting ''Administrator'';

(8) in sections 616 and 621 (42 U.S.C. 5196f and 5197), by striking ''Director'' each place it appears and inserting ''Administrator'';

(9) in section 622 (42 U.S.C. 5197a)—

(A) in subsection (a), by striking ''Director'' each place it appears and inserting ''Administrator'';

(B) in subsection (b), by striking ''Director'' and inserting ''Administrator''; and

(C) in subsection (c)—

(i) by striking ''Director'' the first place it appears and inserting ''Administrator''; and

(ii) by striking ''Director of the Federal Emergency Management Agency'' each place it appears and inserting ''Administrator'';

(10) in sections 623 and 624 (42 U.S.C. 5197b and 5197c), by striking ''Director'' each place it appears and inserting ''Administrator''; and

(11) in section 629 (42 U.S.C. 5197h), by striking ''Director'' each place it appears and inserting ''Administrator''.

(c) PROGRAM ELIGIBILITY.—Section 203(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(e)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2) FLOOD CONTROL PROJECTS.—

''(A) IN GENERAL.—A State may use not more than 25 percent of the financial assistance under this section made available to the State in a fiscal year (including any such financial assistance made available to local governments of the State) for flood control projects.

''(B) DEFINITION.—In this paragraph, the term 'flood control project'—

''(i) means—

''(I) a project relating to the construction, demolition, repair, or improvement of a dam, dike, levee, floodwall, seawall, groin, jetty, or breakwater;

''(II) a waterway channelization; or

''(III) an erosion project relating to beach nourishment or renourishment; and

''(ii) does not include any project the maintenance of which is the responsibility of a Federal department or agency, including the Corps of Engineers.''.

SEC. 903. COMMUNITY PREPAREDNESS.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311), as amended by section 901 of this Act, is amended by adding at the end the following:

''SEC. 526. COMMUNITY PREPAREDNESS.

''(a) IN GENERAL.—The Administrator shall assist State, local, and tribal governments in enhancing and promoting the preparedness of individuals and communities for natural disasters, acts of terrorism, and other man-made disasters.

''(b) COORDINATION.—Where appropriate, the Administrator shall coordinate with private sector and nongovernmental organizations to promote community preparedness.

''(c) DIRECTOR.—The Administrator shall appoint a Director of Community Preparedness to coordinate and oversee the Agency's community preparedness activities.''.

SEC. 904. METROPOLITAN MEDICAL RESPONSE SYSTEM.

(a) IN GENERAL.—Title XX of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 804 of this Act, is amended by adding at the end the following:

''SEC. 2042. METROPOLITAN MEDICAL RESPONSE SYSTEM.

''(a) IN GENERAL.—There is in the Department a Metropolitan Medical Response System, which shall assist State, local, and tribal governments in preparing for and responding to mass casualty incidents resulting from natural disasters, acts of terrorism and other man-made disasters.

''(b) FINANCIAL ASSISTANCE.—

''(1) AUTHORIZATION OF GRANTS.—

''(A) IN GENERAL.—The Secretary, through the Administrator, may make grants under this section to State, local, and tribal governments to assist in preparing for and responding to mass casualty incidents resulting from natural disasters, acts of terrorism, and other man-made disasters.

''(B) CONSULTATION.—In developing guidance for grants authorized under this section, the Administrator shall consult with the Chief Medical Officer.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—A grant made under this section may be used in support of public health and medical preparedness, including—

''(i) medical surge capacity;

''(ii) mass prophylaxis;

''(iii) chemical, biological, radiological, nuclear, and explosive detection, response, and decontamination capabilities;

''(iv) mass triage;

''(v) planning;

''(vi) information sharing and collaboration capabilities;

''(vii) medicinal stockpiling;

''(viii) fatality management;

''(ix) training and exercises;

''(x) integration and coordination of the activities and capabilities of public health personnel and medical care providers with those of other emergency response providers as well as private sector and nonprofit organizations; and

''(xi) such other activities as the Administrator may provide.

''(3) ELIGIBILITY.—

''(A) IN GENERAL.—Any jurisdiction that received funds through the Metropolitan Medical Response System in fiscal year 2008 shall be eligible to receive a grant under this section.

''(B) ADDITIONAL JURISDICTIONS.—

''(i) UNREPRESENTED STATES.—

''(I) IN GENERAL.—For any State in which no jurisdiction received funds through the Metropolitan Medical Response System in fiscal year 2008, or in which funding was received only through another State, the metropolitan statistical area in such State with the largest population shall be eligible to receive a grant under this section.

''(II) LIMITATION.—For each of fiscal years 2009 through 2011, no jurisdiction that would

otherwise be eligible to receive grants under subclause (I) shall receive a grant under this section if it would result in any jurisdiction under subparagraph (A) receiving less funding than such jurisdiction received in fiscal year 2008.

''(ii) OTHER JURISDICTIONS.—

''(I) IN GENERAL.—The Administrator, at the discretion of the Administrator, may determine that additional jurisdictions are eligible to receive grants under this section.

''(II) LIMITATION.—For each of fiscal years 2009 through 2011, the eligibility of any additional jurisdiction to receive grants under this section is subject to the availability of appropriations beyond that necessary to—

''(aa) ensure that each jurisdiction eligible to receive a grant under subparagraph (A) does not receive less funding than such jurisdiction received in fiscal year 2008; and

''(bb) provide grants to jurisdictions eligible under clause (i).

''(C) REGIONAL COORDINATION.—The Administrator shall ensure that each recipient of a grant under this section, as a condition of receiving such grant, is actively coordinating its preparedness efforts with surrounding jurisdictions, with the government of the State in which the jurisdiction is located, and with emergency response providers from all relevant disciplines, to effectively enhance regional preparedness.

''(4) DISTRIBUTION OF FUNDS.—

''(A) ALLOCATION.—For each fiscal year, the Administrator shall allocate funds for grants under this section among eligible jurisdictions in the same manner that such allocations were made in fiscal year 2008.

''(B) STATE DISTRIBUTION OF FUNDS.—

''(i) IN GENERAL.—The Administrator shall distribute grant funds under this section to the State in which the jurisdiction receiving a grant under this section is located.

''(ii) PASS THROUGH.—Subject to clause (iii), not later than 45 days after the date on which a State receives grant funds under clause (i), the State shall provide the jurisdiction receiving the grant 100 percent of the grant funds.

''(iii) EXCEPTION.—The Administrator, in the discretion of the Administrator, may permit a State to provide to a jurisdiction receiving a grant under this section 90 percent of the grant funds awarded if doing so would not result in any jurisdiction eligible for a grant under paragraph (3)(A) receiving less funding than such jurisdiction received in fiscal year 2008.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program—

''(1) $75,000,000 for each of fiscal years 2009 through 2013; and

''(2) such sums as may be necessary for each of fiscal years 2014 and 2015.''.

(b) PROGRAM REVIEW.—

(1) IN GENERAL.—The Administrator and the Chief Medical Officer shall conduct a review of the Metropolitan Medical Response System authorized under section 2042 of the Homeland Security Act of 2002, as added by subsection (a), including an examination of—

(A) the goals and objectives of the Metropolitan Medical Response System;

(B) the extent to which the goals and objectives are being met;

(C) the performance metrics that can best help assess whether the Metropolitan Medical Response System is succeeding;

(D) how the Metropolitan Medical Response System can be improved;

(E) how the Metropolitan Medical Response System does or does not relate to other Department-supported preparedness programs;

(F) how eligibility for financial assistance, and the allocation of financial assistance, under the Metropolitan Medical Response System, should be determined; and

(G) the resource requirements of the Metropolitan Medical Response System.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Medical Officer shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the results of the review under this subsection.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 635 of the Post-Katrina Management Reform Act of 2006 (6 U.S.C. 723) is repealed.

SEC. 905. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

Section 661(d) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 761(d)) is amended by striking ''2008'' and inserting ''2009''.

SEC. 906. CLARIFICATION ON USE OF FUNDS.

Section 2008 of the Homeland Security Act of 2002 (6 U.S.C. 609) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''Grants'' and all that follows through ''used'' and inserting the following: ''The Administrator shall permit the recipient of a grant under section 2003 or 2004 to use grant funds''; and

(B) in paragraph (10), by inserting '', regardless of whether such analysts are current or new full-time employees or contract employees'' after ''analysts''; and

(2) in subsection (b)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

''(3) LIMITATIONS ON DISCRETION.—

''(A) IN GENERAL.—With respect to the use of amounts awarded to a grant recipient under section 2003 or 2004 for personnel costs in accordance with paragraph (2) of this subsection, the Administrator may not—

''(i) impose a limit on the amount of the award that may be used to pay for personnel, or personnel-related, costs that is higher or lower than the percent limit imposed in paragraph (2)(A); or

''(ii) impose any additional limitation on the portion of the funds of a recipient that may be used for a specific type, purpose, or category of personnel, or personnel-related, costs.

''(B) ANALYSTS.—If amounts awarded to a grant recipient under section 2003 or 2004 are used for paying salary or benefits of a qualified intelligence analyst under subsection (a)(10), the Administrator shall make such amounts available without time limitations placed on the period of time that the analyst can serve under the grant.''.

SEC. 907. COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM.

Title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.), as amended by section 904 of this Act, is amended by adding at the end the following:

''SEC. 2043. COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, through the Administrator, is authorized to provide equipment, equipment training, and equipment technical assistance to assist State and local law enforcement and other emergency response providers in preventing, preparing for, protecting against, responding to, and recovering from natural disasters, acts of terrorism, and other man-made disasters.

''(b) ELIGIBILITY.—A law enforcement agency, fire department, emergency medical service, emergency management agency, public safety agency, or other emergency response agency shall be eligible to apply for direct equipment, training, and technical assistance under this section, if such an applicant—

''(1) has not received equipment funding or other assistance under a grant under the Assistance to Firefighters Grant Program during the 2-year period ending on the application deadline for the Commercial Equipment Direct Assistance Program in any fiscal year; and

''(2) has not received equipment funding, or other assistance under a grant under section 2003 during the 2-year period ending on the application deadline for the Commercial Equipment Direct Assistance Program in any fiscal year.

''(c) APPLICATION.—

''(1) IN GENERAL.—An applicant for direct equipment, training, or technical assistance under this section shall submit such information in support of the application as the Administrator may require, including an explanation of how any requested equipment will be used to support a system of mutual aid among neighboring jurisdictions.

''(2) STATE CONCURRENCE.—

''(A) IN GENERAL.—An emergency response agency submitting an application for direct equipment, training, or technical assistance under this section shall provide a copy of the application to the State within which the agency is located not later than the date on which the agency submits the application to the Administrator.

''(B) NOTICE.—If the Governor of a State determines that the application of an emergency response agency provided under subparagraph (A) is inconsistent with the homeland security plan of that State, or otherwise does not support the application, not later than 30 days after receipt of that application the Governor shall—

''(i) notify the Administrator, in writing, of that fact; and

''(ii) provide an explanation of the reason for not supporting the application.

''(d) LIMITATIONS ON DIRECT ASSISTANCE.—

''(1) TRAINING AND TECHNICAL ASSISTANCE.—Not more than 40 percent of the amount appropriated pursuant to the authorization of appropriations under this section in any fiscal year may be used to pay for training and technical assistance.

''(2) VOLUNTARY CONSENSUS STANDARDS.—The Administrator may not directly provide to a law enforcement or other emergency response agency under this section equipment that does not meet applicable voluntary consensus standards, unless the agency demonstrates that there are compelling reasons for such provision of equipment.

''(3) PROHIBITION AND OTHER USE.—No amount appropriated pursuant to the authorization of appropriations under this section may be used for an assessment and validation program or for any other purpose or program not provided for in this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2009 through 2012.''.

SEC. 908. TASK FORCE FOR EMERGENCY READINESS.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 903 of this Act, is amended by adding at the end the following:

''SEC. 527. TASK FORCE FOR EMERGENCY READINESS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'national planning scenarios' means the national planning scenarios developed under section 645 of the Post Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 745); and

''(2) the term 'operational readiness' has the meaning given that term in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741).

''(b) PILOT PROGRAM.—

''(1) IN GENERAL.—The Administrator, in coordination with the Secretary of Defense, shall establish, for the purposes set out in subsection (c), a Task Force for Emergency Readiness pilot program for fiscal years 2010, 2011, and 2012.

''(2) TASK FORCE ESTABLISHMENT.—Under the program described in paragraph (1), the Administrator shall establish a Task Force for Emergency Readiness in not fewer than 5 States.

''(3) TASK FORCE MEMBERSHIP.—Each task force established under the program under this subsection shall consist of—

''(A) State and local emergency planners from the applicable State, including National Guard planners in State status, appointed by the Governor of the applicable State;

''(B) experienced emergency planners from the Agency, designated by the Administrator, in conjunction with the Regional Administrator for the applicable State; and

''(C) experienced emergency planners from the Department of Defense, designated by the Secretary of Defense, which may include civilian and military personnel.

''(c) PURPOSES.—The purpose of the Task Force for Emergency Readiness pilot program authorized under subsection (b) is to assist each State participating in the pilot program in—

''(1) planning to prevent, prepare for, protect against, respond to, and recover from catastrophic incidents, including, as appropriate, incidents identified in the national planning scenarios;

''(2) coordinating the planning efforts of the State with those of other States;

''(3) coordinating planning efforts of the State with those of the Federal Government;

''(4) using plans developed to respond to catastrophic incidents for training and exercises consistent with section 648 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748); and

''(5) monitoring and improving the operational readiness of the State, consistent with the national preparedness system required by chapter 1 of subtitle C of title VI of the Post Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741 et seq.).

''(d) DIRECTION.—The planning activities of a task force established under this section shall be directed by the Governor of the applicable State.

''(e) PARTICIPATING STATES.—The States participating in the Task Force for Emergency Readiness pilot program shall be selected—

''(1) by the Administrator, with the consent of the Governor of the applicable State and in coordination with the Regional Administrator of the applicable region of the Agency; and

''(2) to the maximum extent practicable, from different regions of the Agency.

''(f) REPORT.—Not later than 2 years after the date of enactment of the Department of Homeland Security Authorization Act of 2008 and 2009, the Administrator, in conjunction with the Assistant Secretary of Defense for Homeland Defense, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the implementation and effectiveness of the Task Force for Emergency Readiness pilot program, and shall provide recommendations for modifications to or expansion of the program.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''.

SEC. 909. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 514 of the Homeland Security Act of 2002 (6 U.S.C. 321c) is amended by adding at the end the following:

''(d) DIRECTOR OF GRANT PROGRAMS.—There shall be in the Agency a Director of Grant Programs, who shall be appointed by the President by and with the advice and consent of the Senate.''.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by inserting after the item relating to section 524 the following:

''Sec. 525. National planning.
''Sec. 526. Community Preparedness.
''Sec. 527. Task force for emergency readiness.''; and

(2) by adding after the item relating to section 2041, as added by section 804 of this Act, the following:

''Sec. 2042. Metropolitan Medical Response System.
''Sec. 2043. Commercial Equipment Direct Assistance Program.''.

TITLE X—NATIONAL BOMBING PREVENTION ACT

SEC. 1001. BOMBING PREVENTION.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), as amended by section 501 of this Act, is amended by adding at the end the following:

''SEC. 210G. OFFICE FOR BOMBING PREVENTION.

''(a) IN GENERAL.—There is in the Department an Office for Bombing Prevention (in this section referred to as 'the Office') within the Office of Infrastructure Protection.

''(b) RESPONSIBILITIES.—The Office shall have the primary responsibility within the Department for enhancing the ability, and coordinating the efforts, of the Nation to deter, detect, prevent, protect against, and respond to terrorist explosive attacks, including by—

''(1) serving as the lead agency of the Department for ensuring that programs designed to counter terrorist explosive attacks nationwide, function together efficiently to meet the evolving threat from explosives and improvised explosive devices;

''(2) coordinating, in consultation with the National Domestic Preparedness Consortium of the Department and in coordination with the Attorney General, national and intergovernmental bombing prevention training activities to ensure those activities work toward achieving common national goals;

''(3) conducting, in coordination with the Attorney General, analysis of the capabilities and requirements necessary for State and local governments to deter, prevent, detect, protect against, and assist in any response to terrorist explosive attacks by—

''(A) maintaining a national analysis database on the capabilities of bomb squads, explosive detection canine teams, tactics teams, and public safety dive teams; and

''(B) applying the analysis derived from the database described in subparagraph (A) in—

''(i) evaluating progress toward closing identified gaps relating to applicable national strategic goals and standards; and

''(ii) informing decisions relating to homeland security policy, assistance, training, research, development efforts, and testing and evaluation, and related requirements;

''(4) promoting secure information sharing of sensitive material relating to terrorist explosives and promoting security awareness, including by—

''(A) operating and maintaining a secure information sharing system that allows the sharing of critical information relating to terrorist explosive attack tactics, techniques, and procedures;

''(B) in consultation with the Attorney General, educating the public and private sectors about explosive precursor chemicals;

''(C) working with international partners, in coordination with the Office for International Affairs of the Department and the Attorney General, to develop and share effective practices to deter, prevent, detect, protect, and respond to terrorist explosive attacks; and

''(D) executing national public awareness and vigilance campaigns relating to terrorist explosive threats, preventing explosive attacks, and activities and measures underway to safeguard the Nation;

''(5) assisting, in consultation with the Administrator of the Federal Emergency Management Agency, State and local governments in developing multijurisdictional improvised explosive devices security plans for high-risk jurisdictions;

''(6) helping to ensure, in coordination with the Under Secretary for Science and Technology and the Administrator of the Federal Emergency Management Agency, the identification and availability of effective technology applications through field pilot testing and acquisition of such technology applications by Federal, State, and local governments to deter, prevent, detect, protect, and respond to terrorist explosive attacks;

''(7) coordinating, in consultation with the Attorney General, other departments and agencies of Federal, State, and local government, and the private sector, the efforts of the Department to assist in the development and promulgation of national explosives detection canine training, certification, and performance standards;

''(8) coordinating the efforts to implement within the Department applicable explosives detection training, certification, and performance standards;

''(9) ensuring the implementation of any recommendations and responsibilities of the Department contained in the national strategy described in section 210H, including developing, maintaining, and tracking progress toward achieving objectives to reduce the Nation's vulnerability to terrorist attacks using explosives or improvised explosive devices; and

''(10) developing, in coordination with the Administrator of the Federal Emergency Management Agency, programmatic guidance and permitted uses for bombing prevention activities funded by homeland security assistance administered by the Department.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $25,000,000 for each of fiscal years 2009 through 2010; and

''(B) such sums as are necessary for each fiscal year thereafter.

''(2) AVAILABILITY.—Amounts made available pursuant to this subsection shall remain available until expended.

''SEC. 210H. NATIONAL STRATEGY.

''(a) IN GENERAL.—The President shall develop and periodically update a national strategy to prevent and prepare for terrorist attacks in the United States using explosives or improvised explosive devices.

''(b) DEVELOPMENT.—Not later than 90 days after the date of enactment of this section, the President shall develop the national strategy described in subsection (a).

''(c) REPORTING.—Not later than 6 months after the date of submission of the report regarding each quadrennial homeland security review conducted under section 621(c), the President shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on

Homeland Security of the House of Representatives a report regarding the national strategy described in subsection (a), which shall include recommendations, if any, for deterring, preventing, detecting, protecting against, and responding to terrorist attacks in the United States using explosives or improvised explosive devices, including any such recommendations relating to coordinating the efforts of Federal, State, local, and tribal governments, emergency response providers, and the private sector.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 210F, as added by section 501 of this Act, the following:

''Sec. 210G. Office for Bombing Prevention.
''Sec. 210H. National strategy.''.

SEC. 1002. EXPLOSIVES TECHNOLOGY DEVELOPMENT AND TRANSFER.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by section 703 of this Act, is amended by adding at the end the following:

''SEC. 320. EXPLOSIVES RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs, the Attorney General, the Secretary of Defense, and the head of any other relevant Federal department or agency, shall—

''(1) evaluate and assess nonmilitary research, development, testing, and evaluation activities of the Federal Government relating to the detection and prevention of, protection against, and response to explosive attacks within the United States; and

''(2) make recommendations for enhancing coordination of the research, development, testing, and evaluation activities described in paragraph (1).

''(b) MILITARY RESEARCH.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs, shall coordinate with the Secretary of Defense, the Attorney General, and the head of any other relevant Federal department or agency to ensure that, to the maximum extent possible, military information and research, development, testing, and evaluation activities relating to the detection and prevention of, protection against, and response to explosive attacks, and the development of tools and technologies necessary to neutralize and disable explosive devices, are applied to nonmilitary uses.

''SEC. 321. TECHNOLOGY TRANSFER.

''(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs and the Attorney General, shall establish a technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by State and local governmental agencies, emergency response providers, and the private sector to deter, prevent, detect, protect, and respond to explosive attacks within the United States.

''(b) PROGRAM.—The activities under the program established under subsection (a) shall include—

''(1) applying the analysis conducted under section 210G(b)(3) of the capabilities and requirements of bomb squads, explosive detection canine teams, tactical teams, and public safety dive teams of State and local governments, to assist in the determination of training and technology requirements for State and local governments, emergency response providers, and the private sector;

''(2) identifying available technologies designed to deter, prevent, detect, protect, or respond to explosive attacks that have been, or are in the process of being, developed, tested, evaluated, or demonstrated by the Department, other Federal agencies, the private sector, foreign governments, or international organizations;

''(3) reviewing whether a technology described in paragraph (2) may be useful in assisting Federal, State, or local governments, emergency response providers, or the private sector in detecting, deterring, preventing, or responding to explosive attacks;

''(4) communicating, in coordination with the Attorney General, to Federal, State, and local governments, emergency response providers, and the private sector the availability of any technology described in paragraph (2), including providing the specifications of such technology, indicating whether such technology satisfies applicable standards, and identifying grants, if any, available from the Department to purchase such technology; and

''(5) developing and assisting in the deployment of electronic countermeasures to protect high-risk critical infrastructure and key resources.

''(c) WORKING GROUP.—To facilitate the transfer of military technologies, the Secretary, acting through the Under Secretary for Science and Technology, in coordination with the Attorney General and the Secretary of Defense, and in a manner consistent with protection of sensitive sources and methods, shall establish a working group, or use an appropriate interagency body in existence on the date of enactment of this section, to advise and assist in the identification of military technologies designed to deter, prevent, detect, protect, or respond to explosive attacks that are in the process of being developed, or are developed, by the Department of Defense or the private sector.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 319, as added by section 703 of this Act, the following:

''Sec. 320. Explosives research and development.
''Sec. 321. Technology transfer.''.

SEC. 1003. SAVINGS CLAUSE.

Nothing in this title or the amendments made by this title may be construed to limit or otherwise affect the authorities or responsibilities of the Attorney General.

TITLE XI—FEDERAL PROTECTIVE SERVICE AUTHORIZATION

SEC. 1101. AUTHORIZATION OF FEDERAL PROTECTIVE SERVICE PERSONNEL.

(a) IN GENERAL.—The Secretary shall ensure that—

(1) in fiscal year 2009 the Federal Protective Service maintains not fewer than 1,200 full-time equivalent employees, including not fewer than 900 full-time equivalent police officers, inspectors, area commanders, and criminal investigators who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings; and

(2) in fiscal year 2010 the Federal Protective Service maintains not fewer than 1,300 full-time equivalent employees, including not fewer than 950 full-time equivalent police officers, inspectors, area commanders, and criminal investigators who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings.

(b) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary shall submit a report on recommendations for a funding structure for the Federal Protective Service to—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on Appropriations of the House of Representatives;

(D) the Committee on Homeland Security of the House of Representatives; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The report submitted under this subsection shall include—

(A) an evaluation of whether all, part, or none of the Federal Protective Service should be funded by fee collections, direct appropriations, or an alternative funding mechanism;

(B) an evaluation of the basis for assessing any security fees charged to agencies which utilize the Federal Protective Service, including whether such fees should be assessed based on square footage of facilities or by some other means; and

(C) an evaluation of assessing an enhanced security fee, in addition to a basic security fee, to facilities or agencies which require an enhanced level of service from the Federal Protective Service.

(c) ADJUSTMENT OF FEES.—The Federal Protective Service shall adjust fees as necessary to ensure collections are sufficient to carry out subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a)—

(1) $650,000,000 for fiscal year 2009; and

(2) $675,000,000 for fiscal year 2010.

(e) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Federal Protective Service from continuing to provide reimbursable security and law enforcement services as requested by other Federal agencies and organizations, without limitation to the appropriations authorized by this section.

SEC. 1102. REPORT ON PERSONNEL NEEDS OF THE FEDERAL PROTECTIVE SERVICE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall enter into a contract with an independent consultant to—

(1) prepare a report that recommends the appropriate level and composition of staffing required to accomplish the law enforcement response, proactive patrols, 24-hour service in major metropolitan areas, support to building security committees, assistance with emergency plans, supervision and monitoring of contract guards, implementation and maintenance of security systems and countermeasures, and other missions of the Federal Protective Service, including recommendations for full-time equivalent police officers, inspectors, area commanders, criminal investigators, canine units, administrative and support staff, and contract security guards; and

(2) submit the report to—

(A) the Secretary;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on Homeland Security of the House of Representatives;

(D) the Committee on Transportation and Infrastructure of the House of Representatives; and

(E) the Committees on Appropriations of the Senate and the House of Representatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

SEC. 1103. AUTHORITY FOR FEDERAL PROTECTIVE SERVICE OFFICERS AND INVESTIGATORS TO CARRY WEAPONS DURING OFF-DUTY TIMES.

Section 1315(b)(2) of title 40, United States Code, is amended by striking ''While engaged in the performance of official duties, an'' and inserting ''An''.

SEC. 1104. AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, as amended by section 815 of this Act, is amended by adding at the end the following:

''(34) 'Federal protective service officer' means an employee in the Federal Protective Service, Department of Homeland Security—

''(A) who holds a position within the GS–0083, GS–0080, GS–1801, or GS–1811 job series (determined applying the criteria in effect as of September 1, 2007 or any successor position; and

''(B) who are authorized to carry firearms and empowered to make arrests in the performance of duties related to the protection of buildings, grounds and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality or wholly owned or mixed-ownership corporation thereof) and the persons on the property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described under subparagraph (A)) for at least 3 years.''.

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, as amended by section 815 of this Act, is amended—

(A) in subsection (a)(1)(A), by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''; and

(B) in the table contained in subsection (c), by adding at the end the following:

''Federal Protective Service Officer	7.5	After June 29, 2009.''.

(3) MANDATORY SEPARATION.—The first sentence of section 8335(b)(1) of title 5, United States Code, as amended by section 815 of this Act, is amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(4) IMMEDIATE RETIREMENT.—Section 8336 of title 5, United States Code, as amended by section 815 of this Act, is amended—

(A) in subsection (c)(1), by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''; and

(B) in subsections (m) and (n), by inserting ''as a Federal protective service officer,'' before ''or as a customs and border protection officer,''.

(b) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, as amended by section 815 of this Act, is amended by adding at the end the following:

''(39) 'Federal protective service officer' means an employee in the Federal Protective Service, Department of Homeland Security—

''(A) who holds a position within the GS–0083, GS–0080, GS–1801, or GS–1811 job series (determined applying the criteria in effect as of September 1, 2007 or any successor position; and

''(B) who are authorized to carry firearms and empowered to make arrests in the performance of duties related to the protection of buildings, grounds and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality or wholly owned or mixed-ownership corporation thereof) and the persons on the property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described under subparagraph (A)) for at least 3 years.''.

(2) IMMEDIATE RETIREMENT.—Paragraphs (1) and (2) of section 8412(d) of title 5, United States Code, as amended by section 815 of this Act, are amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(h)(2) of title 5, United States Code, as amended by section 815 of this Act, is amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(4) DEDUCTIONS FROM PAY.—The table contained in section 8422(a)(3) of title 5, United States Code, as amended by section 815 of this Act, is amended by adding at the end the following:

''Federal Protective Service Officer	7.5	After June 29, 2009.''.

(5) GOVERNMENT CONTRIBUTIONS.—Paragraphs (1)(B)(i) and (3) of section 8423(a) of title 5, United States Code, as amended by section 815 of this Act, are amended by inserting ''Federal protective service officer,'' before ''customs and border protection officer,'' each place it appears.

(6) MANDATORY SEPARATION.—Section 8425(b)(1) of title 5, United States Code, as amended by section 815 of this Act, is amended—

(A) by inserting ''Federal protective service officer who,'' before ''or customs and border protection officer,'' the first place it appears; and

(B) inserting ''Federal protective service officer,'' before ''or customs and border protection officer,'' the second place it appears.

(c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—Section 3307 of title 5, United States Code, is amended by adding at the end the following:

''(h) The Secretary of Homeland Security may determine and fix the maximum age limit for an original appointment to a position as a Federal protective service officer, as defined by section 8401(39).''.

(d) REGULATIONS.—Any regulations necessary to carry out the amendments made by this section shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary.

(e) EFFECTIVE DATE; TRANSITION RULES; FUNDING.—

(1) EFFECTIVE DATE.—The amendments made by this section shall become effective on the later of June 30, 2009, or the first day of the first pay period beginning at least 6 months after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) NONAPPLICABILITY OF MANDATORY SEPARATION PROVISIONS TO CERTAIN INDIVIDUALS.—The amendments made by subsections (a)(3) and (b)(6), respectively, shall not apply to an individual first appointed as a Federal protective service officer before the effective date under paragraph (1).

(B) TREATMENT OF PRIOR FEDERAL PROTECTIVE SERVICE OFFICER SERVICE.—

(i) GENERAL RULE.—Except as provided in clause (ii), nothing in this section shall be considered to apply with respect to any service performed as a Federal protective service officer before the effective date under paragraph (1).

(ii) EXCEPTION.—Service described in section 8331(34) and 8401(39) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a Federal protective service officer by virtue of holding a supervisory or administrative position in the Department of Homeland Security.

(C) MINIMUM ANNUITY AMOUNT.—The annuity of an individual serving as a Federal protective service officer on the effective date under paragraph (1) pursuant to an appointment made before that date shall, to the extent that its computation is based on service rendered as a Federal protective service officer on or after that date, be at least equal to the amount that would be payable to the extent that such service is subject to the Civil Service Retirement System or Federal Employees Retirement System, as appropriate, by applying section 8339(d) of title 5, United States Code, with respect to such service.

(D) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (c) shall be considered to apply with respect to any appointment made before the effective date under paragraph (1).

(3) FEES AND AUTHORIZATIONS OF APPROPRIATIONS.—

(A) FEES.—The Federal Protective Service shall adjust fees as necessary to ensure collections are sufficient to carry out amendments made in this section.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(4) ELECTION.—

(A) INCUMBENT DEFINED.—For purposes of this paragraph, the term ''incumbent'' means an individual who is serving as an Federal protective service officer on the date of the enactment of this Act.

(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

(C) ELECTION AVAILABLE TO INCUMBENTS.—

(i) IN GENERAL.—An incumbent may elect, for all purposes, either—

(I) to be treated in accordance with the amendments made by subsection (a) or (b), as applicable; or

(II) to be treated as if subsections (a) and (b) had never been enacted.

(ii) FAILURE TO MAKE A TIMELY ELECTION.—Failure to make a timely election under clause (i) shall be treated in the same way as an election made under clause (i)(I) on the last day allowable under clause (iii).

(iii) DEADLINE.—An election under this subparagraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

(5) DEFINITION.—For the purposes of this subsection, the term ''Federal protective service officer'' has the meaning given such term by section 8331(34) or 8401(39) of title 5, United States Code (as amended by this section).

(6) EXCLUSION.—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

(A) holds a positions within the Federal Protective Service; and

(B) is considered a law enforcement officers for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.

SEC. 1105. FEDERAL PROTECTIVE SERVICE CONTRACTS.

(a) PROHIBITION ON AWARD OF CONTRACTS TO ANY BUSINESS CONCERN OWNED, CONTROLLED, OR OPERATED BY AN INDIVIDUAL CONVICTED OF A FELONY.—

(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary of U.S. Immigration and Customs Enforcement—

(A) shall promulgate regulations establishing guidelines for the prohibition of contract awards for the provision of guard services under the contract security guard program of the Federal Protective Service to any business concern that is owned, controlled, or operated by an individual who has been convicted of a felony; and

(B) may consider permanent or interim prohibitions when promulgating the regulations.

(2) CONTENTS.—The regulations under this subsection shall—

(A) identify which serious felonies may prohibit a contractor from being awarded a contract;

(B) require contractors to provide information regarding any relevant felony convictions when submitting bids or proposals; and

(C) provide guidelines for the contracting officer to assess present responsibility, mitigating factors, and the risk associated with the previous conviction, and allow the contracting officer to award a contract under certain circumstances.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

(c) REPORT ON GOVERNMENT-WIDE APPLICABILITY.—Not later than 18 months after the date of enactment of the Act, the Administrator for Federal Procurement Policy shall submit a report on establishing similar guidelines government-wide to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Oversight and Government Reform of the House of Representatives.

By Mr. HATCH:

S. 3626. A bill to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Family and Retirement Health Investment Act of 2008. In these difficult economic times, many Utahns are facing the rising costs of health insurance and medical expenses. This bill would make it easier for families to decrease the cost of health insurance and encourage savings for retirement health care costs.

Briefly stated, this bill would enhance and improve Health Savings Accounts by addressing some of the questions and concerns that have been raised sine HSAs were first enacted in 2003 but were not addressed by the Health Opportunity Patient Empowerment Act of 2006.

Health Savings Accounts were created as an alternative to traditional health insurance. HSAs allow participants to pay for current medical bills while saving for future health care expenses. One of the most attractive features of these accounts is the high degree of control the participants have over how to spend the money and how to manage investments within the account.

Since their creation, HSAs have become increasingly popular. Part of the reason for this is that Health Savings Accounts offer several important tax incentives. Earnings accrued on savings in an HSA are not taxed. Funds can also be withdrawn from an HSA 100 percent tax free, so long as the withdrawal is related to medical care. HSAs are very easy is set up. Anyone can go to his or her local bank, credit union, insurance company, or sometimes even their employer and request to create an HSA.

Broad agreement now exists that Congress must advance reform that will ''bend the growth curve'' in health care inflation. In recent years American families—often along with the businesses they own or work for—have been addressing this inflation on their own, by turning toward health savings account-eligible health plans.

According to one survey, there are now 6.1 million people covered under health plans that are eligible for an HSA, including over 70,000 in my home state of Utah. This is a 35 percent increase over the previous year, and it is clear that businesses large and small see these plans as an innovative solution for their employees' health care needs.

In addition, because HSAs offer lower premiums, existing businesses find that they are able to maintain coverage, while new businesses are able to extend health insurance to their employees. And increasingly, these businesses are funding their employee's HSAs just as they would a 401(k) plan. At the same time, the financial burden on families generally decreases under these plans due to lower premiums and a cap on out-of-pocket expenditures.

Given these attractive features, HSA-eligible health plans will only expand over time. In fact, a recent report estimates that the number of Health Savings Accounts will double between January 2008 and January 2009. It is appropriate, therefore, to continue to make common sense reforms to improve these plans for the families and businesses that are choosing them.

That is what this bill is all about. Among other things, the bill I am introducing would allow a husband and wife to make catch-up contributions to the same HSA; clarify the use of prescription drugs as preventive care that will not be subject to the deductible; promote wellness by expanding the definition of qualified medical expenses to encourage more exercise and better diet; and establish a more equitable tax treatment of health insurance by allowing individuals and families without employer-sponsored insurance the ability to pay for their health insurance premiums with tax-deductible dollars.

This proposal is certainly not a substitute for broader health care reform. Instead, it seeks to improve an important and growing innovation that is a partial answer to the health care puzzle.

As the Senate prepares for a comprehensive health care debate in the coming months, it is important that we do what we can now to promote wellness, decrease costs, and increase coverage. By taking the intermediate steps proposed in this bill, we can facilitate broader reforms by decreasing costs and assisting businesses and families as they seek to make affordable health care choices.

I expect the popularity of HSAs will one day elevate the acronym to the level of IRAs, where no further clarification is required. Today, I ask my colleagues to join me in a bipartisan effort to accelerate that process by supporting this important legislation.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

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

FAMILY AND RETIREMENT HEALTH INVESTMENT ACT OF 2008

SECTION-BY-SECTION DESCRIPTION

This bill is designed to make certain enhancements and improvements to Health Savings Accounts (HSAs) by addressing some of the questions and concerns that have been raised since HSAs were first enacted in 2003 but were not addressed by the HOPE Act of 2006.

Section 1. Short Title.

Section 2. Catch-up Contributions by Spouses May Be Made to One Account.

Current law allows HSA-eligible individuals age 55 or older to make additional catch-up contributions each year. However, the contributions must be deposited into separate HSA accounts even if both spouses are eligible to make catch-up contributions. Section 2 would allow the spouse who is the HSA account holder to double their catch-up contribution to account for their eligible spouse.

Section 3. Provisions Relating to Medicare.

a. HSA-eligible seniors enrolled in Medicare Part A only may continue to contribute to their Health Savings Accounts.

Current law restricts HSA participation by Medicare beneficiaries, which means that once a person turns 65, they usually may no longer contribute to their HSA (although they may continue to spend money from an existing HSA). For most seniors, enrollment in Medicare Part A is automatic when receiving Social Security and is difficult to delay or decline enrollment. However, the current deductible for hospital coverage under Medicare Part A is very high, over $1,000 per admission, nearly equal to the minimum deductible required for HSA-qualified plans. Section 3(a) allows Medicare beneficiaries enrolled only in Part A to continue to contribute to their HSA accounts after turning 65 if they are otherwise eligible to contribute to an HSA.

b. Medicare enrollees may contribute their own money to their Medicare Medical Savings Accounts (MSAs).

Current law prohibits Medicare beneficiaries enrolled Medicare Medical Savings Account from contributing their own money to their MSAs. Although created in the 1997 Balanced Budget Act, Medicare MSAs are a relatively new type of plan under the Medicare Advantage program. MSA plans allow

seniors to enroll in a high-deductible plan and receive tax-free contributions from the federal government to HSA-like accounts. However, the government contribution is significantly lower than the plan deductible, and the beneficiary may not contribute any of their own money to fill in the gap. Section 3(b) allows Medicare beneficiaries participating in a Medicare MSA plan to contribute their own tax-deductible money to their MSAs to cover the annual shortfall.

Section 4. Expanded Opportunities for Veterans

Current law prohibits veterans from contributing to the their HSAs if they have utilized VA medical services in the past three months. The bill would remove those restrictions and allow veterans with a service-connected disability to contribute to their HSAs regardless of utilization of VA medical services.

Section 5. Expanded Opportunities for Native Americans

Current law prohibits Native Americans from contributing to their HSAs if they have utilized medical services of the Indian Health Service (IHS) or a tribal organization. The bill would remove those restriction and allow Native Americans to contribute to their HSAs regardless of utilization of IHS or tribal medical services.

Section 6. Improved Opportunities to Roll Over Funds From FSAs and HRAs to Fund HSAs.

The HOPE Act of 2006 (H.R. 6111) allowed employer that offered Flexible Spending Arrangements (FSAs) or Health Reimbursement Arrangements (HRAs) to roll over unused funds to an HSA as employees transitioned to an HSA for the first time. However, the unused FSA funds may not be rolled over the HSAs unless the employer offers a ''grace period'' that allow medical expenses to be reimbursed from an FSA through March 15 of the following year (instead of the usual ''use or lose'' by December 31). In addition, the amount that may be rolled over to the HSA cannot exceed the amount in such an account as of September 21, 2006. This provision effectively limits most employees from ever being able to use unused funds in an FSA or an HRA to help fund their HSAs. Section 6 clarifies current law to provide employers greater opportunity to roll over funds from employees' FSAs or HRAs to their HSAs in a future year in order to ease the transition from FSAs and HRAs to HSAs.

Section 7. Expanded Opportunity to Purchase Health Insurance with HSA Funds.

Under current law, people can only use their HSA account to pay for health insurance premiums when they are receiving federal or state unemployment benefits or are covered by a COBRA continuation policy from a former employer. In addition, HSA funds may not be used to pay for a spouse's Medicare premiums unless the HSA account holder is age 65 or older. Section 7 allows HSA account funds to be used to pay premiums for HSA-qualified policies regardless of their circumstances. This section also clarifies that Medicare premiums for a spouse on Medicare are reimbursable from an HSA even though the HSA account holder is not age 65.

Section 8. Greater Flexibility Using HSA Account to Pay Expenses.

When people enroll in an HSA-qualified plan, some let a few months elapse between the time when their coverage starts (e.g., January) and when the health savings bank account is set up and becomes operational (e.g., March). However, the IRS does not allow for medical expenses incurred in that gap (between January and March) to be reimbursed with HSA funds. Section 8 allows all ''qualified medical expenses'' (as defined under the tax code) incurred after HSA-qualified coverage begins to be reimbursed from an HSA account as long as the account is established by April 15 of the following year.

Section 9. Expanded Definition of ''Preventive'' Drugs

Current law allows ''preventive care'' services to be paid by HSA-qualified plans without being subject to the policy deductible. Although IRS guidance allows certain types of prescription drugs to be considered ''preventive care,'' the guidance generally does not permit plans to include drugs that prevent complications resulting from chronic conditions. Section 9 expands the definition of ''preventive care'' to include medications that prevent worsening of or complications from chronic conditions. This would provide additional flexibility to health plans that want to provide coverage for these medications and remove a perceived barrier to HSAs for people with chronic conditions.

Sections 10–12. Expanded Definition of ''Qualified Medical Expenses.''

With the increasing need to encourage Americans to take better care of their health and reduce the prevalence of obesity, Section 10 and 11 modify the definition of ''qualified medical expenses'' in Section 213(d) of the Internal Revenue Code to include the cost of:

Exercise and physical fitness programs, up to $1,000 per year (Sec. 10)

Nutritional and dietary supplements, including meal replacement products, up 7 to $1,000 per year (Sec. 11)

The modification would affect all health care programs using the definition, including HSAs, HRAs, FSAs and the medical expense deduction when taxpayers itemize.

Finally, the current definition of ''qualified medical expenses'' generally does not include fees charged by primary care physicians that offer pre-paid medical services on demand because there is no direct billing for individual services provided by the physician and the arrangement is not considered ''insurance.'' Section 12 would allow amounts paid by patients to their primary physician in advance for the right to receive medical services on an as-needed basis to be considered a ''qualified medical expense'' under the tax code. The modification would affect all health care programs using the definition, including HSAs, HRAs, FSAs, and the medical expense deduction when taxpayers itemize.

By Mr. HARKIN:

S. 3627. A bill to improve the calculation of, the reporting of, and the accountability for, secondary school graduation rates; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, this fall our Nation's high school graduation class of 2012 took their first steps into their local high school as freshmen. The best research based on data from all 50 states tells us that ⅓ of that class of freshmen will not walk across a stage and receive their diploma with their peers in four years.

Tragically we face a national high school drop out crisis. Every year an estimated 1.23 million students drop out of high school. To put that number in perspective, it is equivalent to the entire population of the ninth largest city in the country, Dallas.

What are the facts of the Nation's dropout epidemic? We know that if you are Black or Hispanic it's essentially a 50-50 chance that you will graduate in 4 years. This disparity exists even in my home State of Iowa, one of the best states in the Nation in terms of graduating kids in 4 years. According to data from the Editorial Projects in Education Research Center, 58 percent of African-American students in Iowa graduate in 4 years—almost 30 points lower than white students—while the graduation rate for Hispanic students is only 54 percent.

Just as the data on racial and ethnic minorities paints a grim picture, a look into the Nation's graduation rates for students with disabilities shows many students continue to be failed by the system. The most recent data indicates that slightly more than half of all students with disabilities graduated from high school with a regular diploma. Those rates go down when examining different categories of students with disabilities. For instance, only 43 percent of students with emotional disturbances graduate from high school with a regular diploma. Bear in mind that many of these students do not have a learning disability, and with the proper supports and interventions they can achieve at the same levels expected of their non-disabled peers.

But these statistics may not even tell the full story. Too few States use a ''cohort rate,'' which tracks students from high school entrance through exit. Because of the flexibility in No Child Left Behind, many States choose to employ a method of calculation that produces inflated reports due to undercounting dropouts. In 2005, the Government Accountability Office first documented troubling and inconsistent trends in graduation rate reporting. Unfortunately, because we lack of uniform measure of graduation rates, hundreds of thousands of children are unaccounted for each year.

We owe it to these students to do a better job of tracking their progress towards graduation, and ensuring that they receive their high school diploma in 4 years. Census Bureau data shows there is a $9,000 discrepancy between the average income of a high school graduate and a high school dropout. In the middle of an economic crisis that is affecting American families' savings, an extra $9,000 would go a long way.

But looking beyond the individual impact, an education system that properly educates its young people and graduates them in 4 years provides economic security for the country. Research by Cecilia Rouse, professor of economics and public affairs at Princeton University, shows that each drop out, over his or her lifetime, costs the Nation approximately $260,000. If more than 1 million students continue to dropout of high school each year, in 10 years that will amount to a cost of $3 trillion to our Nation.

Clearly, we have our work cut out for us. Today I introduce the Every Student Counts Act, legislation that directly addresses the nation's dropout

crisis through the creation of one consistent graduation rate across all 50 states and by setting meaningful graduation rate goals and targets for schools, districts and States.

As we roll up our sleeves and get down to the serious business of solving the dropout crisis, we cannot waste our energy and our time arguing over whose data is correct. As I noted above, today we have 50 States with 50 different ways of measuring dropouts. In addition, we have many well-meaning education organizations with their own figures on high school graduation. It should be no surprise that they do not match up.

Take for example the difference in the graduation rates between those compiled by the independent Editorial Projects in Education Research Center, whose data is employed in Education Week's ''Diplomas Count'' annual report, and those currently reported by the States. While I think most would expect those rates to be relatively similar, they are not. In some States the difference between the two graduation rates is as much as 30 percentage points.

That is why the first thing the Every Student Count Act will do is make graduation rate calculations uniform and accurate. The bill requires that all States calculate their graduation rates in the same manner, allowing for more consistency and transparency. This bill will bring all 50 States together by requiring each State to report both a 4-year graduation rate and a cumulative graduation rate. A cumulative graduation rate will give parents a clear picture of how many students are graduating, while acknowledging that not all children will graduate in 4 years.

But agreement on one graduation rate is only half the battle here. Schools, school districts and States that are not already graduating a high number of students must be required to make annual progress to high graduation rates. The Every Student Counts Act sets a graduation rate goal of 90 percent for all students and disadvantaged populations. Schools, districts and States with graduation rates below 90 percent, in the aggregate or for any subgroup, will be required to increase their graduation rates an average of 3 percentage points per year in order to make adequate yearly progress required under the No Child Left Behind Law.

Before I conclude my remarks, I would like to thank the growing list of organizations representing the interests of children across the country who have signed on to support the Every Student Counts Act. Specifically, I recognize the Alliance for Excellent Education and their President, former Governor of West Virginia Bob Wise, who have been champions in the movement to improve our high schools and turn back the dropout crisis.

I would also like to recognize the work of my colleague in the House, Representative BOBBY SCOTT of Virginia, who is the chief sponsor of the companion to this legislation and has long championed education for disadvantaged young people.

We have no more urgent educational challenge than bringing down the dropout rate, especially for minorities and children with disabilities. For reasons we all understand—poverty, poor nutrition, broken homes, disadvantaged childhoods—not all of our students come to school every day ready to learn. In some cases, it's as though they have been set up to fail. They grow frustrated. They drop out. As a result, they face a lifetime of fewer opportunities and lower earnings. Economically, our Nation cannot afford to lose one million students each year. Morally, we cannot allow children to continue to fall through the cracks. I believe the Every Student Counts Act puts us on the right track towards turning back the tide of high school dropouts and I ask my colleagues to support this legislation.

I ask unanimous consent that a letter of support be printed in the RECORD.

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

SEPTEMBER 26, 2008.

Senator TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: We, the undersigned education, civil rights, and advocacy organizations thank you for introducing the Every Student Counts Act to ensure meaningful accountability for the graduation rates of our nation's students. As you know, educators and policymakers at all levels of government agree that change is necessary on this issue.

Only 70 percent of our nation's students graduate with a regular diploma. Worse, just over half of black and Hispanic students graduate on time. Special education students also have graduation rates of just over 50 percent. Such poor graduation rates are untenable in a global economy that demands an educated workforce. According to the Department of Labor, 90 percent of the fastest-growing and best-paying jobs in the United States require at least some postsecondary education. It is imperative that the nation's schools prepare their students to succeed in the twenty-first-century workforce.

The No Child Left Behind Act (NCLB) has focused the nation's attention on the unacceptable achievement gap and the need to improve outcomes for all students, particularly those of minority students, English language learners, and students with disabilities. However, NCLB does not place enough importance on graduating the nation's high school students. Furthermore, current federal policy on graduation rates permits the use of inconsistent and misleading graduation rate calculations that overestimate graduation rates, does not require meaningful increases in graduation rates over time, and does not require the graduation rates of student subgroups to increase as part of Adequate Yearly Progress (AYP) determinations.

As a response, the Secretary of Education has created proposed regulations to address these concerns. Although the proposed regulations are a laudable step in the right direction, we believe that the Every Student Counts Act is a better approach to ensuring that all students are treated equally in calculating graduation rates and for accountability purposes.

The Every Student Counts Act would do the following: require a consistent and accurate calculation of graduation rates across all fifty states to ensure comparability and transparency; require that graduation rate calculations be disaggregated for both accountability and reporting purposes to ensure that school improvement activities focus on all students and close achievement gaps; ensure that graduation rates and test scores are treated equally in AYP determinations; require aggressive, attainable, and uniform annual growth requirements as part of AYP to ensure consistent increases in graduation rates for all students; recognize that some small numbers of students take longer than four years to graduate and give credit to schools, school districts and states for graduating those students while maintaining the primacy of graduating the great preponderance of all students in four years; and provide incentives for schools, districts and states to create programs to serve students who have already dropped out and are over-age and undercredited.

Again, we thank you for introducing the Every Student Counts Act and for your leadership on this critical issue.

Sincerely,

Alliance for Excellent Education.
American Foundation for the Blind.
Association of University Center on Disabilities
Bazelon Center for Mental Health Law
Big Brothers Big Sisters
Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD)
Council for Learning Disabilities
Disability Rights Education & Defense Fund
Easter Seals
First Focus
GLSEN—the Gay, Lesbian and Straight Education Network
Helen Keller National Center
Higher Education Consortium for Special Education
Learning Disabilities Association of America
League of United Latin American Citizens
Knowledge Alliance
National Association for the Education of Homeless Children and Youth
National Center for Learning Disabilities, Inc.
National Coalition on Deaf-Blindness
National Collaboration for Youth
National Forum to Accelerate Middle-Grades Reform
Project GRAD
Teacher Education Division of the Council for Exceptional Children
Teachers of English to Speakers of Other Languages, Inc. (TESOL)
The Advocacy Institute
The Arc of the U.S.
United Cerebral Palsy
United Way of America
YouthBuild USA
Joel Klein, Chancellor, New York City Public Schools
Joan L. Benson, President & CEO, Pennsylvania Partnerships for Children

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By Mr. KERRY:

S. 3628. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KERRY. Mr. President, today I introduced a piece of legislation that

working on for over 10 years, the Workplace Religious Freedom Act.

Religious pluralism is a source of strength for this country. It always has been. That is why I support the Workplace Religious Freedom Act or WRFA, as I have ever since I first introduced it back in 1996.

My personal involvement with this issue goes back to two Catholic women working at a dog-racing track in Raynham, Massachusetts. They were fired from their jobs because they refused to work on Christmas Eve. They felt it was against their religion to do business that night. We need to pass WRFA to make it clear that here in America, living out your faith is not a reason to lose your job.

The bill is designed to protect people just like those two women: workers suffering from on-the-job discrimination because of their religious beliefs and practices. It requires employers to make a reasonable accommodation for an employee's religious practice or observance, such as time off or dress. It protects, within reason, time off for religious observances. And it protects Yarmulkes, Hijabs, Turbans, Mormon garments—all the distinctive marks of our religious practices. All the things that everyone should be proud of and nobody should ever be forced to hide.

All of us should have the freedom to abide by and to express our religious beliefs—they are crucial to our individual and communal identities, and collectively, they are a crucial part of our national identity as a diverse and tolerant country.

Writing religious freedom into law is by necessity a balancing act between universal values—such as religious tolerance and equal treatment—with the particulars that each of our faiths demand of us. Just as religious scholars wonder whether God can create an indestructible rock and then destroy it, scholars of religious pluralism have to answer a similar riddle: does a pluralism that's based on tolerance, tolerate intolerance?

Squaring this circle will always be a balancing act. Religious freedom in America doesn't mean the absolute right to impose your religion on others. With WRFA we have achieved that balance by protecting not only religious practices in the workplace but also by protecting those that don't share the same faith or choose not to practice at work.

I find that if you look at the vast, vast majority of actual cases, protecting religious freedom turns out to be a matter of common sense.

Consider the case of Jack Rosenberg, a 35-year-old Hasidic Jew from Rockland County, New York. Jack signed up for the Coast Guard and passed his training, only to .discover that he wasn't allowed to wear his yarmulke. ''As soon as I got sworn in and got ready to put on the uniform,'' Mr. Rosenberg said, ''the commander came to me and said it's going to be a problem.'' As Mr. Rosenberg said, ''If my religion requires it, ''there's not a choice.'' I agree: No American should raise his or religion with an employer and be told: ''it's going to be a problem.'' I am proud to say that the Coast Guard changed their regulations to allow for religious headgear. We fought for Jack Rosenberg and we won.

Another case involves a server at a Red Robin restaurant who belongs to the ancient Egyptian Kemetic religion, which doesn't allow him to hide his religious tattoos. Red Robin fired him for a wrist tattoo less than a quarter-inch wide. In the end, he won in court and Red Robin agreed to train managers to better understand religious discrimination.

This isn't about litigation. It is about protecting the right of free expression and ensuring that religious people feel comfortable in the workplace. We must never leave anyone with the idea that practicing one's religion and being American are in conflict. That is fundamental to how we live as Americans, and I will fight to make sure that our laws governing religious freedom are worthy of our values.

By Mr. DURBIN:

S. 3629. A bill to create a new Consumer Credit Safety Commission, to provide individual consumers of credit with better information and stronger protections, and to provide sellers of consumer credit with more regulatory certainty; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, we are in difficult times. The administration has informed us that the financial markets stand on the brink of collapse and that Congress must act quickly to allow the Treasury to intervene in the markets. We must not simply bail out the companies whose subprime mortgage practices put us in this situation in the first place. Many of us are working to include help for homeowners in any stabilization we consider.

But we must also look beyond the immediate crisis and take steps to prevent similar abuses and errors in the future. This crisis started when lenders sold too many faulty mortgages to families who had too little protection against such practices. Once this immediate crisis passes, Congress must act to ensure that this never happens again.

Our financial system requires a fundamental overhaul, so that the needs of American families stand above the interests of Wall Street.

To start that discussion, today I am introducing the Consumer Credit Safety Commission Act. This bill would put a single government agency in charge of ensuring that the offering of financial products to consumers is responsible, accountable, and transparent.

This new agency would look out for consumers first, so that the Fed, the FDIC, and the rest of the alphabet soup of financial regulators can focus more effectively on the safety and soundness of our financial system while not letting consumer protection fall by the wayside.

This agency would be able to move quickly to protect consumers from new predatory practices, much faster than Congress ever could. It would provide continuous oversight of the financial services market, and hold companies accountable when they abuse, deceive, or take advantage of the consumers they claim to be helping.

Let me put it this way, as Harvard professor Elizabeth Warren has done: why is it that 1 in 10 toasters do not catch fire in our homes, but 1 in 10 home mortgages are failing? The answer is that toasters are properly regulated and financial products are not.

I do not believe that the Government should regulate the freedom out of our markets, and I do not believe that we should eliminate prudent risk taking.

On the contrary: moderate, sensible, and targeted regulation creates an environment in which the entrepreneurial spirit of America can thrive, but without the unnecessary booms and busts of the Wild West.

The Consumer Credit Safety Commission will add consumer protection to the factors lenders must consider in creating and offering financial products. It will identify the practices that undermine sound markets and put a stop to them before they bring the entire financial market to its knees.

Starting early next year, Congress will try to establish the oversight and accountability mechanisms that will foster a dynamic and more responsible environment for financial products. This bill provides us with a good place to start. I urge my colleagues to join me in sponsoring this legislation and working to create an agency that truly puts consumers first.

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. 3629

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 ''Consumer Credit Safety Commission Act of 2008''.

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

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's multi-agency financial services regulatory structure has created a dispersion of regulatory responsibility, which in turn has led to an inadequate focus on protecting consumers from inappropriate consumer credit practices;

(2) the absence of appropriate oversight has allowed excessively costly or predatory consumer credit products to flourish; and

(3) the creation of a regulator whose sole focus is the safety of consumer credit products would help address this lack of consumer protection.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term ''consumer credit'' includes—

(A) any payment compensating a creditor or prospective creditor, or an agent or affiliate thereof, for an extension of credit or making available a line of credit;

(B) any fees connected with credit extension or availability, such as numerical periodic rates, late fees, creditor-imposed not sufficient funds fees charged when a borrower tenders payment on a debt with a check drawn on insufficient funds, over limit fees, annual fees, cash advance fees, or membership fees;

(C) any fees which constitute a finance charge;

(D) credit insurance premiums;

(E) all charges and costs for ancillary products sold in connection with or incidental to the credit transaction; and

(F) any direct or indirect fee, cost, or charge incurred in, in connection with, or ancillary to a consumer payment system, including but not exclusive to merchant discount fees, interchange fees, debit card fees, check-writing fees, automated clearinghouse fees, payment-by-phone fees, internet payment intermediary fees, and remote deposit capture fees;

(2) the term ''relevant congressional committees'' means the Committee on Banking, Housing, and Urban Affairs and the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the Senate, and the Committee on Financial Services and the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the House of Representatives, and any successor committees as may be constituted;

(3) the term ''creditor'' has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

(4) the term ''finance charge'' has the same meaning as in section 106 of the Truth in Lending Act (15 U.S.C. 1605); and

(5) the term ''consumer'' means any natural person and any small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT; CHAIRPERSON.—

(1) IN GENERAL.—An independent regulatory commission is hereby established, to be known as the ''Consumer Credit Safety Commission'' (in this Act referred to as the ''Commission''), consisting of 5 Commissioners appointed by the President, by and with the advice and consent of the Senate.

(2) MEMBERSHIP.—In making appointments to the Commission, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer credit, are qualified to serve as members of the Commission.

(3) CHAIRPERSON.—The Chairperson shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may serve as a member of the Commission and as Chairperson at the same time.

(4) REMOVAL.—Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

(b) TERM; VACANCIES.—

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

(A) the Commissioners first appointed under this section shall be appointed for terms ending 3, 4, 5, 6, and 7 years, respectively, after the date of enactment of this Act, the term of each to be designated by the President at the time of nomination; and

(B) each of their successors shall be appointed for a term of 5 years from the date of the expiration of the term for which the predecessor was appointed.

(2) LIMITATIONS.—Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of this term until a successor has taken office, except that such Commissioner may not continue to serve more than 1 year after the date on which the term of that Commissioner would otherwise expire under this subsection.

(c) RESTRICTIONS ON OUTSIDE ACTIVITIES.—

(1) POLITICAL AFFILIATION.—Not more than 3 of the Commissioners shall be affiliated with the same political party.

(2) CONFLICTS OF INTEREST.—No individual may hold the office of Commissioner if that individual—

(A) is in the employ of, or holding any official relation to, or married to any person engaged in selling or devising consumer credit;

(B) owns stock or bonds of substantial value in a person so engaged;

(C) is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person; or

(D) engages in any other business, vocation, or employment.

(d) QUORUM; SEAL; VICE CHAIRPERSON.—

(1) QUORUM.—No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but 3 members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business, and if there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period (or the 1-year period, if the 2 members are not affiliated with the same political party) beginning on the date of the vacancy which caused the number of Commission members to decline to 2.

(2) SEAL.—The Commission shall have an official seal of which judicial notice shall be taken.

(3) VICE CHAIRPERSON.—The Commission shall annually elect a Vice Chairperson to act in the absence or disability of the Chairperson or in case of a vacancy in the office of the Chairperson.

(e) OFFICES.—The Commission shall maintain a principal office and such field offices as it deems necessary, and may meet and exercise any of its powers at any other place.

(f) FUNCTIONS OF CHAIRPERSON; REQUEST FOR APPROPRIATIONS.—

(1) DUTIES.—The Chairperson of the Commission shall be the principal executive officer of the Commission, and shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to—

(A) the appointment and supervision of personnel employed under the Commission (and the Commission shall fix their compensation at a level comparable to that for employees of the Securities and Exchange Commission;

(B) the distribution of business among personnel appointed and supervised by the Chairperson and among administrative units of the Commission; and

(C) the use and expenditure of funds.

(2) GOVERNANCE.—In carrying out any of the functions of the Chairperson under this subsection, the Chairperson shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may, by law, be authorized to make.

(3) REQUESTS FOR APPROPRIATIONS.—Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chairperson without the prior approval of the Commission.

(g) AGENDA AND PRIORITIES; ESTABLISHMENT AND COMMENTS.—At least 30 days before the beginning of each fiscal year, the Commission shall establish an agenda for Commission action under its jurisdiction and, to the extent feasible, shall establish priorities for such actions. Before establishing such agenda and priorities, the Commission shall conduct a public hearing on the agenda and priorities, and shall provide reasonable opportunity for the submission of comments.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for purposes of carrying out this Act such sums as may be necessary.

SEC. 6. OBJECTIVES AND RESPONSIBILITIES.

(a) OBJECTIVES.—The objectives of the Commission are—

(1) to minimize unreasonable consumer risk associated with buying and using consumer credit;

(2) to prevent and eliminate unfair practices that lead consumers to incur unreasonable, inappropriate, or excessive debt, or make it difficult for consumers to escape existing debt, including practices or product features that are abusive, fraudulent, unfair, deceptive, predatory, anticompetitive, or otherwise inconsistent with consumer protection;

(3) to promote practices that assist and encourage consumers to use credit responsibly, avoid excessive debt, and avoid unnecessary or excessive charges derived from or associated with credit products;

(4) to ensure that credit history is maintained, reported, and used fairly and accurately;

(5) to maintain strong privacy protections for consumer credit transactions, credit history, and other personal information associated with the use of consumer credit;

(6) to collect, investigate, resolve, and inform the public about consumer complaints regarding consumer credit;

(7) to ensure a fair system of consumer dispute resolution in consumer credit; and

(8) to take such other steps as are reasonable to protect consumers of credit products.

(b) RESPONSIBILITIES.—The Commission shall—

(1) promulgate consumer credit safety rules that—

(A) ban abusive, fraudulent, unfair, deceptive, predatory, anticompetitive, or otherwise anti-consumer practices or product features for creditors;

(B) place reasonable restrictions on consumer credit practices or product features to reduce the likelihood that they may be provided in a manner that is inconsistent with the objectives specified in subsection (a); and

(C) establish requirements for such clear and adequate warnings or other information,

and the form of such warnings or other information, as may be appropriate to advance the objectives specified in subsection (a);

(2) establish and maintain a best practices guide for all providers of consumer credit;

(3) conduct such continuing studies and investigations of consumer credit industry practices as it deems necessary;

(4) award grants or enter into contracts for the conduct of such studies and investigations with any person (including a governmental entity);

(5) following publication of an advance notice of proposed rulemaking, a notice of proposed rulemaking, or a rule under any rulemaking authority administered by the Commission, assist public and private organizations or groups of consumer credit providers, administratively and technically, in the development of consumer credit safety standards or guidelines that would assist such providers in complying with such rule; and

(6) establish and operate a consumer credit customer hotline which consumers can call to register complaints and receive information on how to combat anti-consumer consumer credit.

SEC. 7. COORDINATION OF ENFORCEMENT.

(a) IN GENERAL.—Notwithstanding any concurrent or similar authority of any other agency, the Commission shall enforce the requirements of this Act.

(b) RULE OF CONSTRUCTION.—The authority granted to the Commission to make and enforce rules under this Act shall not be construed to impair the authority of any other Federal agency to make and enforce rules under any other provision of law, provided that any portion of any rule promulgated by any other such agency that conflicts with a rule promulgated by the Commission and that is less protective of consumers than the rule promulgated by the Commission shall be superseded by the stronger rule promulgated by the Commission, to the extent of the conflict. Any portion of any rule promulgated by any other such agency that is not superseded by a rule promulgated by the Commission shall remain in force without regard to this Act.

(c) AGENCY AUTHORITY.—Any agency designated in subsection (d) may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any authority conferred on such agency by any other Act.

(d) DESIGNATED AGENCIES.—The agencies designated in this subsection are—

(1) the Board of Governors of the Federal Reserve System;

(2) the Federal Deposit Insurance Corporation;

(3) the Office of the Comptroller of the Currency;

(4) the Office of Thrift Supervision;

(5) the National Credit Union Administration;

(6) the Federal Housing Finance Authority;

(7) the Federal Housing Administration;

(8) the Secretary of Housing and Urban Development;

(9) the Federal Home Loan Bank Board; and

(10) the Federal Trade Commission.

SEC. 8. AUTHORITIES.

(a) AUTHORITY TO CONDUCT HEARINGS OR OTHER INQUIRIES.—The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same matter. The Commission shall publish notice of any proposed hearing in the Federal Register, and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) COMMISSION POWERS; ORDERS.—The Commission shall have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe to carry out a specific regulatory or enforcement function of the Commission, and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine, and such order shall contain a complete statement of the reasons that the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission, and shall be designed to place the least burden on the person subject to the order as is practicable, taking into account the purpose for which the order was issued;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to accept voluntary and uncompensated services relevant to the performance of the Commission's duties, notwithstanding the provisions of section 1342 of title 31, United States Code, and to accept voluntary and uncompensated services (but not gifts) relevant to the performance of the Commission's duties, provided that any such services shall not be from parties that have or are likely to have business before the Commission;

(7) to—

(A) initiate, prosecute, defend, intervene in, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General of the United States for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action; and

(B) whenever the Commission obtains evidence that any person, partnership, or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, including a violation of section 11 of this Act, transmit such evidence to the Attorney General of the United States, who may institute criminal proceedings under appropriate statutes; and

(8) to delegate any of its functions or powers, other than the power to issue subpoenas under paragraph (3), to any officer or employee of the Commission.

(c) NONCOMPLIANCE WITH SUBPOENA OR COMMISSION ORDER; CONTEMPT.—Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission (subject to subsection (b)(7)) or by the Attorney General of the United States, in case of refusal to obey a subpoena or order of the Commission issued under subsection (b), issue an order requiring compliance therewith. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) DISCLOSURE OF INFORMATION.—No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information to the Commission.

(e) CUSTOMER AND REVENUE DATA.—The Commission may by rule require any provider of consumer credit to provide to the Commission such customer and revenue data as may be required to carry out the purposes of this Act.

(f) PURCHASE OF CONSUMER CREDIT BY COMMISSION.—For purposes of carrying out this Act, the Commission may purchase any consumer credit, and it may require any provider of consumer credit to sell the service to the Commission at cost.

(g) CONTRACT AUTHORITY.—The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(h) BUDGET ESTIMATES AND REQUESTS; LEGISLATIVE RECOMMENDATIONS; TESTIMONY; COMMENTS ON LEGISLATION.—

(1) BUDGET COPIES TO CONGRESS.—Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the relevant congressional committees.

(2) LEGISLATIVE RECOMMENDATION.—Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the relevant congressional committees. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the relevant congressional committees.

SEC. 9. COLLABORATION WITH FEDERAL AND STATE ENTITIES.

(a) PREEMPTION.—Nothing in this Act or any rule promulgated thereunder may be construed to preempt any provision of State law that provides equal or greater protection to consumers than is provided in this Act.

(b) PROGRAMS TO PROMOTE FEDERAL-STATE COOPERATION.—The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program, the Commission may—

(1) accept from any State or local authority engaged in activities relating to consumer credit protection assistance in such functions as data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance; and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting investigations.

(c) COOPERATION OF FEDERAL DEPARTMENTS AND AGENCIES.—The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency shall cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to consumer credit

safety shall, to the maximum extent practicable, cooperate and consult in order to ensure fully coordinated efforts.

SEC. 10. PROCEDURES AND RULEMAKING.

(a) COMMENCEMENT OF PROCEEDING; PUBLICATION OF PRESCRIBED NOTICE OF PROPOSED RULEMAKING; TRANSMITTAL OF NOTICE.—A proceeding for the development of a consumer credit safety rule shall be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

(1) identify the objective or objectives specified in section 6(a) for the consumer credit safety rule;

(2) include a summary of each of the regulatory alternatives under consideration by the Commission;

(3) include information with respect to any existing voluntary standard known to the Commission which may be relevant to the proceedings, together with a summary of the reasons why the Commission believes preliminarily that such standard does not achieve an objective identified in paragraph (1);

(4) invite interested persons to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be shorter than 30 days or longer than 60 days after the date of publication of the notice), comments with respect to the proposed rulemaking, the regulatory alternatives being considered, and other possible alternatives for achieving the objective or objectives identified in paragraph (1); and

(5) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), an existing voluntary standard or a portion of such a standard as a proposed consumer credit safety rule.

(b) TRANSMITTAL TO CONGRESS.—The Commission shall transmit such notice within 10 calendar days to the relevant congressional committees.

(c) VOLUNTARY STANDARD; PUBLICATION AS PROPOSED RULE; NOTICE OF RELIANCE OF COMMISSION ON STANDARD.—If the Commission determines that any standard submitted to it in response to an invitation in a notice published under subsection (a)(5) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission or any part of such a standard) as a consumer credit safety rule, would achieve the objective or objectives identified in paragraph (1), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer credit safety rule.

(d) PUBLICATION OF PROPOSED RULE; PRELIMINARY REGULATORY ANALYSIS; CONTENTS.—No consumer credit safety rule may be proposed by the Commission unless, not later than 60 days after the date of publication of the notice required in subsection (a), the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposes to promulgate, together with a preliminary regulatory analysis containing—

(1) a preliminary description of the potential benefits and potential costs of the proposed rule, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (a)(5) was not published by the Commission as the proposed rule or part of the proposed rule; and

(3) a description of any reasonable alternatives to the proposed rule, together with a summary description of their potential costs and benefits, and a brief explanation of why such alternatives should not be published as a proposed rule.

(e) TRANSMITTAL OF NOTICE.—The Commission shall transmit such notice not later than 10 calendar days after the date of publication of the notice to the relevant congressional committees.

(f) FINAL ISSUANCE.—Any proposed consumer credit safety rule shall be issued within 12 months after the date of publication of an advance notice of proposed rulemaking under subsection (a) relating to the consumer credit involved, unless the Commission determines that such proposed rule is not a reasonable means of achieving the objective or objectives identified in subsection (a)(1) with respect to such proposed rule or an objective specified in section 6(a), or is not in the public interest. The Commission may extend that 12-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the relevant congressional committees. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish a notice of such extension and the information submitted to the Congress in the Federal Register.

(g) PROMULGATION OF RULE.—

(1) TIMING.—Not later than 60 days after the date of publication under subsection (c) of a proposed consumer credit safety rule, the Commission shall—

(A) promulgate a consumer credit safety rule, if it makes the findings required under subsection (h); or

(B) withdraw the applicable notice of proposed rulemaking if it determines that such rule is not—

(i) a reasonable means of achieving the objective or objectives identified in subsection (a)(1) with respect to such proposed rule or an objective specified in section 6(a); or

(ii) in the public interest.

(2) EXTENSION.—The Commission may extend such 60-day period in paragraph (1) for good cause shown (if it publishes its reasons therefor in the Federal Register).

(3) TITLE 5.—Consumer credit safety rules shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(h) EXPRESSION OF OBJECTIVE; CONSIDERATION OF AVAILABLE PRODUCT DATA; NEEDS OF ELDERLY AND HANDICAPPED.—

(1) OBJECTIVES.—A consumer credit safety rule shall express in the rule itself the objectives identified in subsection (a)(1) with respect to such rule.

(2) CONSIDERATIONS.—In promulgating such a rule, the Commission shall—

(A) consider relevant available data, including the results of investigation activities conducted generally and pursuant to this Act; and

(B) consider and take into account the special needs of elderly individuals and individuals with disabilities to determine the extent to which such persons may be affected by such rule.

(i) FINDINGS; FINAL REGULATORY ANALYSIS; JUDICIAL REVIEW OF RULE.—

(1) FINDINGS.—Prior to promulgating a consumer credit safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the benefit to consumer protection that the rule is designed to achieve or promote;

(B) the approximate number of consumer credit products, or types or classes thereof, subject to such rule;

(C) the need of the public for the consumer credit product subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such services to meet such need; and

(D) any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of the provision of consumer credit.

(2) REGULATORY ANALYSIS.—The Commission shall not promulgate a consumer credit safety rule, unless it—

(A) has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a final regulatory analysis of the rule containing—

(i) a description of the potential benefits and potential costs of the rule, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs;

(ii) a description of any alternatives to the final rule which were considered by the Commission, together with a brief explanation of the reasons why these alternatives were not chosen; and

(iii) a summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues;

(B) finds (and includes such finding in the rule)—

(i) that the rule (including its effective date) is reasonably appropriate to achieve an objective identified in subsection (a)(1) with respect to such proposed rule or specified in section 6(a);

(ii) that the promulgation of the rule is in the public interest; and

(iii) that the benefits expected from the rule bear a reasonable relationship to its costs.

(3) PUBLICATION.—The Commission shall publish its final regulatory analysis with the rule.

(4) LIMIT ON JUDICIAL REVIEW.—Any preliminary or final regulatory analysis prepared under subsection (c) or (i)(2) shall not be subject to independent judicial review, except that when an action for judicial review of a rule is instituted, the contents of any such regulatory analysis shall constitute part of the whole rulemaking record of agency action in connection with such review. The provisions of this paragraph shall not be construed to alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

(j) EFFECTIVE DATE.—Each consumer credit safety rule shall specify the date on which such rule is to take effect, not to exceed 180 days from the date on which it is issued in final form, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer credit safety rule under this Act shall be set at a date that is at least 30 days after the date of issuance in final form, unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of issuance in final form.

(k) AMENDMENT OR REVOCATION OF RULE.—The Commission may, by rule, amend or revoke any consumer credit safety rule. Such amendment or revocation shall specify the

date on which it is to take effect, which shall not exceed 180 days from the date on which the amendment or revocation is published, unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer credit safety rule, subsections (a) through (h) shall apply. In order to revoke a consumer credit safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (d)(2). The Commission may revoke such rule only if it determines that the rule is not a reasonable means of achieving an objective identified in subsection (a)(1) with respect to such proposed rule or an objective specified in subsection 6(a).

(l) PETITION TO INITIATE RULEMAKING.—The Commission shall grant, in whole or in part, or deny any petition under section 553 (e) of title 5, United States Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition.

SEC. 11. PROHIBITED ACTS.

It shall be unlawful for any person—

(1) to advertise for or offer for sale any consumer credit which is not in conformity with an applicable consumer credit safety rule under this Act;

(2) to advertise for or offer for sale any consumer credit—

(A) which has been declared a banned product by a rule under this Act;

(B) in a manner that does not comply with any requirements for the provision of any warnings or other information regarding such credit; or

(3) to fail or refuse to permit access to or copying of records, or fail or refuse to establish or maintain records, or fail or refuse to make reports or provide information to the Commission as required under this Act or any rule thereunder, other than section 9.

SEC. 12. PENALTIES FOR VIOLATIONS.

(a) CRIMINAL PENALTIES.—

(1) KNOWING AND WILLFUL VIOLATIONS.—Any person who knowingly and willfully violates section 11 after having received notice of noncompliance from the Commission shall be fined not more than $500,000 or be imprisoned not more than one year, or both.

(2) EXECUTIVES AND AGENTS.—Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of section 11, and who has knowledge of notice of noncompliance received by the corporation from the Commission, shall be subject to penalties under this section, without regard to any penalties to which that corporation may be otherwise subject.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who violates section 11 shall be subject to a civil penalty to be established at the discretion of the Commission. A violation of section 11 shall constitute a separate civil offense with respect to each consumer credit transaction involved.

(2) PUBLICATION OF SCHEDULE OF PENALTIES.—Not later than December 1, 2009, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

(3) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 11, the Commission shall consider the nature of the consumer credit product or service, the severity of the unreasonable risk to the consumer, the number of products or services sold or distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

(4) COMPROMISE OF PENALTY; DEDUCTIONS FROM PENALTY.—Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the consumer credit, the severity of the unreasonable risk to the consumer, the occurrence or absence of consumer injury, and the number of offending products or services sold. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) COLLECTION AND USE OF PENALTIES.—The Commission shall retain ownership over criminal and civil fees collected and shall apply these fees to defray the costs of the Commission's operation or, where appropriate, provide restitution for harmed consumers.

SEC. 13. REPORTS.

(a) REPORTS TO THE PUBLIC.—The Commission shall determine what reports should be produced and distributed to the public on a recurring and ad hoc basis, and shall prepare and publish such reports on a web site that provides free access to the general public.

(b) REPORT TO PRESIDENT AND CONGRESS.—The Commission shall prepare and submit to the President and the relevant congressional committees at the beginning of each regular session of Congress a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence and effects of practices associated with the provision of consumer credit that are inconsistent with the objectives specified in section 6(a), with a breakdown, insofar as practicable, among the various sources of injury as the Commission finds appropriate;

(2) a list of consumer credit safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer credit safety rules, including a list of enforcement actions, court decisions, and compromises of civil penalties, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer credit safety research activities;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(7) the extent to which technical information was disseminated to the scientific and consumer credit communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission;

(10) with respect to voluntary consumer credit safety standards promulgated as consumer safety rules under section 10(c), a description of—

(A) the number of such standards adopted as rules; and

(B) the nature and number of the consumer credit products and services which are the subject of such adopted rules and the approximate number of consumers affected;

(11) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act; and

(12) the extent of cooperation with and the joint efforts undertaken by the Commission in conjunction with other regulators with whom the Commission shares responsibilities for consumer credit safety.

SEC. 14. EFFECTIVE DATE.

This Act shall be effective 120 days after the date of enactment of this Act.

By Mr. BROWN:

S. 3633. A bill to amend the Federal Food, Drug, and Cosmetic Act to require country of origin labeling on prescription and over-the-counter drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN. Mr. President, in the past year, 149 Americans died after taking tainted Heparin, a widely used blood thinner. It was later learned—as reported in the New York Times—that the contaminant derived from pig intestines was produced in ''largely unregulated'' Chinese workshops. Unfortunately, Heparin is not the only drug that relies on this dangerous brand of outsourcing. More and more, drug companies are taking advantage of cheap labor and weak safety standards found outside of the U.S. to manufacture the pharmaceuticals later used in American hospitals and households. According to a Pfizer representative who testified before the Senate Committee on Health, Education, Labor and Pensions in April, Pfizer outsources the manufacture of 17 percent of its drug products.

Consumers have a right to know where their drugs are produced. That is why I am today introducing the Transparency in Drug Labeling Act. This bill would require country-of-origin labeling for both active and inactive ingredients on all pharmaceuticals, both prescription and over-the-counter. These new drug labels would list all the countries that played a role in the manufacturing of ingredients for the drug. The order of the list would be determined by the percentage of the drug produced in each country, with the largest contributors appearing at the top.

This bill would raise consumers' awareness of where their drugs are being produced. It would also allow companies who produce their drugs in the U.S. to advertise that fact. Drug companies that produce their drugs in the U.S. and follow the corresponding safety and regulatory standards should be rewarded with increased consumer confidence in their products.

This bill takes a proactive approach to keeping Americans safe in our global, interdependent economy. When we import from overseas, we are importing the health, labor and environmental standards of those countries as well. Consumers have a right to know where their medications originate. This bill would satisfy that reasonable demand.

By Mr. LAUTENBERG (for himself and Mr. MENENDEZ):

S. 3634. A bill to reduce gun trafficking by prohibiting bulk purchases of handguns; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce the End Gun Trafficking Act of 2008. I am proud to be joined by my colleague from New Jersey, Senator MENENDEZ, in introducing this bill.

Trafficking in illegal guns is a serious problem that fuels crime, drug activity, and gang violence in our communities and on our streets.

Under current Federal law, gun purchasers are able to buy—and gun dealers are able to sell—unlimited numbers of handguns. All too frequently, these bulk handgun purchasers turn around and sell those handguns on the black market. The guns are sold to criminals and gang members—people who are barred under Federal law from buying guns themselves.

This pipeline of illegal guns threatens States' abilities to protect their own residents, as guns are often purchased in bulk in States with weak gun laws and sold to criminals in States with tougher gun laws.

My State of New Jersey has some of the strongest gun violence prevention laws in the country, including a ban on assault weapons, child access prevention requirements, and permitting requirements for gun ownership. Unfortunately, because of the gun trafficking pipeline, illegal weapons make their way onto New Jersey's streets and place all New Jerseyans in danger.

In 2007, 72 percent of the guns recovered from New Jersey crime scenes that were traced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives came from out of State. Just six States accounted for nearly 50 percent of those traced guns.

As these numbers make all too clear, we will only give full effect to New Jersey's and other State's effort protect their residents when we shut down the ''iron pipeline'' of gun trafficking. To stop gun trafficking, we must stop the bulk sales of handguns.

The legislation that I introduce today would do exactly that. The End Gun Trafficking Act of 2008 would limit gun buyers to one handgun every 30 days.

This ''one-handgun-a-month'' approach is proven. Today, States—Virginia, Maryland, and California—have such laws. Before enacting this law in 1993, Virginia was the supplier of choice for criminals up and down the East Coast. A 1995 study showed drastic reductions in the flow of Virginia guns to criminals in other States: the percentage of crime guns traced back to Virginia fell by 71 percent in New York and 72 percent in Massachusetts. Unfortunately, despite these results, Virginia significantly weakened its law in 2004.

I hope that New Jersey will be the fourth State to limit handgun purchases to one a month. In July, the New Jersey Assembly approved a one-handgun-a-month bill that is awaiting action in the State Senate. I strongly support this legislation, which will help cut down on the illegal gun trade within New Jersey.

But to really combat interstate gun trafficking, we need a national solution. The End Gun Trafficking Act is an important step in that direction. Specifically, this legislation would prohibit gun dealers from selling a handgun to an unlicensed person who they know or have reason to believe has purchased another handgun within the previous 30 days.

It would prohibit unlicensed individuals from purchasing more than one handgun during a 30-day period.

It would make exceptions for exchanges, Government, and law enforcement purchases and curios and relics.

It would ensure that the background check system checks whether a buyer has purchased a handgun within the last 30 days and block handgun sales to such buyers.

It would increase the maximum penalty from 1 year to 5 years for gun dealers who make false statements in their gun sale records.

It would require that background checks be kept for at least 180 days instead of the current 24 hours, to allow dealers to find out whether an individual has purchased another handgun within the previous 30 days and make unlicensed gun dealers who sell more than one handgun a month to an unlicensed individual subject to the same laws as licensed gun dealers.

I look forward to working with my Senate colleagues to pass this legislation and reduce gun violence.

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. 3634

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 ''End Gun Trafficking Act of 2008''.

SEC. 2. PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

''(aa) PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.—

''(1) SALE.—It shall be unlawful to sell or otherwise dispose of a handgun that has been shipped or transported in interstate or foreign commerce to any person who is not licensed under section 923 knowing or having reasonable cause to believe that such person purchased a handgun during the 30-day period ending on the date of such sale or disposition.

''(2) PURCHASE.—It shall be unlawful for any person who is not licensed under section 923 to purchase more than 1 handgun that has been shipped or transported in interstate or foreign commerce during any 30-day period.

''(3) EXCEPTIONS.—Paragraphs (1) and (2) shall not apply to—

''(A) exchange of 1 handgun for 1 handgun;

''(B) the transfer to or purchase by the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun;

''(C) the transfer to or purchase by a law enforcement officer employed by an entity referred to in subparagraph (B) of a handgun for law enforcement purposes (whether on or off duty);

''(D) the transfer to or purchase by a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for law enforcement purposes (whether on or off duty); or

''(E) the transfer or purchase of a handgun listed as a curio or relic by the Attorney General pursuant to section 921(a)(13).''.

(b) PENALTIES.—Section 924(a)(2) of title 18, United States Code, is amended by striking ''or (o)'' and inserting ''(o), or (aa)''.

(c) CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—

(1) in section 922(t)—

(A) in paragraph (1)(B)(ii), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)'';

(B) in paragraph (2), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)'';

(C) in paragraph (4), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)''; and

(D) in paragraph (5), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)''; and

(2) in section 925A, by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)''.

(d) ELIMINATE MULTIPLE SALES REPORTING REQUIREMENT.—Section 923(g) of title 18, United States Code, is amended by striking paragraph (3).

(e) AUTHORITY TO ISSUE RULES AND REGULATIONS.—The Attorney General shall prescribe any rules and regulations as are necessary to ensure that the national instant criminal background check system is able to identify whether receipt of a handgun by a prospective transferee would violate section 922(aa) of title 18, United States Code.

SEC. 3. INCREASED PENALTIES FOR MAKING KNOWINGLY FALSE STATEMENTS IN CONNECTION WITH FIREARMS.

Section 924(a)(3) of title 18, United States Code, is amended in the matter following subparagraph (B) by striking ''one year'' and inserting ''5 years''.

SEC. 4. RETENTION OF RECORDS.

(a) RETENTION OF RECORDS.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting ''not less than 180 days after the transfer is allowed,'' before ''destroy''.

(b) REPEALS.—

(1) FISCAL YEAR 2004.—Section 617 of division B of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 95) is amended—

(A) by striking ''(a)'';

(B) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(C) by striking ''; and'' and all that follows and inserting a period.

(2) FISCAL YEAR 2005.—Section 615 of division B of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2915) is amended—

(A) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(B) by striking ''; and'' and all that follows and inserting a period.

(3) FISCAL YEAR 2006.—Section 611 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2336) is amended—

(A) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(B) by striking ''; and'' and all that follows and inserting a period.

(4) FISCAL YEAR 2008.—Section 512 of division B of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1926) is amended—

(A) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(B) by striking ''; and'' and all that follows and inserting a period.

SEC. 5. REVISED DEFINITION.

Section 921(a)(21)(C) of title 18, United States Code, is amended by inserting '', except that such term shall include any person who transfers more than 1 handgun in any 30-day period to a person who is not a licensed dealer'' before the semicolon.

By Mrs. CLINTON:

S. 3635. A bill to authorize a loan forgiveness program for students of institutions of higher education who volunteer to serve as mentors; to the Committee on health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to discuss an issue that is very near and dear to my heart: the importance of mentoring. A good mentor can make all the difference in the world, serving as friend, role-model and advocate for children who need it most. We should be rewarding those young people who commit to public service, including mentoring at-risk children, and offering incentives to encourage wider participation.

I am proud to introduce the Supporting Mentors, Supporting Our Youth Act, which would forgive $10 of student loans for every hour of mentoring with a minimum commitment of one year of service. I'm pleased that my friend and colleague, Congressman JIM CROWLEY, is introducing this legislation in the House of Representatives.

I have long been an advocate for mentoring and for supporting mentoring programs like the ones you run across the country. Last year, I joined my colleague Senator KERRY in introducing the Mentoring America's Children Act, which built upon the Mentoring Program in No Child Left Behind. This legislation will help reach the 15 million young adults who could use mentor—esspecially young people in foster care and other young adults who could benefit the most from a role model, advisor, and advocate. I've long been a champion for mentoring and for supporting mentoring programs like the ones you run across the country.

Public service is the lifeblood of our communities and mentoring at-risk children is particularly important. Tomorrow, September 27th, is the National Day of Action and I could not think of a better way of supporting the thousands of communities who will mobilize across the country then by introducing this legislation to encourage more people to serve.

Earlier this month, I joined Senators KENNEDY and HATCH in introducing the Serve America Act. The legislation would build a new service corps focused on addressing areas of national need such as education, energy and the environment. The bill would increase opportunities to participate in service for Americans of all ages by encourage students to make service a part of their lives, establishing tax incentives for employers who allow employees paid leave for service, and structuring service opportunities for seniors and retirees.

I look forward to continuing to work with my colleagues in the Senate and the House to stand up for our most vulnerable children, while making college more accessible and more affordable.

By Mr. NELSON, of Florida:

S. 3638. A bill to reauthorize the National Windstorm Impact Reduction Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I rise today to introduce legislation on a subject that is never far from the minds of citizens in my home State of Florida and others living along our coasts and in tornado alley: the threat of windstorms, and the havoc that these events can wreak on our communities.

We were all transfixed by the nonstop news coverage as Hurricanes Gustav and Ike grew into monster storms and crossed the Caribbean and Gulf of Mexico, leaving a trail of misery in their wake. In Florida this year, these storms, along with Tropical Storm Fay and Hurricane Hanna, reminded us of our vulnerability in the face of Mother Nature. We are not out of the woods yet. Hurricane season lasts for another two months, and other severe storms can generate damaging tornadoes at any time of year. In fact, more than 2,000 tornadoes had hit the United States by mid-September, causing more than 120 fatalities and making 2008 the deadliest year for windstorm-related fatalities in a decade.

Although windstorms are a perpetual hazard, particularly in Florida, we have learned a great deal from these events and have taken steps to make our homes, businesses, and infrastructure more resilient. In 1992, Hurricane Andrew devastated South Florida and revealed a number of problems with how we designed and constructed buildings in areas subject to high winds. The lessons learned from Andrew drove the adoption of stronger buiding codes in Miami-Dade and Broward counties in 1994, codes that still serve as models for the Nation. In 2001, Florida's State legislature adopted a statewide building code, which made building requirements stronger and more consistent across the state.

These actions have already started paying dividends. In 2004, when Hurricane Charley made landfall near Captiva Island as a Category 4 hurricane, communities across Southwest Florida suffered tremendous damage from high winds and floodwaters. In Charlotte County alone, the Federal Emergency Management Agency, FEMA, estimated that 80 percent of the buildings were damaged and all mobile homes were destroyed. Across the Florida peninsula, 30 deaths were linked to the storm and property damage was estimated at $14.6 billion. But there was some positive news to be found amongst the devastation. Government and private-sector experts who reviewed Charley's damage found that homes designed and constructed with the stronger, post-Andrew building codes performed well, even in Punta Gorda, one of the hardest-hit areas. There can be no doubt that many lives were saved and millions in additional damages were avoided as a direct consequence of earlier decisions to build stronger and safer.

While our experience in Charley shows that we are on the right track in antiipating and avoiding windstorm impacts, we cannot rest on our laurels. Millions in Florida and across our Nation live in structures built either before there was a building code in effect or before important wind-resistant materials and practices became required. Much work remains to find feasible and cost-effective ways to retrofit these older structures, and to educate our citizens on the need to take actions now to reduce their vulnerability to future windstorms.

To help address these outstanding needs, I am introducing the National Windstorm Impact Reduction Reauthorization Act of 2008. This legislation would extend and enhance the National Windstorm Impact Reduction program, the primary goal of which is to achieve major, measurable reductions in losses of life and property from windstorms.

This is a program that I have a long history of supporting. In July 2004—just weeks before four hurricanes, Charley, Frances, Ivan, and Jeanne struck my State—I introduced the National Windstorm Impact Reduction Act of 2004. This bill sought to focus the Federal efforts to identify wind hazards and assess and mitigate windstorm impacts. In the wake of the 2004 hurricanes, Congress saw the need to better coordinate and invest in wind-related research and mitigation, and passed separate legislation establishing NWIRP in October of that year. At that time, Congress's vision was for NWIRP to improve our understanding of windstorms and then mitigate potential impacts through nationwide data collection and analysis, risk assessment, outreach, technology transfer, and research and development.

Since its enactment in 2004, NWIRP has struggled to get off of the ground. The Bush Administration has not adequately supported the development and implementation of the program, failing to request any appropriations for

NWIRP activities at the primary agencies: the National Institute of Standards and Technology, the National Science Foundation, the National Oceanic and Atmospheric Administration and FEMA. Despite explicit language from Congress in its report accompanying the fiscal year 2008 omnibus appropriations bill, the Administration has refused to allocate the more than $11 million designated for NWIRP. I find this lack of cooperation on NWIRP, a program that can help save lives and avoid property damage, to be particularly troubling as millions of people on the Gulf Coast and in Florida struggle to recover from recent hurricanes.

While I will continue my efforts to obtain additional funding for NWIRP, Congress must help by extending the program past its expiration on September 30th of this year. My legislation would extend NWIRP through 2013, and make several other programmatic changes that are needed to put the program on a stronger footing moving forward.

I propose shifting primary authority and responsibility for managing NWIRP from the President's Office of Science and Technology Policy to NIST, an agency that has excelled in leading the National Earthquake Hazards Reduction Program since 2004. My legislation would also clarify the roles and responsibilities of all Federal agencies participating on NWIRP's Interagency Working Group on Windstorm Impact Reduction. Three Federal agencies with current missions that provide valuable data or expertise that support NWIRP's goals will be added to the program, namely the Department of Transportation, National Aeronautics and Space Administration, and U.S. Army Corps of Engineers. Lastly, the legislation would set a deadline for NIST to assemble the National Advisory Committee on Windstorm Impact Reduction, a group charged with providing guidance to NIST and the Interagency Working Group on windstorm-related research, mitigation, outreach, and other program priorities. The Advisory Committee will include representatives from a broad array of NWIRP stakeholders, including state and local governments and experts from the research, technology transfer, building design and construction, insurance, and finance communities.

I did not want to return to Florida this fall without taking action to keep us focused on reducing the impacts of windstorms on our citizens and our economy. That is why I felt it important to propose this legislation to extend, revamp, and revitalize the National Windstorm Impact Reduction Program.

In closing, I would like to recognize the efforts of Representative DENNIS MOORE of Kansas, who is introducing a companion measure in the U.S. House of Representatives today. Kansas is particularly vulnerable to the devastation that tornados and hailstorms can cause, so I know that he shares my desire to ensure that our constituents have innovative, effective, and affordable tools available to help reduce their vulnerability to windstorms. I also understand that three members of the Florida delegation in the House, Representatives ALCEE HASTINGS, ILEANA ROS-LEHTINEN, and MARIO DIAZ-BALART, are original cosponsors of Representative MOORE's bill. In addition to demonstrating how important this legislation is to the State of the Florida and the Nation, I welcome the bipartisan support that these cosponsors provide. I look forward to working with Chairman INOUYE, Ranking Member HUTCHISON and the other members of the Senate Committee on Commerce, Science, and Transportation to debate 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. 3638

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 Windstorm Impact Reduction Reauthorization Act of 2008''.

SEC. 2. FINDINGS.

Section 202 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15701) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

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

''(3) Global climate variability and climate change may alter the frequency and intensity of severe windstorm events, but further research is needed to identify any such linkages and, if appropriate, to incorporate climate-related impacts into windstorm risk and vulnerability assessments and mitigation activities.''; and

(3) in paragraph (5), as redesignated, by striking ''interagency coordination'' and inserting ''coordination among Federal agencies and with State and local governments''.

SEC. 3. DEFINITIONS.

(a) DIRECTOR.—Section 203(1) of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15702(1)) is amended by striking ''Office of Science and Technology Policy'' and inserting ''National Institute of Standards and Technology''.

(b) INTERAGENCY WORKING GROUP.—Section 203 of such Act (42 U.S.C. 15702) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) INTERAGENCY WORKING GROUP.—The term 'Interagency Working Group' means the Interagency Working Group on Wind Impact Reduction established pursuant to section 204(f).''.

SEC. 4. NATIONAL WINDSTORM IMPACT REDUCTION PROGRAM.

(a) LEAD FEDERAL AGENCY.—Section 204 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15703) is amended—

(1) by striking subsection (c);

(2) by redesignating subsection (d) as subsection (c); and

(3) by inserting after subsection (c), as redesignated, the following:

''(d) LEAD FEDERAL AGENCY.—The National Institute of Standards and Technology shall be the lead Federal agency for planning, management, and coordination of the Program. In carrying out this subsection, the Director shall—

''(1) establish a Program Office, which shall be under the direction of a full-time Program Director, to provide the planning, management, and coordination functions described in subsection (e);

''(2) in conjunction with other Program agencies, prepare an annual budget for the Program, which shall be submitted to the Office of Management and Budget and shall include, for each Program agency and for each major goal established for the Program components under subsection (c)—

''(A) the Program budget for the current fiscal year; and

''(B) the proposed Program budget for the subsequent fiscal year;

''(3) facilitate the preparation of the Interagency Working Group's biennial report to Congress and the National Science and Technology Council under subsection (j);

''(4) support research and development to improve building codes, standards, and practices for design and construction of buildings, structures, and lifelines;

''(5) in conjunction with the Federal Emergency Management Agency, work closely with national standards and model building code organizations to promote the implementation of research results;

''(6) in partnership with other Federal agencies, State and local governments, academia, and the private sector, support—

''(A) the organization and deployment of comprehensive, discipline-oriented interagency teams to investigate major windstorm events; and

''(B) the gathering, publishing, and archiving of collected data and analysis results; and

''(7) participate in, coordinate, or support, as needed, other Program mitigation activities authorized under subsection (c).''.

(b) PROGRAM OFFICE DUTIES.—Section 204 of such Act, as amended by subsection (a), is further amended—

(1) by striking subsection (e);

(2) by redesignating subsection (f) as subsection (j); and

(3) by inserting after subsection (d), as added by subsection (a)(3) of this Act, the following:

''(e) PROGRAM OFFICE.—The Program Office established under subsection (d)(1) shall—

''(1) ensure that all statutory requirements, including reporting requirements, are met in accordance with this Act;

''(2) ensure coordination and synergy across the Program agencies in meeting the strategic goals and objectives of the Program;

''(3) implement an outreach program to identify and build effective partnerships with stakeholders in the construction and insurance industries, Federal, State, and local governments, academic and research institutions, and non-governmental entities, such as standards, codes, and technical organizations;

''(4) conduct studies on cross-cutting planning issues, particularly those that are significant for the development and updating of the strategic plan required under subsection (i); and

''(5) conduct analysis and evaluation studies to measure the progress and results achieved in meeting the strategic goals and objectives of the Program.''.

(c) INTERAGENCY WORKING GROUP.—Section 204 of such Act (42 U.S.C. 15703) is further amended by inserting after subsection (e), as added by subsection (b)(3) of this Act, the following:

''(f) INTERAGENCY WORKING GROUP.—

''(1) IN GENERAL.—There is established an Interagency Working Group on Wind Impact Reduction, which shall report to the Director.

''(2) PURPOSE.—The primary purpose of the Interagency Working Group is to coordinate activities and facilitate better communication among the Program agencies in reducing the impacts of windstorms.

''(3) DUTIES.—The Interagency Working Group shall—

''(A) facilitate Program planning, analysis, and evaluation;

''(B) facilitate coordination and synergy among Program agencies in meeting the strategic goals and objectives of the Program;

''(C) prepare the coordinated interagency budget for the Program;

''(D) prepare the interim working plan required under subsection (h);

''(E) prepare the strategic plan with stakeholder input required under subsection (i);

''(F) prepare the biennial report to Congress and the National Science and Technology Council required under subsection (j);

''(G) work with States, local governments, non-governmental organizations, industry, academia, and research institutions, as appropriate; and

''(H) in partnership with State and local governments, academia, and the private sector, facilitate—

''(i) the organization and deployment of comprehensive discipline-oriented interagency teams to investigate major windstorm events; and

''(ii) the gathering, publishing, and archiving of collected data and analysis results.

''(4) MEMBERSHIP.—The Interagency Working Group shall be comprised of 1 representative from—

''(A) the National Institute of Standards and Technology;

''(B) the National Science Foundation;

''(C) the National Oceanic and Atmospheric Administration;

''(D) the Federal Emergency Management Agency;

''(E) the Department of Transportation;

''(F) the National Aeronautics and Space Administration;

''(G) the United States Army Corps of Engineers;

''(H) the Office of Science and Technology Policy; and

''(I) the Office of Management and Budget.

''(5) CHAIR.—The Program Director referred to in subsection (d)(1) shall chair the Interagency Working Group.

''(6) DUTIES OF THE CHAIR.—The Chair shall—

''(A) convene at least 4 Interagency Working Group meetings per year, the first of which shall be convened not later than 90 days after the date of the enactment of the National Windstorm Impact Reduction Reauthorization Act of 2008;

''(B) ensure the timely submission of the Interagency Working Group's biennial report to Congress and the National Science and Technology Council required under subsection (j); and

''(C) carry out such other duties as may be necessary to carry out this Act.''.

(d) PROGRAM AGENCIES.—Section 204 of such Act (42 U.S.C. 15703) is further amended by inserting after subsection (f), as added by subsection (c) of this Act, the following:

''(g) PROGRAM AGENCIES.—

''(1) NATIONAL SCIENCE FOUNDATION.—The National Science Foundation shall support research in engineering and the atmospheric sciences to improve the understanding of the behavior of windstorms and the impact of windstorms on buildings, structures, and lifelines.

''(2) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The National Oceanic and Atmospheric Administration shall support atmospheric sciences research to improve the understanding of the behavior of windstorms and the impact of windstorms on buildings, structures, and lifelines through wind observations, modeling, and analysis.

''(3) FEDERAL EMERGENCY MANAGEMENT AGENCY.—The Federal Emergency Management Agency shall support—

''(A) the development of risk assessment tools, effective mitigation techniques, and related guidance documents and products;

''(B) windstorm-related data collection and analysis;

''(C) evacuation planning;

''(D) public outreach and information dissemination; and

''(E) the implementation of mitigation measures consistent with the Federal Emergency Management Agency's all-hazards approach.

''(4) DEPARTMENT OF TRANSPORTATION.—The Department of Transportation shall—

''(A) support research aimed at understanding, measuring, predicting, and designing for wind effects on transportation infrastructure, including bridges; and

''(B) assist in evacuation planning.

''(5) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—The National Aeronautics and Space Administration shall support—

''(A) research to improve understanding of the regional and global behavior of windstorms; and

''(B) dissemination and utilization of observational data from existing satellites and sensors, forecasts, and other analytical products that can aid in reducing windstorm impacts.

''(6) UNITED STATES ARMY CORPS OF ENGINEERS.—The United States Army Corps of Engineers shall—

''(A) support research to improve understanding of wind effects on storm surge and other flooding; and

''(B) support the development of evacuation plans and other activities or tools to reduce the potential for loss of life or structure damage resulting from windstorms.''.

(e) INTERIM WORKING PLAN; STRATEGIC PLAN.—Section 204 of such Act (42 U.S.C. 15703) is further amended by inserting after subsection (g), as added by subsection (d) of this Act, the following:

''(h) INTERIM WORKING PLAN.—Not later than 6 months after the date of the enactment of this subsection, the Interagency Working Group shall submit to Congress an interim working plan that will guide the implementation of Program operations until the approval of the strategic plan under subsection (i).

''(i) STRATEGIC PLAN.—

''(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this subsection, the Interagency Working Group shall submit to Congress a strategic plan for achieving the objectives of the Program.

''(2) CONTENTS.—The strategic plan shall include—

''(A) strategic goals and objectives for each Program component area to be achieved in the areas of data collection and analysis, risk assessment, outreach, technology transfer, and research and development;

''(B) an assessment of the strategic priorities required to fill critical gaps in knowledge and practice to ensure reduction in future windstorm impacts based on a review of past and current public and private sector efforts, including windstorm mitigation activities supported by the Federal Government;

''(C) measurable outputs and outcomes to achieve the strategic goals and objectives;

''(D) a description of how the Program will achieve such goals and objectives including detailed responsibilities for each Program agency; and

''(E) plans for cooperation and coordination with interested public and private sector entities in each Program component area.

''(3) INITIAL DEVELOPMENT.—The strategic plan—

''(A) shall be developed with stakeholder input; and

''(B) shall not be initially required to be reviewed by the National Advisory Committee on Windstorm Impact Reduction.

''(4) REGULAR UPDATES.—Not less frequently than once every 3 years, the strategic plan—

''(A) shall be updated with stakeholder input; and

''(B) shall be reviewed by the National Advisory Committee on Windstorm Impact Reduction.''.

(f) BIENNIAL REPORT.—Section 204(j) of such Act, as redesignated by subsection (b)(2), is amended to read as follows:

''(j) BIENNIAL REPORT.—The Interagency Working Group, on a biennial basis, and not later than 90 days after the end of the preceding 2 fiscal years, shall—

''(1) after considering the recommendations of the advisory committee established under section 205, prepare a biennial report that describes the status of the Program, including—

''(A) Program activities and progress achieved during the preceding 2 fiscal years in meeting goals established for each Program component under subsection (c);

''(B) challenges and impediments to the fulfillment of the Program's objectives; and

''(C) any recommendations for legislative and other action the Interagency Working Group considers necessary and appropriate; and

''(2) submit the report prepared under paragraph (1) to Congress and the National Science and Technology Council.''.

SEC. 5. NATIONAL ADVISORY COMMITTEE ON WINDSTORM IMPACT REDUCTION.

(a) IN GENERAL.—Section 205(a) of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15704(a)) is amended by striking ''The Director'', and inserting ''Not later than 6 months after the date of the enactment of the National Windstorm Impact Reduction Reauthorization Act of 2008, the Director''.

(b) CONFORMING AMENDMENT.—Section 205(b)(2) of such Act (42 U.S.C. 15704(b)(2)) is amended by striking ''section 204(d)'' and inserting ''section 204(c)''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 207 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15706) is amended to read as follows:

''SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 2009 through 2013 to carry out this Act, of which not greater than—

''(1) $5,000,000 shall be allocated for the National Institute of Standards and Technology;

''(2) $9,400,000 shall be allocated for the National Science Foundation;

''(3) $2,200,000 shall be allocated for the National Oceanic and Atmospheric Administration;

''(4) $9,400,000 shall be allocated for the Federal Emergency Management Agency;

''(5) $1,333,333 shall be allocated for the Department of Transportation;

''(6) $1,333,333 shall be allocated for the National Aeronautics and Space Administration; and

''(7) $1,333,333 shall be allocated for the United States Army Corps of Engineers.

''(b) AUTHORIZATION FOR PROGRAM PLANNING, MANAGEMENT, AND COORDINATION.—

''(1) LEAD AGENCY.—From the amounts appropriated for the National Institute of Standards and Technology pursuant to subsection (a)(1)—

''(A) up to $1,000,000 may be allocated for carrying out the lead agency planning, management, and coordination functions assigned to the National Institute of Standards and Technology under section 204(d); and

''(B) not greater than 8 percent of such amounts may be allocated for managing the National Institute of Standards and Technology assigned research and development responsibilities.

''(2) OTHER PROGRAM AGENCIES.—From the amounts appropriated to each of the Program agencies under paragraphs (2) through (7) of subsection (a), not greater than 8 percent may be allocated to each such agency for carrying out planning, management, and coordination functions assigned to such agency under this Act, including participation in the Interagency Working Group.

''(c) REMAINDER AUTHORIZED FOR PROGRAM ACTIVITIES.—Any amounts appropriated pursuant to subsection (a) that are not allocated under subsection (b) shall be allocated to Program activities carried out in accordance with the objectives of the Program, including—

''(1) data collection and analysis;

''(2) risk assessment;

''(3) outreach;

''(4) technology transfer; and

''(5) research and development.''.

By Mr. FEINGOLD (For himself, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 3640. A bill to secure the Federal voting rights of persons who have been released from incarceration; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, in a democracy, no right is more important than the right to vote; in our democracy, no right has been so dearly won. This country was founded on the idea that a just government derives its power from the consent of the governed, a principle codified in the very first words of our Constitution: ''We the People of the United States.'' From the Civil War through the women's suffrage movement through the Voting Rights Act of 1965 through the 26th Amendment, the continuing expansion of the franchise, a broadening of who ''we the people'' are, is one of our great American stories.

So today I will introduce the Democracy Restoration Act of 2008. This bill will guarantee that citizens who are not incarcerated have the right to vote in Federal elections. I am pleased that the Senator from Rhode Island, Sen. WHITEHOUSE, and the Senator from Maryland, Sen. CARDIN, have agreed to be a cosponsor.

Once, only wealthy White men could vote in this country. Once, African Americans, ethnic minorities, women, young people, the poor, and the uneducated were all excluded. Today, we look back at those times and wonder how our country could have denied its citizens such a fundamental right for so long. And yet today, we continue to disenfranchise an estimated 4 million of our fellow citizens who were convicted of felonies but are no longer in prison. Two million of these people have fully served their sentences, and the other two million are on probation, parole, or supervised release. These people are living and working in the community, paying taxes, and contributing to society. But they cannot vote.

At this time, 10 states still strip people who have completed their sentence—who have paid their debt to society—of their right to vote. Some 35 States deny the vote to people on parole, and 30 of those States also deny the vote to people on probation. I believe that the practice of stripping our fellow citizens of their voting rights is un-American. It weakens our democracy. It is an anachronism, one of the last vestiges of a medieval jurisprudence that declared convicted criminals to be outlaws, irrevocably expelled from society.

This principle was called ''civil death'' and in medieval Europe, it was reserved for the worst crimes. Yet today, here, in the greatest democracy in the world, we continue to sentence 4 million people—people who have served their time, people who are contributing members of society—to civil death.

One might ask how something as undemocratic as civil death could have survived to the present day. Unfortunately, Mr. President, the practice of disenfranchising people with felony convictions has an explicitly racist history. Like the grandfather clause, the literacy test, and the poll tax, civil death became a tool of Jim Crow.

Across the country, 13 percent of African-American men are disenfranchised because of a felony conviction. As of 2004, in 14 states, felony disenfranchisement provisions had stripped more than 10 percent of the entire African-American voting-age population of the right to vote. In 4 states, they had disenfranchise more than 20 percent of eligible African-American voters.

The architects of Jim Crow would be proud of their handiwork, and how it has lasted long after the rest of their evil system was dismantled. The rest of us should be ashamed, and yes, outraged. If we believe in redemption, we should be outraged. Because civil death has denied 4 million Americans a chance at redemption. If we believe in progress, we should be outraged. Because civil death keeps this country chained to the worst moments of our past. If we believe in democracy, we should be outraged. Because civil death strikes at the heart of our democracy.

There is a growing movement across the country to expand the franchise and restore voting rights to people coming out of prison and reentering the community. In the last decade, 16 States have reformed their laws to expand the franchise or ease voting rights restoration procedures. This bill continues that movement. It provides that the right to vote for candidates for Federal office shall not be denied or abridged because a person has been convicted of a crime unless that person is actually in prison serving a felony sentence. It gives the Attorney General of the United States the power to obtain declaratory or injunctive relief to enforce that right. And it gives a person whose rights are being violated a right to go to court to get relief.

The bill also requires Federal and State officials to notify individuals of their right to vote once their sentences have been served. This is an important part of the bill, given the long history of these civil death provisions. Even after this bill passes, many ex-offenders may not know their rights, and we should take affirmative steps to make sure that they do. No one should be disenfranchised because of lack of information.

Upon signing the Voting Rights Act of 1965, President Johnson said:

> The vote is the powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men.

When prisoners return to their communities after serving their sentences, we expect and hope that they will reintegrate themselves into society as productive citizens. Yet, without the right to vote, rehabilitated felons are already a step behind in regaining a sense of civic responsibility and commitment to their communities. If our country wants ex-offenders to succeed at becoming better citizens, who both abide by the law and act as responsible individuals, then we need to restore this most fundamental right. I urge my colleagues to support 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. 3640

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 ''Democracy Restoration Act of 2008''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The right to vote is the most basic constitutive act of citizenship. Regaining the right to vote reintegrates offenders into free society, helping to enhance public safety.

(2) Article I, section 4 of the Constitution of the United States grants Congress ultimate supervisory power over Federal elections, an authority which has repeatedly been upheld by the Supreme Court.

(3) Basic constitutional principles of fairness and equal protection require an equal opportunity for Americans to vote in Federal elections. The right to vote may not be abridged or denied by the United States or by any State on account of race, color, gender or previous condition of servitude. The 14th and 15th Amendments to the Constitution empower Congress to enact measures to protect the right to vote in Federal elections.

(4) There are three areas where discrepancies in State laws regarding felony convictions lead to unfairness in Federal elections:

(A) there is no uniform standard for voting in Federal elections which leads to an unfair disparity and unequal participation in Federal elections based solely on where a person lives; (B) laws governing the restoration of voting rights after a felony conviction are unequal throughout the country and persons in some States can easily regain their voting rights while in other States persons effectively lose their right to vote permanently; and (C) State disenfranchisement laws disproportionately impact racial ethnic minorities.

(5) Disenfranchisement results from varying State laws that restrict voting while under some form of criminal justice supervision or after the completion of a felony sentence in some States. Two States do not disenfranchise felons at all (Maine and Vermont). Forty-eight States and the District of Columbia have disenfranchisement laws that deprive convicted offenders of the right to vote while they are in prison. In thirty-five States, convicted offenders may not vote while they are on parole and thirty of these States disenfranchise felony probationers as well. In ten States, a conviction can result in lifetime disenfranchisement.

(6) An estimated 5,300,000 Americans, or about one in forty-one adults, currently cannot vote as a result of a felony conviction. Nearly 4,000,000 (74 percent) of the 5,300,000 disqualified voters are not in prison, but are on probation or parole, or are ex-offenders. Approximately 2,000,000 of those individuals are individuals who have completed their entire sentence, including probation and parole, yet remain disenfranchised.

(7) In those States that disenfranchise ex-offenders, the right to vote can be regained in theory, but in practice this possibility is often illusory. Offenders must either obtain a pardon or order from the Governor or action by the parole or pardon board, depending on the offense and State. Offenders convicted of a Federal offense often have additional barriers to regaining voting rights.

(8) In at least 16 States, Federal offenders cannot use the State procedure for restoring their civil rights. The only method provided by Federal law for restoring voting rights to ex-offenders is a Presidential pardon. Few persons who seek to have their right to vote restored have the financial and political resources needed to succeed.

(9) State disenfranchisement laws disproportionately impact ethnic minorities. Thirteen percent of the African American adult male population, or 1,400,000 African American men, are disenfranchised. Given current rates of incarceration, three in ten of the next generation of black men will be disenfranchised at some point during their lifetime. Hispanic citizens are also disproportionately disenfranchised since they are disproportionately represented in the criminal justice system.

(10) Disenfranchising citizens who have been convicted of a felony offense and who are living and working in the community serves no compelling State interest and hinders their rehabilitation and reintegration into society.

(11) State disenfranchisement laws suppress electoral participation among eligible voters and damage the integrity of the electoral process. State disenfranchisement laws significantly impact the rate of electoral participation among the children of disenfranchised parents.

(12) The United States in the only Western democracy that permits the permanent denial of voting rights to individuals with felony convictions.

SEC. 3. RIGHTS OF CITIZENS.

The right of an individual who is a citizen of the United States to vote in any election for Federal office shall not be denied or abridged because that individual has been convicted of a criminal offense unless such individual is serving a felony sentence in a correctional institution or facility at the time of the election.

SEC. 4. ENFORCEMENT.

(a) ATTORNEY GENERAL.—The Attorney General may, in a civil action, obtain such declaratory or injunctive relief as is necessary to remedy a violation of this Act.

(b) PRIVATE RIGHT OF ACTION.—

(1) A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) Except as provided in paragraph (3), if the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may, in a civil action obtain declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action to obtain declaratory or injunctive relief with respect to the violation.

SEC. 5. NOTIFICATION OF RESTORATION OF VOTING RIGHTS.

(a) STATE NOTIFICATION.—

(1) NOTIFICATION.—On the date determined under paragraph (2), each State shall notify in writing any individual who has been convicted of a criminal offense under the law of that State that such individual has the right to vote in an election for Federal office pursuant to the Democracy Restoration Act and may register to vote in any such election.

(2) DATE OF NOTIFICATION.—

(A) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under paragraph (1) shall be given on the date on which the individual—

(i) is sentenced to serve only a term of probation; or

(ii) is released from the custody of that State (other than to the custody of another State or the Federal Government to serve a term of imprisonment for a felony conviction).

(B) MISDEMEANOR CONVICTION.—In the case of such an individual who has been convicted of a misdemeanor, the notification required under paragraph (1) shall be given on the date on which such individual is sentenced by a State court.

(b) FEDERAL NOTIFICATION.—

(1) NOTIFICATION.—On the date determined under paragraph (2), the Director of the Bureau of Prisons shall notify in writing any individual who has been convicted of a criminal offense under Federal law that such individual has the right to vote in an election for Federal office pursuant to the Democracy Restoration Act and may register to vote in any such election.

(2) DATE OF NOTIFICATION.—

(A) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under paragraph (1) shall be given on the date on which the individual—

(i) is sentenced to serve only a term of probation by a court established by an Act of Congress; or

(ii) is released from the custody of the Bureau of Prisons (other than to the custody of a State to serve a term of imprisonment for a felony conviction).

(B) MISDEMEANOR CONVICTION.—In the case of such an individual who has been convicted of a misdemeanor, the notification required under paragraph (1) shall be given on the date on which such individual is sentenced by a State court.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) CORRECTIONAL INSTITUTION OR FACILITY.—The term ''correctional institution or facility'' means any prison, penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses, whether publicly or privately operated, except that such term does not include any residential community treatment center (or similar public or private facility).

(2) ELECTION.—The term ''election'' means—

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party held to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; or

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

(3) FEDERAL OFFICE.—The term ''Federal office'' means the office of President or Vice President of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(4) PROBATION.—The term ''probation'' means probation, imposed by a Federal, State, or local court, with or without a condition on the individual involved concerning—

(A) the individual's freedom of movement;

(B) the payment of damages by the individual;

(C) periodic reporting by the individual to an officer of the court; or

(D) supervision of the individual by an officer of the court.

SEC. 7. RELATION TO OTHER LAWS.

(a) STATE LAWS RELATING TO VOTING RIGHTS.—Nothing in this Act shall be construed to prohibit the States enacting any State law which affords the right to vote in any election for Federal office on terms less restrictive than those established by this Act.

(b) CERTAIN FEDERAL ACTS.—The rights and remedies established by this Act are in addition to all other rights and remedies provided by law, and neither rights and remedies established by this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) or the National Voter Registration Act (42 U.S.C. 1973–gg).

SEC. 8. FEDERAL PRISON FUNDS.

No State, unit of local government, or other person may receive or use, to construct or otherwise improve a prison, jail, or other place of incarceration, any Federal grant amounts unless that person has in effect a program under which each individual incarcerated in that person's jurisdiction who is a citizen of the United States is notified, upon release from such incarceration, of that individual's rights under section 3.

SEC. 9. EFFECTIVE DATE.

This Act shall apply to citizens of the United States voting in any election for Federal office held after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 686—TO AUTHORIZE THE PRODUCTION OF RECORDS

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 686

Whereas, the United States Department of Justice is conducting an investigation into improper activities by lobbyists and related matters;

Whereas, the Office of Senator Christopher S. Bond has received a request for records from the Department of Justice for use in the investigation of a former employee;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Office of Senator Christopher S. Bond is authorized to provide to the United States Department of Justice records requested for use in legal and investigatory proceedings, except where a privilege should be asserted.

SENATE RESOLUTION 687—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN PEOPLE OF THE STATE OF MICHIGAN V. SEREAL LEONARD GRAVLIN

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 687

Whereas, in the case of People of the State of Michigan v. Sereal Leonard Gravlin (Case No. 08–007750), pending in the Sixth Judicial Circuit Court (Oakland County, Michigan), the prosecuting attorney has subpoenaed testimony from Ruth Gallop, an employee in the office of Senator Debbie Stabenow;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Ruth Gallop and any other employee of Senator Stabenow's office from whom testimony may be required are authorized to testify in the case of People of the State of Michigan v. Sereal Leonard Gravlin, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Ruth Gallop and any other employee of the Senator from whom evidence may be required in the action referenced in section one of this resolution.

SENATE RESOLUTION 688—TO AUTHORIZE TESTIMONY IN UNITED STATES V. MAX OBUSZEWSKI, ET AL

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 688

Whereas, in the case of United States v. Max Obuszewski, et al., Case No. 2008–CMD–5824, pending in the Superior Court for the District of Columbia, the prosecution has subpoenaed testimony from Justin Beller, an employee in the Office of the Senate Sergeant at Arms;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Justin Beller is authorized to testify in the case of United States v. Max Obuszewski, et al., except concerning matters for which a privilege should be asserted.

SENATE RESOLUTION 689—TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE RULES AND MANUAL

Mrs. FEINSTEIN submitted the following resolution; which was considered and agreed to:

S. RES. 689

Resolved, That—

(1) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 110th Congress;

(2) the manual shall be printed as a Senate document; and

(3) in addition to the usual number of documents, 1,500 additional copies of the manual shall be bound, of which—

(A) 500 paperbound copies shall be for the use of the Senate; and

(B) 1,000 copies shall be bound (550 paperbound; 250 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

SENATE CONCURRENT RESOLUTION 104—SUPPORTING ''LIGHTS ON AFTERSCHOOL!'', A NATIONAL CELEBRATION OF AFTER SCHOOL PROGRAMS

Mr. DODD (for himself, Mr. ENSIGN, Mr. KOHL, Mr. BURR, Mrs. LINCOLN, Mr. STEVENS, Mr. CASEY, Mr. ROBERTS, Mr. FEINGOLD, Ms. STABENOW, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. LIEBERMAN, Mrs. BOXER, Mr. BIDEN, Mr. BARRASSO, Ms. COLLINS, and Mr. SPECTER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 104

Whereas high quality after school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high quality after school programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high quality after school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high quality after school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas ''Lights On Afterschool!'', a national celebration of after school programs held on October 16, 2008, promotes the critical importance of high quality after school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States have no place to go after school; and

Whereas many after school programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports the goals and ideals of ''Lights On Afterschool!'' a national celebration of after school programs.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5654. Mr. REID (for Mr. CONRAD) proposed an amendment to the bill H.R. 5571, to extend for 5 years the program relating to waiver of the foreign country residence requirement with respect to international medical graduates, and for other purposes.

SA 5655. Mr. LEAHY proposed an amendment to the bill S. 3325, to enhance remedies for violations of intellectual property laws, and for other purposes.

SA 5656. Mr. LEAHY (for Mr. KENNEDY) proposed an amendment to the bill S. 2304, to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants for the improved mental health treatment and services provided to offenders with mental illnesses, and for other purposes.

SA 5657. Mr. NELSON, of Florida (for Mr. LIEBERMAN (for himself and Mr. PRYOR)) proposed an amendment to the bill S. 2382, to require the Administrator of the Federal Emergency Management Agency to quickly and fairly address the abundance of surplus manufactured housing units stored by the Federal Government around the country at taxpayer expense.

SA 5658. Mr. NELSON, of Florida (for Ms. KLOBUCHAR (for herself, Mr. ISAKSON, Mr. WICKER, Mr. BROWN, Ms. COLLINS, and Mr. HARKIN)) proposed an amendment to the bill H.R. 5265, to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss

facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal, muscular dystrophies.

SA 5659. Ms. SNOWE (for herself, Mr. SUNUNU, Mr. GREGG, Mr. KENNEDY, Mr. KERRY, Ms. COLLINS, Mr. REED, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by her to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 5660. Mr. REID proposed an amendment to the bill H.R. 2638, supra.

SA 5661. Mr. REID proposed an amendment to amendment SA 5660 proposed by Mr. REID to the bill H.R. 2638, supra.

SA 5662. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5151, to designate as wilderness additional National Forest System lands in the Monongahela National Forest in the State of West Virginia, and for other purposes; which was ordered to lie on the table.

SA 5663. Mr. WHITEHOUSE (for Mr. SHELBY) proposed an amendment to the bill H.R. 5350, to authorize the Secretary of Commerce to sell or exchange certain National Oceanic and Atmospheric Administration property located in Norfolk, Virginia, and for other purposes.

SA 5664. Mr. WHITEHOUSE (for Mr. INOUYE) proposed an amendment to the bill S. 1492, to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

SA 5665. Mr. WHITEHOUSE (for Mr. INOUYE (for himself, Mrs. HUTCHISON, and Mr. STEVENS)) proposed an amendment to amendment SA 5664 proposed by Mr. WHITEHOUSE (for Mr. INOUYE) to the bill S. 1492, supra.

SA 5666. Mr. WHITEHOUSE (for Mr. LIEBERMAN) proposed an amendment to the bill S. 3477, to amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence.

SA 5667. Mr. WHITEHOUSE (for Mr. INOUYE) proposed an amendment to the bill S. 1582, to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes.

SA 5668. Mr. WHITEHOUSE (for Mr. INOUYE) proposed an amendment to the bill H.R. 5618, to reauthorize and amend the National Sea Grant College Program Act, and for other purposes.

SA 5669. Mr. WHITEHOUSE (for Mr. KYL (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 2913, to provide a limitation on judicial remedies in copyright infringement cases involving orphan works.

SA 5670. Mr. WHITEHOUSE (for Mr. REID) proposed an amendment to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

SA 5671. Mr. WHITEHOUSE (for Mr. REID) proposed an amendment to amendment SA 5670 proposed by Mr. WHITEHOUSE (for Mr. REID) to the bill H.R. 2638, supra.

SA 5672. Mr. WHITEHOUSE (for Mr. THUNE (for himself, Mr. CARDIN, and Mr. LAUTENBERG)) proposed an amendment to the bill S. 3109, to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system.

SA 5673. Mr. WHITEHOUSE (for Mrs. BOXER) proposed an amendment to the bill S. 906, to prohibit the sale, distribution, transfer, and export of elemental mercury, and for other purposes.

TEXT OF AMENDMENTS

SA 5654. Mr. REID (for Mr. CONRAD) proposed an amendment to the bill H.R. 5571, to extend for 5 years the program relating to waiver of the foreign country residence requirement with respect to international medical graduates, and for other purposes; as follows:

On page 2, line 5, strike ''June 1, 2013'' and insert ''March 6, 2009''.

SA 5655. Mr. LEAHY proposed an amendment to the bill S. 3325, to enhance remedies for violations of intellectual property laws, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Prioritizing Resources and Organization for Intellectual Property Act of 2008''.

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

SEC. 2. REFERENCE.

Any reference in this Act to the ''Trademark Act of 1946'' refers to the Act entitled ''An Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 3. DEFINITION.

In this Act, the term ''United States person'' means—

(1) any United States resident or national,

(2) any domestic concern (including any permanent domestic establishment of any foreign concern), and

(3) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern,

except that such term does not include an individual who resides outside the United States and is employed by an individual or entity other than an individual or entity described in paragraph (1), (2), or (3).

TITLE I—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

SEC. 101. REGISTRATION OF CLAIM.

(a) LIMITATION TO CIVIL ACTIONS; HARMLESS ERROR.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting ''**CIVIL**'' before ''**INFRINGEMENT**'';

(2) in subsection (a)—

(A) in the first sentence, by striking ''no action'' and inserting ''no civil action''; and

(B) in the second sentence, by striking ''an action'' and inserting ''a civil action'';

(3) by redesignating subsection (b) as subsection (c);

(4) in subsection (c), as so redesignated by paragraph (3), by striking ''506 and sections 509 and'' and inserting ''505 and section''; and

(5) by inserting after subsection (a) the following:

''(b)(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

''(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

''(B) the inaccuracy of the information, if known, would have caused the Register of Copyrights to refuse registration.

''(2) In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.

''(3) Nothing in this subsection shall affect any rights, obligations, or requirements of a person related to information contained in a registration certificate, except for the institution of and remedies in infringement actions under this section and section 412.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 412 of title 17, United States Code, is amended by striking ''411(b)'' and inserting ''411(c)''.

(2) The item relating to section 411 in the table of sections for chapter 4 of title 17, United States Code, is amended to read as follows:

''Sec. 411. Registration and civil infringement actions.''.

SEC. 102. CIVIL REMEDIES FOR INFRINGEMENT.

(a) IN GENERAL.—Section 503(a) of title 17, United States Code, is amended to read as follows:

''(a)(1) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable—

''(A) of all copies or phonorecords claimed to have been made or used in violation of the exclusive right of the copyright owner;

''(B) of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies of phonorecords may be reproduced; and

''(C) of records documenting the manufacture, sale, or receipt of things involved in any such violation, provided that any records seized under this subparagraph shall be taken into the custody of the court.

''(2) For impoundments of records ordered under paragraph (1)(C), the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been impounded. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used.

''(3) The relevant provisions of paragraphs (2) through (11) of section 34(d) of the Trademark Act (15 U.S.C. 1116(d)(2) through (11)) shall extend to any impoundment of records ordered under paragraph (1)(C) that is based upon an ex parte application, notwithstanding the provisions of rule 65 of the Federal Rules of Civil Procedure. Any references in paragraphs (2) through (11) of section 34(d) of the Trademark Act to section 32 of such Act shall be read as references to section 501 of this title, and references to use of a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services shall be read as references to infringement of a copyright.''.

(b) PROTECTIVE ORDER FOR SEIZED RECORDS.—Section 34(d)(7) of the Trademark Act (15 U.S.C. 1116(d)(7)) is amended to read as follows:

''(7) Any materials seized under this subsection shall be taken into the custody of the court. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used.''.

SEC. 103. TREBLE DAMAGES IN COUNTERFEITING CASES.

Section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117(b)) is amended to read as follows:

''(b) In assessing damages under subsection (a) for any violation of section 32(1)(a) of this Act or section 220506 of title 36, United States Code, in a case involving use of a counterfeit mark or designation (as defined in section 34(d) of this Act), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever amount is greater, together with a reasonable attorney's fee, if the violation consists of—

''(1) intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act), in connection with the sale, offering for sale, or distribution of goods or services; or

''(2) providing goods or services necessary to the commission of a violation specified in paragraph (1), with the intent that the recipient of the goods or services would put the goods or services to use in committing the violation.

In such a case, the court may award prejudgment interest on such amount at an annual interest rate established under section 6621(a)(2) of the Internal Revenue Code of 1986, beginning on the date of the service of the claimant's pleadings setting forth the claim for such entry of judgment and ending on the date such entry is made, or for such shorter time as the court considers appropriate.''.

SEC. 104. STATUTORY DAMAGES IN COUNTERFEITING CASES.

Section 35(c) of the Trademark Act of 1946 (15 U.S.C. 1117) is amended—

(1) in paragraph (1)—

(A) by striking ''$500'' and inserting ''$1,000''; and

(B) by striking ''$100,000'' and inserting ''$200,000''; and

(2) in paragraph (2), by striking ''$1,000,000'' and inserting ''$2,000,000''.

SEC. 105. IMPORTATION AND EXPORTATION.

(a) IN GENERAL.—The heading for chapter 6 of title 17, United States Code, is amended to read as follows:

''CHAPTER 6—MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION''.

(b) AMENDMENT ON EXPORTATION.—Section 602(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking ''(a)'' and inserting ''(a) INFRINGING IMPORTATION OR EXPORTATION.—

''(1) IMPORTATION.—'';

(3) by striking ''This subsection does not apply to—'' and inserting the following:

''(2) IMPORTATION OR EXPORTATION OF INFRINGING ITEMS.—Importation into the United States or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which either constituted an infringement of copyright, or which would have constituted an infringement of copyright if this title had been applicable, is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under sections 501 and 506.

''(3) EXCEPTIONS.—This subsection does not apply to—'';

(4) in paragraph (3)(A) (as redesignated by this subsection) by inserting ''or exportation'' after ''importation''; and

(5) in paragraph (3)(B) (as redesignated by this subsection)—

(A) by striking ''importation, for the private use of the importer'' and inserting ''importation or exportation, for the private use of the importer or exporter''; and

(B) by inserting ''or departing from the United States'' after ''United States''.

(c) CONFORMING AMENDMENTS.—(1) Section 602 of title 17, United States Code, is further amended—

(A) in the section heading, by inserting ''**or exportation**'' after ''**importation**''; and

(B) in subsection (b)—

(i) by striking ''(b) In a case'' and inserting ''(b) IMPORT PROHIBITION.—In a case'';

(ii) by striking ''the United States Customs Service'' and inserting ''United States Customs and Border Protection''; and

(iii) by striking ''the Customs Service'' and inserting ''United States Customs and Border Protection''.

(2) Section 601(b)(2) of title 17, United States Code, is amended by striking ''the United States Customs Service'' and inserting ''United States Customs and Border Protection''.

(3) The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

''6. MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION ..... 601''.

TITLE II—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS

SEC. 201. CRIMINAL COPYRIGHT INFRINGEMENT.

(a) FORFEITURE AND DESTRUCTION; RESTITUTION.—Section 506(b) of title 17, United States Code, is amended to read as follows:

''(b) FORFEITURE, DESTRUCTION, AND RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323 of title 18, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

(b) SEIZURES AND FORFEITURES.—

(1) REPEAL.—Section 509 of title 17, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by striking the item relating to section 509.

SEC. 202. TRAFFICKING IN COUNTERFEIT LABELS, ILLICIT LABELS, OR COUNTERFEIT DOCUMENTATION OR PACKAGING FOR WORKS THAT CAN BE COPYRIGHTED.

Section 2318 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking ''Whoever'' and inserting ''(1) Whoever'';

(2) by amending subsection (d) to read as follows:

''(d) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''; and

(3) by striking subsection (e) and redesignating subsection (f) as subsection (e).

SEC. 203. UNAUTHORIZED FIXATION.

(a) Section 2319A(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

(b) Section 2319A(c) of title 18, United States Code, is amended by striking the second sentence and inserting: ''The Secretary of Homeland Security shall issue regulations by which any performer may, upon payment of a specified fee, be entitled to notification by United States Customs and Border Protection of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.''.

SEC. 204. UNAUTHORIZED RECORDING OF MOTION PICTURES.

Section 2319B(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 205. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.

(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''WHOEVER'' and inserting ''OFFENSE.—''

''(1) IN GENERAL.—Whoever;'';

(B) by moving the remaining text 2 ems to the right; and

(C) by adding at the end the following:

''(2) SERIOUS BODILY HARM OR DEATH.—

''(A) SERIOUS BODILY HARM.—If the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for not more than 20 years, or both.

''(B) DEATH.—If the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of paragraph (1), the penalty shall be a fine under this title or imprisonment for any term of years or for life, or both.''; and

(2) by adding at the end the following:

''(h) TRANSSHIPMENT AND EXPORTATION.—No goods or services, the trafficking in of which is prohibited by this section, shall be transshipped through or exported from the United States. Any such transshipment or exportation shall be deemed a violation of section 42 of an Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes, approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' or the 'Lanham Act').''.

(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Section 2320(b) of title 18, United States Code, is amended to read as follows:

''(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 206. FORFEITURE, DESTRUCTION, AND RESTITUTION.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 2323. FORFEITURE, DESTRUCTION, AND RESTITUTION.

''(a) CIVIL FORFEITURE.—

''(1) PROPERTY SUBJECT TO FORFEITURE.—The following property is subject to forfeiture to the United States Government:

''(A) Any article, the making or trafficking of which is, prohibited under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title.

''(B) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of an offense referred to in subparagraph (A).

''(C) Any property constituting or derived from any proceeds obtained directly or indirectly as a result of the commission of an offense referred to in subparagraph (A).

''(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

''(b) CRIMINAL FORFEITURE.—

''(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

''(2) PROCEDURES.—

''(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

''(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

''(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

''(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

''(c) RESTITUTION.—When a person is convicted of an offense under section 506 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 2323. Forfeiture, destruction, and restitution.''.

SEC. 207. FORFEITURE UNDER ECONOMIC ESPIONAGE ACT.

Section 1834 of title 18, United States Code, is amended to read as follows:

''SEC. 1834. CRIMINAL FORFEITURE.

''Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.''.

SEC. 208. CRIMINAL INFRINGEMENT OF A COPYRIGHT.

Section 2319 of title 18, United States Code, is amended—

(1) in subsection (b)(2)—

(A) by inserting ''is a felony and'' after ''offense'' the first place such term appears; and

(B) by striking ''paragraph (1)'' and inserting ''subsection (a)'';

(2) in subsection (c)(2)—

(A) by inserting ''is a felony and'' after ''offense'' the first place such term appears; and

(B) by striking ''paragraph (1)'' and inserting ''subsection (a)'';

(3) in subsection (d)(3)—

(A) by inserting ''is a felony and'' after ''offense'' the first place such term appears; and

(B) by inserting ''under subsection (a)'' before the semicolon; and

(4) in subsection (d)(4), by inserting ''is a felony and'' after ''offense'' the first place such term appears.

SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—

(1) Section 109 (b)(4) of title 17, United States Code, is amended by striking ''505, and 509'' and inserting ''and 505''.

(2) Section 111 of title 17, United States Code, is amended—

(A) in subsection (b), by striking ''and 509'';

(B) in subsection (c)—

(i) in paragraph (2), by striking ''and 509'';

(ii) in paragraph (3), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(iii) in paragraph (4), by striking ''and section 509''; and

(C) in subsection (e)—

(i) in paragraph (1), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(ii) in paragraph (2), by striking ''and 509''.

(3) Section 115(c) of title 17, United States Code, is amended—

(A) in paragraph (3)(G)(i), by striking ''and 509''; and

(B) in paragraph (6), by striking ''and 509''.

(4) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (6), by striking ''sections 509 and 510'' and inserting ''section 510'';

(B) in paragraph (7)(A), by striking ''and 509'';

(C) in paragraph (8), by striking ''and 509''; and

(D) in paragraph (13), by striking ''and 509''.

(5) Section 122 of title 17, United States Code, is amended—

(A) in subsection (d), by striking ''and 509'';

(B) in subsection (e), by striking ''sections 509 and 510'' and inserting ''section 510''; and

(C) in subsection (f)(1), by striking ''and 509''.

(6) Section 411(b) of title 17, United States Code, is amended by striking ''sections 509 and 510'' and inserting ''section 510''.

(b) OTHER AMENDMENTS.—Section 596(c)(2)(c) of the Tariff Act of 1950 (19 U.S.C. 1595a(c)(2)(c)) is amended by striking ''or 509''.

TITLE III—COORDINATION AND STRATEGIC PLANNING OF FEDERAL EFFORT AGAINST COUNTERFEITING AND INFRINGEMENT

SEC. 301. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.

(a) INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR.—The President shall appoint, by and with the advice and consent of the Senate, an Intellectual Property Enforcement Coordinator (in this title referred to as the ''IPEC'') to serve within the Executive Office of the President. As an exercise of the rulemaking power of the Senate, any nomination of the IPEC submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on the Judiciary.

(b) DUTIES OF IPEC.—

(1) IN GENERAL.—The IPEC shall—

(A) chair the interagency intellectual property enforcement advisory committee established under subsection (b)(3)(A);

(B) coordinate the development of the Joint Strategic Plan against counterfeiting and infringement by the advisory committee under section 303;

(C) assist, at the request of the departments and agencies listed in subsection (b)(3)(A), in the implementation of the Joint Strategic Plan;

(D) facilitate the issuance of policy guidance to departments and agencies on basic issues of policy and interpretation, to the extent necessary to assure the coordination of intellectual property enforcement policy and consistency with other law;

(E) report to the President and report to Congress, to the extent consistent with law, regarding domestic and international intellectual property enforcement programs;

(F) report to Congress, as provided in section 304, on the implementation of the Joint Strategic Plan, and make recommendations, if any and as appropriate, to Congress for improvements in Federal intellectual property laws and enforcement efforts; and

(G) carry out such other functions as the President may direct.

(2) LIMITATION ON AUTHORITY.—The IPEC may not control or direct any law enforcement agency, including the Department of Justice, in the exercise of its investigative or prosecutorial authority.

(3) ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There is established an interagency intellectual property enforcement advisory committee composed of the IPEC, who shall chair the committee, and the following members:

(i) Senate-confirmed representatives of the following departments and agencies who are involved in intellectual property enforcement, and who are, or are appointed by, the respective heads of those departments and agencies:

(I) The Office of Management and Budget.

(II) Relevant units within the Department of Justice, including the Federal Bureau of Investigation and the Criminal Division.

(III) The United States Patent and Trademark Office and other relevant units of the Department of Commerce.

(IV) The Office of the United States Trade Representative.

(V) The Department of State, the United States Agency for International Development, and the Bureau of International Narcotics Law Enforcement.

(VI) The Department of Homeland Security, United States Customs and Border Protection, and United States Immigration and Customs Enforcement.

(VII) The Food and Drug Administration of the Department of Health and Human Services.

(VIII) The Department of Agriculture.

(IX) Any such other agencies as the President determines to be substantially involved in the efforts of the Federal Government to combat counterfeiting and infringement.

(ii) The Register of Copyrights, or a senior representative of the United States Copyright Office appointed by the Register of Copyrights.

(B) FUNCTIONS.—The advisory committee established under subparagraph (A) shall develop the Joint Strategic Plan against counterfeiting and infringement under section 303.

SEC. 302. DEFINITION.

For purposes of this title, the term ''intellectual property enforcement'' means matters relating to the enforcement of laws protecting copyrights, patents, trademarks, other forms of intellectual property, and trade secrets, both in the United States and abroad, including in particular matters relating to combating counterfeit and infringing goods.

SEC. 303. JOINT STRATEGIC PLAN.

(a) PURPOSE.—The objectives of the Joint Strategic Plan against counterfeiting and infringement that is referred to in section 301(b)(1)(B) (in this section referred to as the ''joint strategic plan'') are the following:

(1) Reducing counterfeit and infringing goods in the domestic and international supply chain.

(2) Identifying and addressing structural weaknesses, systemic flaws, or other unjustified impediments to effective enforcement action against the financing, production, trafficking, or sale of counterfeit or infringing goods, including identifying duplicative efforts to enforce, investigate, and prosecute intellectual property crimes across the Federal agencies and Departments that comprise the Advisory Committee and recommending how such duplicative efforts may be minimized. Such recommendations may include recommendations on how to reduce duplication in personnel, materials, technologies, and facilities utilized by the agencies and Departments responsible for the enforcement, investigation, or prosecution of intellectual property crimes.

(3) Ensuring that information is identified and shared among the relevant departments and agencies, to the extent permitted by law, including requirements relating to confidentiality and privacy, and to the extent that such sharing of information is consistent with Department of Justice and other law enforcement protocols for handling such information, to aid in the objective of arresting and prosecuting individuals and entities that are knowingly involved in the financing, production, trafficking, or sale of counterfeit or infringing goods.

(4) Disrupting and eliminating domestic and international counterfeiting and infringement networks.

(5) Strengthening the capacity of other countries to protect and enforce intellectual property rights, and reducing the number of countries that fail to enforce laws preventing the financing, production, trafficking, and sale of counterfeit and infringing goods.

(6) Working with other countries to establish international standards and policies for the effective protection and enforcement of intellectual property rights.

(7) Protecting intellectual property rights overseas by—

(A) working with other countries and exchanging information with appropriate law enforcement agencies in other countries relating to individuals and entities involved in the financing, production, trafficking, or sale of counterfeit and infringing goods;

(B) ensuring that the information referred to in subparagraph (A) is provided to appropriate United States law enforcement agencies in order to assist, as warranted, enforcement activities in cooperation with appropriate law enforcement agencies in other countries; and

(C) building a formal process for consulting with companies, industry associations, labor unions, and other interested groups in other countries with respect to intellectual property enforcement.

(b) TIMING.—Not later than 12 months after the date of the enactment of this Act, and not later than December 31 of every third year thereafter, the IPEC shall submit the joint strategic plan to the Committee on the Judiciary and the Committee on Appropriations of the Senate, and to the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives.

(c) RESPONSIBILITY OF THE IPEC.—During the development of the joint strategic plan, the IPEC—

(1) shall provide assistance to, and coordinate the meetings and efforts of, the appropriate officers and employees of departments and agencies represented on the advisory committee appointed under section 301(b)(3) who are involved in intellectual property enforcement; and

(2) may consult with private sector experts in intellectual property enforcement in furtherance of providing assistance to the members of the advisory committee appointed under section 301(b)(3).

(d) RESPONSIBILITIES OF OTHER DEPARTMENTS AND AGENCIES.—In the development and implementation of the joint strategic plan, the heads of the departments and agencies identified under section 301(b)(3) shall—

(1) designate personnel with expertise and experience in intellectual property enforcement matters to work with the IPEC and other members of the advisory committee; and

(2) share relevant department or agency information with the IPEC and other members of the advisory committee, including statistical information on the enforcement activities of the department or agency against counterfeiting or infringement, and plans for addressing the joint strategic plan, to the extent permitted by law, including requirements relating to confidentiality and privacy, and to the extent that such sharing of information is consistent with Department of Justice and other law enforcement protocols for handling such information.

(e) CONTENTS OF THE JOINT STRATEGIC PLAN.—Each joint strategic plan shall include the following:

(1) A description of the priorities identified for carrying out the objectives in the joint strategic plan, including activities of the Federal Government relating to intellectual property enforcement.

(2) A description of the means to be employed to achieve the priorities, including the means for improving the efficiency and effectiveness of the Federal Government's enforcement efforts against counterfeiting and infringement.

(3) Estimates of the resources necessary to fulfill the priorities identified under paragraph (1).

(4) The performance measures to be used to monitor results under the joint strategic plan during the following year.

(5) An analysis of the threat posed by violations of intellectual property rights, including the costs to the economy of the United States resulting from violations of intellectual property laws, and the threats to public health and safety created by counterfeiting and infringement.

(6) An identification of the departments and agencies that will be involved in implementing each priority under paragraph (1).

(7) A strategy for ensuring coordination among the departments and agencies identified under paragraph (6), which will facilitate oversight by the executive branch of, and accountability among, the departments and agencies responsible for carrying out the strategy.

(8) Such other information as is necessary to convey the costs imposed on the United States economy by, and the threats to public health and safety created by, counterfeiting and infringement, and those steps that the Federal Government intends to take over the period covered by the succeeding joint strategic plan to reduce those costs and counter those threats.

(f) ENHANCING ENFORCEMENT EFFORTS OF FOREIGN GOVERNMENTS.—The joint strategic plan shall include programs to provide training and technical assistance to foreign governments for the purpose of enhancing the efforts of such governments to enforce laws against counterfeiting and infringement. With respect to such programs, the joint strategic plan shall—

(1) seek to enhance the efficiency and consistency with which Federal resources are expended, and seek to minimize duplication, overlap, or inconsistency of efforts;

(2) identify and give priority to those countries where programs of training and technical assistance can be carried out most effectively and with the greatest benefit to reducing counterfeit and infringing products in the United States market, to protecting the intellectual property rights of United States persons and their licensees, and to protecting the interests of United States persons otherwise harmed by violations of intellectual property rights in those countries;

(3) in identifying the priorities under paragraph (2), be guided by the list of countries identified by the United States Trade Representative under section 182(a) of the Trade Act of 1974 (19 U.S.C. 2242(a)); and

(4) develop metrics to measure the effectiveness of the Federal Government's efforts

to improve the laws and enforcement practices of foreign governments against counterfeiting and infringement.

(g) DISSEMINATION OF THE JOINT STRATEGIC PLAN.—The joint strategic plan shall be posted for public access on the website of the White House, and shall be disseminated to the public through such other means as the IPEC may identify.

SEC. 304. REPORTING.

(a) ANNUAL REPORT.—Not later than December 31 of each calendar year beginning in 2009, the IPEC shall submit a report on the activities of the advisory committee during the preceding fiscal year. The annual report shall be submitted to Congress, and disseminated to the people of the United States, in the manner specified in subsections (b) and (g) of section 303.

(b) CONTENTS.—The report required by this section shall include the following:

(1) The progress made on implementing the strategic plan and on the progress toward fulfillment of the priorities identified under section 303(e)(1).

(2) The progress made in efforts to encourage Federal, State, and local government departments and agencies to accord higher priority to intellectual property enforcement.

(3) The progress made in working with foreign countries to investigate, arrest, and prosecute entities and individuals involved in the financing, production, trafficking, and sale of counterfeit and infringing goods.

(4) The manner in which the relevant departments and agencies are working together and sharing information to strengthen intellectual property enforcement.

(5) An assessment of the successes and shortcomings of the efforts of the Federal Government, including departments and agencies represented on the committee established under section 301(b)(3).

(6) Recommendations, if any and as appropriate, for any changes in enforcement statutes, regulations, or funding levels that the advisory committee considers would significantly improve the effectiveness or efficiency of the effort of the Federal Government to combat counterfeiting and infringement and otherwise strengthen intellectual property enforcement, including through the elimination or consolidation of duplicative programs or initiatives.

(7) The progress made in strengthening the capacity of countries to protect and enforce intellectual property rights.

(8) The successes and challenges in sharing with other countries information relating to intellectual property enforcement.

(9) The progress made under trade agreements and treaties to protect intellectual property rights of United States persons and their licensees.

(10) The progress made in minimizing duplicative efforts, materials, facilities, and procedures of the Federal agencies and Departments responsible for the enforcement, investigation, or prosecution of intellectual property crimes.

(11) Recommendations, if any and as appropriate, on how to enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including the extent to which the agencies and Departments responsible for the enforcement, investigation, or prosecution of intellectual property crimes have utilized existing personnel, materials, technologies, and facilities.

SEC. 305. SAVINGS AND REPEALS.

(a) TRANSITION FROM NIPLECC TO IPEC.—

(1) REPEAL OF NIPLECC.—Section 653 of the Treasury and General Government Appropriations Act, 2000 (15 U.S.C. 1128) is repealed effective upon confirmation of the IPEC by the Senate and publication of such appointment in the Congressional Record.

(2) CONTINUITY OF PERFORMANCE OF DUTIES.—Upon confirmation by the Senate, and notwithstanding paragraph (1), the IPEC may use the services and personnel of the National Intellectual Property Law Enforcement Coordination Council, for such time as is reasonable, to perform any functions or duties which in the discretion of the IPEC are necessary to facilitate the orderly transition of any functions or duties transferred from the Council to the IPEC pursuant to any provision of this Act or any amendment made by this Act.

(b) CURRENT AUTHORITIES NOT AFFECTED.—Except as provided in subsection (a), nothing in this title shall alter the authority of any department or agency of the United States (including any independent agency) that relates to—

(1) the investigation and prosecution of violations of laws that protect intellectual property rights;

(2) the administrative enforcement, at the borders of the United States, of laws that protect intellectual property rights; or

(3) the United States trade agreements program or international trade.

(c) RULES OF CONSTRUCTION.—Nothing in this title—

(1) shall derogate from the powers, duties, and functions of any of the agencies, departments, or other entities listed or included under section 301(b)(3)(A); and

(2) shall be construed to transfer authority regarding the control, use, or allocation of law enforcement resources, or the initiation or prosecution of individual cases or types of cases, from the responsible law enforcement department or agency.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

TITLE IV—DEPARTMENT OF JUSTICE PROGRAMS

SEC. 401. LOCAL LAW ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Section 2 of the Computer Crime Enforcement Act (42 U.S.C. 3713) is amended—

(1) in subsection (b), by inserting after ''computer crime'' each place it appears the following: '', including infringement of copyrighted works over the Internet''; and

(2) in subsection (e)(1), relating to authorization of appropriations, by striking ''fiscal years 2001 through 2004'' and inserting ''fiscal years 2009 through 2013''.

(b) GRANTS.—The Office of Justice Programs of the Department of Justice may make grants to eligible State or local law enforcement entities, including law enforcement agencies of municipal governments and public educational institutions, for training, prevention, enforcement, and prosecution of intellectual property theft and infringement crimes (in this subsection referred to as ''IP–TIC grants''), in accordance with the following:

(1) USE OF IP–TIC GRANT AMOUNTS.—IP–TIC grants may be used to establish and develop programs to do the following with respect to the enforcement of State and local true name and address laws and State and local criminal laws on anti-infringement, anti-counterfeiting, and unlawful acts with respect to goods by reason of their protection by a patent, trademark, service mark, trade secret, or other intellectual property right under State or Federal law:

(A) Assist State and local law enforcement agencies in enforcing those laws, including by reimbursing State and local entities for expenses incurred in performing enforcement operations, such as overtime payments and storage fees for seized evidence.

(B) Assist State and local law enforcement agencies in educating the public to prevent, deter, and identify violations of those laws.

(C) Educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(D) Establish task forces that include personnel from State or local law enforcement entities, or both, exclusively to conduct investigations and forensic analyses of evidence and prosecutions in matters involving those laws.

(E) Assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analyses of evidence in matters involving those laws.

(F) Facilitate and promote the sharing, with State and local law enforcement officers and prosecutors, of the expertise and information of Federal law enforcement agencies about the investigation, analysis, and prosecution of matters involving those laws and criminal infringement of copyrighted works, including the use of multijurisdictional task forces.

(2) ELIGIBILITY.—To be eligible to receive an IP–TIC grant, a State or local government entity shall provide to the Attorney General, in addition to the information regularly required to be provided under the Financial Guide issued by the Office of Justice Programs and any other information required of Department of Justice's grantees—

(A) assurances that the State in which the government entity is located has in effect laws described in paragraph (1);

(B) an assessment of the resource needs of the State or local government entity applying for the grant, including information on the need for reimbursements of base salaries and overtime costs, storage fees, and other expenditures to improve the investigation, prevention, or enforcement of laws described in paragraph (1); and

(C) a plan for coordinating the programs funded under this section with other federally funded technical assistance and training programs, including directly funded local programs such as the Edward Byrne Memorial Justice Assistance Grant Program authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(3) MATCHING FUNDS.—The Federal share of an IP–TIC grant may not exceed 50 percent of the costs of the program or proposal funded by the IP–TIC grant.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There is authorized to be appropriated to carry out this subsection the sum of $25,000,000 for each of fiscal years 2009 through 2013.

(B) LIMITATION.—Of the amount made available to carry out this subsection in any fiscal year, not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

SEC. 402. IMPROVED INVESTIGATIVE AND FORENSIC RESOURCES FOR ENFORCEMENT OF LAWS RELATED TO INTELLECTUAL PROPERTY CRIMES.

(a) IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes related to the theft of intellectual property—

(1) ensure that there are at least 10 additional operational agents of the Federal Bureau of Investigation designated to support the Computer Crime and Intellectual Property Section of the Criminal Division of the Department of Justice in the investigation

and coordination of intellectual property crimes;

(2) ensure that any Computer Hacking and Intellectual Property Crime Unit in the Department of Justice is supported by at least 1 agent of the Federal Bureau of Investigation (in addition to any agent supporting such unit as of the date of the enactment of this Act) to support such unit for the purpose of investigating or prosecuting intellectual property crimes;

(3) ensure that all Computer Hacking and Intellectual Property Crime Units located at an office of a United States Attorney are assigned at least 2 Assistant United States Attorneys responsible for investigating and prosecuting computer hacking or intellectual property crimes; and

(4) ensure the implementation of a regular and comprehensive training program—

(A) the purpose of which is to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to intellectual property crimes; and

(B) that includes relevant forensic training related to investigating and prosecuting intellectual property crimes.

(b) ORGANIZED CRIME PLAN.—Subject to the availability of appropriations to carry out this subsection, and not later than 180 days after the date of the enactment of this Act, the Attorney General, through the United States Attorneys' Offices, the Computer Crime and Intellectual Property section, and the Organized Crime and Racketeering section of the Department of Justice, and in consultation with the Federal Bureau of Investigation and other Federal law enforcement agencies, such as the Department of Homeland Security, shall create and implement a comprehensive, long-range plan to investigate and prosecute international organized crime syndicates engaging in or supporting crimes relating to the theft of intellectual property.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 through 2013.

SEC. 403. ADDITIONAL FUNDING FOR RESOURCES TO INVESTIGATE AND PROSECUTE INTELLECTUAL PROPERTY CRIMES AND OTHER CRIMINAL ACTIVITY INVOLVING COMPUTERS.

(a) ADDITIONAL FUNDING FOR RESOURCES.—

(1) AUTHORIZATION.—In addition to amounts otherwise authorized for resources to investigate and prosecute intellectual property crimes and other criminal activity involving computers, there are authorized to be appropriated for each of the fiscal years 2009 through 2013—

(A) $10,000,000 to the Director of the Federal Bureau of Investigation; and

(B) $10,000,000 to the Attorney General for the Criminal Division of the Department of Justice.

(2) AVAILABILITY.—Any amounts appropriated under paragraph (1) shall remain available until expended.

(b) USE OF ADDITIONAL FUNDING.—Funds made available under subsection (a) shall be used by the Director of the Federal Bureau of Investigation and the Attorney General, for the Federal Bureau of Investigation and the Criminal Division of the Department of Justice, respectively, to—

(1) hire and train law enforcement officers to—

(A) investigate intellectual property crimes and other crimes committed through the use of computers and other information technology, including through the use of the Internet; and

(B) assist in the prosecution of such crimes; and

(2) enable relevant units of the Department of Justice, including units responsible for investigating computer hacking or intellectual property crimes, to procure advanced tools of forensic science and expert computer forensic assistance, including from non-governmental entities, to investigate, prosecute, and study such crimes.

SEC. 404. ANNUAL REPORTS.

(a) REPORT OF THE ATTORNEY GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to Congress on actions taken to carry out this title. The initial report required under this subsection shall be submitted by May 1, 2009. All subsequent annual reports shall be submitted by May 1st of each fiscal year thereafter. The report required under this subsection may be submitted as part of the annual performance report of the Department of Justice, and shall include the following:

(1) With respect to grants issued under section 401, the number and identity of State and local law enforcement grant applicants, the number of grants issued, the dollar value of each grant, including a break down of such value showing how the recipient used the funds, the specific purpose of each grant, and the reports from recipients of the grants on the efficacy of the program supported by the grant. The Department of Justice shall use the information provided by the grant recipients to produce a statement for each individual grant. Such statement shall state whether each grantee has accomplished the purposes of the grant as established in section 401(b). Those grantees not in compliance with the requirements of this title shall be subject, but not limited to, sanctions as described in the Financial Guide issued by the Office of Justice Programs at the Department of Justice.

(2) With respect to the additional agents of the Federal Bureau of Investigation authorized under paragraphs (1) and (2) of section 402(a), the number of investigations and actions in which such agents were engaged, the type of each action, the resolution of each action, and any penalties imposed in each action.

(3) With respect to the training program authorized under section 402(a)(4), the number of agents of the Federal Bureau of Investigation participating in such program, the elements of the training program, and the subject matters covered by the program.

(4) With respect to the organized crime plan authorized under section 402(b), the number of organized crime investigations and prosecutions resulting from such plan.

(5) With respect to the authorizations under section 403—

(A) the number of law enforcement officers hired and the number trained;

(B) the number and type of investigations and prosecutions resulting from the hiring and training of such law enforcement officers;

(C) the defendants involved in any such prosecutions;

(D) any penalties imposed in each such successful prosecution;

(E) the advanced tools of forensic science procured to investigate, prosecute, and study computer hacking or intellectual property crimes; and

(F) the number and type of investigations and prosecutions in such tools were used.

(6) Any other information that the Attorney General may consider relevant to inform Congress on the effective use of the resources authorized under sections 401, 402, and 403.

(7) A summary of the efforts, activities, and resources the Department of Justice has allocated to the enforcement, investigation, and prosecution of intellectual property crimes, including—

(A) a review of the policies and efforts of the Department of Justice related to the prevention and investigation of intellectual property crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to intellectual property;

(B) a summary of the overall successes and failures of such policies and efforts;

(C) a review of the investigative and prosecution activity of the Department of Justice with respect to intellectual property crimes, including—

(i) the number of investigations initiated related to such crimes;

(ii) the number of arrests related to such crimes; and

(iii) the number of prosecutions for such crimes, including—

(I) the number of defendants involved in such prosecutions;

(II) whether the prosecution resulted in a conviction; and

(III) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(D) a Department-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

(8) A summary of the efforts, activities, and resources that the Department of Justice has taken to—

(A) minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of intellectual property crimes; and

(B) enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including the extent to which the Department has utilized existing personnel, materials, technologies, and facilities.

(b) INITIAL REPORT OF THE ATTORNEY GENERAL.—The first report required to be submitted by the Attorney General under subsection (a) shall include a summary of the efforts, activities, and resources the Department of Justice has allocated in the 5 years prior to the date of enactment of this Act, as well as the 1-year period following such date of enactment, to the enforcement, investigation, and prosecution of intellectual property crimes, including—

(1) a review of the policies and efforts of the Department of Justice related to the prevention and investigation of intellectual property crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to intellectual property;

(2) a summary of the overall successes and failures of such policies and efforts;

(3) a review of the investigative and prosecution activity of the Department of Justice with respect to intellectual property crimes, including—

(A) the number of investigations initiated related to such crimes;

(B) the number of arrests related to such crimes; and

(C) the number of prosecutions for such crimes, including—

(i) the number of defendants involved in such prosecutions;

(ii) whether the prosecution resulted in a conviction; and

(iii) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(4) a Department-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

(c) REPORT OF THE FBI.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of the Federal Bureau of Investigation shall submit a report to Congress on actions taken to carry out this title. The initial report required under this subsection shall be submitted by May 1, 2009. All subsequent annual reports shall be submitted by May 1st of each fiscal year thereafter. The report required under this subsection may be submitted as part of the annual performance report of the Department of Justice, and shall include—

(1) a review of the policies and efforts of the Bureau related to the prevention and investigation of intellectual property crimes;

(2) a summary of the overall successes and failures of such policies and efforts;

(3) a review of the investigative and prosecution activity of the Bureau with respect to intellectual property crimes, including—

(A) the number of investigations initiated related to such crimes;

(B) the number of arrests related to such crimes; and

(C) the number of prosecutions for such crimes, including—

(i) the number of defendants involved in such prosecutions;

(ii) whether the prosecution resulted in a conviction; and

(iii) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(4) a Bureau-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

(d) INITIAL REPORT OF THE FBI.—The first report required to be submitted by the Director of the Federal Bureau of Investigation under subsection (c) shall include a summary of the efforts, activities, and resources the Federal Bureau of Investigation has allocated in the 5 years prior to the date of enactment of this Act, as well as the 1-year period following such date of enactment to the enforcement, investigation, and prosecution of intellectual property crimes, including—

(1) a review of the policies and efforts of the Bureau related to the prevention and investigation of intellectual property crimes;

(2) a summary of the overall successes and failures of such policies and efforts;

(3) a review of the investigative and prosecution activity of the Bureau with respect to intellectual property crimes, including—

(A) the number of investigations initiated related to such crimes;

(B) the number of arrests related to such crimes; and

(C) the number of prosecutions for such crimes, including—

(i) the number of defendants involved in such prosecutions;

(ii) whether the prosecution resulted in a conviction; and

(iii) the sentence and the statutory maximum for such crime, as well as the average sentence imposed for such crime; and

(4) a Bureau-wide assessment of the staff, financial resources, and other resources (such as time, technology, and training) devoted to the enforcement, investigation, and prosecution of intellectual property crimes, including the number of investigators, prosecutors, and forensic specialists dedicated to investigating and prosecuting intellectual property crimes.

TITLE V—MISCELLANEOUS

SEC. 501. GAO STUDY ON PROTECTION OF INTELLECTUAL PROPERTY OF MANUFACTURERS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to help determine how the Federal Government could better protect the intellectual property of manufacturers by quantification of the impacts of imported and domestic counterfeit goods on—

(1) the manufacturing industry in the United States; and

(2) the overall economy of the United States.

(b) CONTENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine—

(1) the extent that counterfeit manufactured goods are actively being trafficked in and imported into the United States;

(2) the impacts on domestic manufacturers in the United States of current law regarding defending intellectual property, including patent, trademark, and copyright protections;

(3) the nature and scope of current statutory law and case law regarding protecting trade dress from being illegally copied;

(4) the extent which such laws are being used to investigate and prosecute acts of trafficking in counterfeit manufactured goods;

(5) any effective practices or procedures that are protecting all types of intellectual property; and

(6) any changes to current statutes or rules that would need to be implemented to more effectively protect the intellectual property rights of manufacturers.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study required under subsection (a).

SEC. 502. GAO AUDIT AND REPORT ON NON-DUPLICATION AND EFFICIENCY.

Not later than 2 years after the date of enactment of this Act, the Comptroller General shall conduct an audit and submit a report to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives on—

(1) the efforts, activities, and actions of the Intellectual Property Enforcement Coordinator and the Attorney General in achieving the goals and purposes of this Act, as well as in carrying out any responsibilities or duties assigned to each such individual or agency under this Act;

(2) any possible legislative, administrative, or regulatory changes that Comptroller General recommends be taken by or on behalf of the Intellectual Property Enforcement Coordinator or the Attorney General to better achieve such goals and purposes, and to more effectively carry out such responsibilities and duties;

(3) the effectiveness of any actions taken and efforts made by the Intellectual Property Enforcement Coordinator and the Attorney General to—

(A) minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of intellectual property crimes; and

(B) enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes, including whether the IPEC has utilized existing personnel, materials, technologies, and facilities, such as the National Intellectual Property Rights Coordination Center established at the Department of Homeland Security; and

(4) any actions or efforts that the Comptroller General recommends be taken by or on behalf of the Intellectual Property Enforcement Coordinator and the Attorney General to reduce duplication of efforts and increase the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute intellectual property crimes.

SEC. 503. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States intellectual property industries have created millions of high-skill, high-paying United States jobs and pay billions of dollars in annual United States tax revenues;

(2) the United States intellectual property industries continue to represent a major source of creativity and innovation, business start-ups, skilled job creation, exports, economic growth, and competitiveness;

(3) counterfeiting and infringement results in billions of dollars in lost revenue for United States companies each year and even greater losses to the United States economy in terms of reduced job growth, exports, and competitiveness;

(4) the growing number of willful violations of existing Federal criminal laws involving counterfeiting and infringement by actors in the United States and, increasingly, by foreign-based individuals and entities is a serious threat to the long-term vitality of the United States economy and the future competitiveness of United States industry;

(5) terrorists and organized crime utilize piracy, counterfeiting, and infringement to fund some of their activities;

(6) effective criminal enforcement of the intellectual property laws against violations in all categories of works should be among the highest priorities of the Attorney General;

(7) with respect to all crimes related to the theft of intellectual property, the Attorney General shall give priority to cases with a nexus to terrorism and organized crime; and

(8) with respect to criminal counterfeiting and infringement of computer software, including those by foreign-owned or foreign-controlled entities, the Attorney General should give priority to cases—

(A) involving the willful theft of intellectual property for purposes of commercial advantage or private financial gain;

(B) where the theft of intellectual property is central to the sustainability and viability of the commercial activity of the enterprise (or subsidiary) involved in the violation;

(C) where the counterfeited or infringing goods or services enables the enterprise to unfairly compete against the legitimate rights holder; or

(D) where there is actual knowledge of the theft of intellectual property by the directors or officers of the enterprise.

SA 5656. Mr. LEAHY (for Mr. KENNEDY) proposed an amendment to the bill S. 2304, to amend title I of the Omnibus Crime Control and Safe Streets

Act of 1968 to provide grants for the improved mental health treatment and services provided to offenders with mental illnesses, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008''.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) Communities nationwide are struggling to respond to the high numbers of people with mental illnesses involved at all points in the criminal justice system.

(2) A 1999 study by the Department of Justice estimated that 16 percent of people incarcerated in prisons and jails in the United States, which is more than 300,000 people, suffer from mental illnesses.

(3) Los Angeles County Jail and New York's Rikers Island jail complex hold more people with mental illnesses than the largest psychiatric inpatient facilities in the United States.

(4) State prisoners with a mental health problem are twice as likely as those without a mental health problem to have been homeless in the year before their arrest.

SEC. 3. REAUTHORIZATION OF THE ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS THROUGH 2014.—Section 2991(h) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797aa(h)) is amended—

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

(2) in paragraph (2), by striking ''for fiscal years 2006 through 2009.'' and inserting ''for each of the fiscal years 2006 and 2007; and''; and

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

''(3) $50,000,000 for each of the fiscal years 2009 through 2014.''.

(b) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—Section 2991(h) of such title is further amended—

(1) by redesignating paragraphs (1), (2), and (3) (as added by subsection (a)(3)) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins accordingly;

(2) by striking ''There are authorized'' and inserting ''(1) IN GENERAL.—There are authorized''; and

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

''(2) ALLOCATION OF FUNDING FOR ADMINISTRATIVE PURPOSES.—For fiscal year 2009 and each subsequent fiscal year, of the amounts authorized under paragraph (1) for such fiscal year, the Attorney General may obligate not more than 3 percent for the administrative expenses of the Attorney General in carrying out this section for such fiscal year.''.

(c) ADDITIONAL APPLICATIONS RECEIVING PRIORITY.—Subsection (c) of such section is amended to read as follows:

''(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

''(1) promote effective strategies by law enforcement to identify and to reduce risk of harm to mentally ill offenders and public safety;

''(2) promote effective strategies for identification and treatment of female mentally ill offenders;

''(3) promote effective strategies to expand the use of mental health courts, including the use of pretrial services and related treatment programs for offenders; or

''(4)(A) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

''(B) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

''(C) document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and reentry services for such individuals; and

''(D) have the support of both the Attorney General and the Secretary.''.

SEC. 4. LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.

Section 2991 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797aa) is amended by—

(1) redesignating subsection (h) as subsection (i); and

(2) inserting after subsection (g) the following:

''(h) LAW ENFORCEMENT RESPONSE TO MENTALLY ILL OFFENDERS IMPROVEMENT GRANTS.—

''(1) AUTHORIZATION.—The Attorney General is authorized to make grants under this section to States, units of local government, Indian tribes, and tribal organizations for the following purposes:

''(A) TRAINING PROGRAMS.—To provide for programs that offer law enforcement personnel specialized and comprehensive training in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

''(B) RECEIVING CENTERS.—To provide for the development of specialized receiving centers to assess individuals in the custody of law enforcement personnel for suicide risk and mental health and substance abuse treatment needs.

''(C) IMPROVED TECHNOLOGY.—To provide for computerized information systems (or to improve existing systems) to provide timely information to law enforcement personnel and criminal justice system personnel to improve the response of such respective personnel to mentally ill offenders.

''(D) COOPERATIVE PROGRAMS.—To provide for the establishment and expansion of cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety through the use of effective intervention with respect to mentally ill offenders.

''(E) CAMPUS SECURITY PERSONNEL TRAINING.—To provide for programs that offer campus security personnel training in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved.

''(2) BJA TRAINING MODELS.—For purposes of paragraph (1)(A), the Director of the Bureau of Justice Assistance shall develop training models for training law enforcement personnel in procedures to identify and respond appropriately to incidents in which the unique needs of individuals with mental illnesses are involved, including suicide prevention.

''(3) MATCHING FUNDS.—The Federal share of funds for a program funded by a grant received under this subsection may not exceed 50 percent of the costs of the program. The non-Federal share of payments made for such a program may be made in cash or in-kind fairly evaluated, including planned equipment or services.''.

SEC. 5. EXAMINATION AND REPORT ON PREVALENCE OF MENTALLY ILL OFFENDERS.

(a) IN GENERAL.—

(1) IN GENERAL.—The Attorney General shall examine and report on mental illness and the criminal justice system.

(2) SCOPE.—Congress encourages the Attorney General to specifically examine the following:

(A) POPULATIONS.—The rate of occurrence of serious mental illnesses in each of the following populations:

(i) Individuals, including juveniles, on probation.

(ii) Individuals, including juveniles, incarcerated in a jail.

(iii) Individuals, including juveniles, incarcerated in a prison.

(iv) Individuals, including juveniles, on parole.

(B) BENEFITS.—The percentage of individuals in each population described in subparagraph (A) who have—

(i) a serious mental illness; and

(ii) received disability benefits under title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.).

(b) REPORT.—Not later than 36 months after the date of the enactment of this Act, the Attorney General shall submit to Congress the report described in subsection (a).

(c) DEFINITIONS.—In this section—

(1) the term ''serious mental illness'' means that an individual has, or at any time during the 1-year period ending on the date of enactment of this Act had, a covered mental, behavioral, or emotional disorder; and

(2) the term ''covered mental, behavioral, or emotional disorder''—

(A) means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, or the International Classification of Diseases, Ninth Revision, Clinical Modification equivalent of the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition; and

(B) does not include a disorder that has a V code within the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, a substance use disorder, or a developmental disorder, unless that disorder cooccurs with another disorder described in subparagraph (A) and causes functional impairment which substantially interferes with or limits 1 or more major life activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for 2009.

SA 5657. Mr. NELSON of Florida (for Mr. LIEBERMAN (for himself and Mr. PRYOR)) proposed an amendment to the bill S. 2382, to require the Administrator of the Federal Emergency Management Agency to quickly and fairly address the abundance of surplus manufactured housing units stored by the Federal Government around the country at taxpayer expense; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''FEMA Accountability Act of 2008''.

(b) DEFINITIONS.—In this Act—

(1) the term ''Administrator'' means the Administrator of FEMA;

(2) the terms ''emergency'' and ''major disaster'' have the meanings given such terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); and

(3) the term ''FEMA'' means the Federal Emergency Management Agency.

SEC. 2. STORAGE, SALE, TRANSFER, AND DISPOSAL OF HOUSING UNITS.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—

(1) complete an assessment to determine the number of temporary housing units purchased by FEMA that FEMA needs to maintain in stock to respond appropriately to emergencies or major disasters occurring after the date of enactment of this Act; and

(2) establish criteria for determining whether the individual temporary housing units stored by FEMA are in usable condition, which shall include appropriate criteria for formaldehyde testing and exposure of the individual temporary housing units.

(b) PLAN.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall establish a plan for—

(A) storing the number of temporary housing units that the Administrator has determined under subsection (a)(1) that FEMA needs to maintain in stock;

(B) selling, transferring, or otherwise disposing of the temporary housing units in the inventory of FEMA that—

(i) are in excess of the number of temporary housing units that the Administrator has determined under subsection (a)(1) that FEMA needs to maintain in stock; and

(ii) are in usable condition, based on the criteria established under subsection (a)(2); and

(C) disposing of the temporary housing units in the inventory of FEMA that the Administrator determines are not in usable condition, based on the criteria established under subsection (a)(2).

(2) APPLICABILITY OF DISPOSAL REQUIREMENTS.—The plan established under paragraph (1) shall be subject to the requirements of section 408(d)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)) and other applicable provisions of law.

(c) IMPLEMENTATION.—Not later than 9 months after the date of enactment of this Act, the Administrator shall implement the plan described in subsection (b).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of the Senate and the House of Representatives a report on the status of the distribution, sale, transfer, or other disposal of the unused temporary housing units purchased by FEMA.

SA 5658. Mr. NELSON of Florida (for Ms. KLOBUCHAR (for herself, Mr. ISAKSON, Mr. WICKER, Mr. BROWN, Ms. COLLINS, and Mr. HARKIN)) proposed an amendment to the bill H.R. 5265, to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal, muscular dystrophies; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008''.

SEC. 2. EXPANSION, INTENSIFICATION, AND COORDINATION OF ACTIVITIES OF NIH WITH RESPECT TO RESEARCH ON MUSCULAR DYSTROPHY.

(a) TECHNICAL CORRECTION.—Section 404E of the Public Health Service Act (42 U.S.C. 283g) is amended by striking subsection (f) (relating to reports to Congress) and redesignating subsection (g) as subsection (f).

(b) AMENDMENTS.—Section 404E of the Public Health Service Act (42 U.S.C. 283g) is amended—

(1) in subsection (a)(1), by inserting ''the National Heart, Lung, and Blood Institute,'' after ''the Eunice Kennedy Shriver National Institute of Child Health and Human Development,'';

(2) in subsection (b)(1), by adding at the end of the following: ''Such centers of excellence shall be known as the 'Paul D. Wellstone Muscular Dystrophy Cooperative Research Centers'.''; and

(3) by adding at the end the following:

''(g) CLINICAL RESEARCH.—The Coordinating Committee may evaluate the potential need to enhance the clinical research infrastructure required to test emerging therapies for the various forms of muscular dystrophy by prioritizing the achievement of the goals related to this topic in the plan under subsection (e)(1).''.

SEC. 3. DEVELOPMENT AND EXPANSION OF ACTIVITIES OF CDC WITH RESPECT TO EPIDEMIOLOGICAL RESEARCH ON MUSCULAR DYSTROPHY.

Section 317Q of the Public Health Service Act (42 U.S.C. 247b–18) is amended—

(1) by redesignating subsection (d) as subsection (f); and

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

''(d) DATA.—In carrying out this section, the Secretary may ensure that any data on patients that is collected as part of the Muscular Dystrophy STARnet (under a grant under this section) is regularly updated to reflect changes in patient condition over time.

''(e) REPORTS AND STUDY.—

''(1) ANNUAL REPORT.—Not later than 18 months after the date of the enactment of the Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008, and annually thereafter, the Director of the Centers for Disease Control and Prevention shall submit to the appropriate committees of the Congress a report—

''(A) concerning the activities carried out by MD STARnet site funded under this section during the year for which the report is prepared;

''(B) containing the data collected and findings derived from the MD STARnet sites each fiscal year (as funded under a grant under this section during fiscal years 2008 through 2012); and

''(C) that every 2 years outlines prospective data collection objectives and strategies.

''(2) TRACKING HEALTH OUTCOMES.—The Secretary may provide health outcome data on the health and survival of people with muscular dystrophy.''.

SEC. 4. INFORMATION AND EDUCATION.

Section 5 of the Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001 (42 U.S.C. 247b–19) is amended—

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

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

''(c) REQUIREMENTS.—In carrying out this section, the Secretary may—

''(1) partner with leaders in the muscular dystrophy patient community;

''(2) cooperate with professional organizations and the patient community in the development and issuance of care considerations for Duchenne-Becker muscular dystrophy, and other forms of muscular dystrophy, and in periodic review and updates, as appropriate; and

''(3) widely disseminate the Duchenne-Becker muscular dystrophy and other forms of muscular dystrophy care considerations as broadly as possible, including through partnership opportunities with the muscular dystrophy patient community.''.

SA 5659. Ms. SNOWE (for herself, Mr. SUNUNU, Mr. GREGG, Mr. KENNEDY, Mr. KERRY, Ms. COLLING, Mr. REED, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by her to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 14, of division B, beginning with ''among eligible'' strike through line 20 and insert ''for necessary expenses related to economic impacts associated with commercial fishery failures, fishery resource disasters, and regulations on commercial fishing industries.''.

SA 5660. Mr. REID proposed an amendment to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the end, add the following: The provisions of this Act shall become effective 2 days after enactment.

SA 5661. Mr. REID proposed an amendment to the amendment SA 5660 proposed by Mr. REID to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

In the amendment, strike ''2'' and insert ''1''.

SA 5662. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 5151, to designate as wilderness additional National Forest System lands in the Monongahela National Forest in the State of West Virginia, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Omnibus Public Land Management Act of 2008''.

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

TITLE I—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

Subtitle A—Wild Monongahela Wilderness

SEC. 1001. DESIGNATION OF WILDERNESS, MONONGAHELA NATIONAL FOREST, WEST VIRGINIA.

(a) Designation.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following Federal lands within the Monongahela National Forest in the State of West Virginia are designated as wilderness and as either a new component of the National Wilderness Preservation System or as an addition to an existing component of the National Wilderness Preservation System:

(1) Certain Federal land comprising approximately 5,144 acres, as generally depicted on the map entitled ''Big Draft Proposed Wilderness'' and dated March 11, 2008, which shall be known as the ''Big Draft Wilderness''.

(2) Certain Federal land comprising approximately 11,951 acres, as generally depicted on the map entitled ''Cranberry Expansion Proposed Wilderness'' and dated March 11, 2008, which shall be added to and administered as part of the Cranberry Wilderness designated by section 1(1) of Public Law 97–466 (96 Stat. 2538).

(3) Certain Federal land comprising approximately 7,156 acres, as generally depicted on the map entitled ''Dolly Sods Expansion Proposed Wilderness'' and dated March 11, 2008, which shall be added to and administered as part of the Dolly Sods Wilderness designated by section 3(a)(13) of Public Law 93–622 (88 Stat. 2098).

(4) Certain Federal land comprising approximately 698 acres, as generally depicted on the map entitled ''Otter Creek Expansion Proposed Wilderness'' and dated March 11, 2008, which shall be added to and administered as part of the Otter Creek Wilderness designated by section 3(a)(14) of Public Law 93–622 (88 Stat. 2098).

(5) Certain Federal land comprising approximately 6,792 acres, as generally depicted on the map entitled ''Roaring Plains Proposed Wilderness'' and dated March 11, 2008, which shall be known as the ''Roaring Plains West Wilderness''.

(6) Certain Federal land comprising approximately 6,030 acres, as generally depicted on the map entitled ''Spice Run Proposed Wilderness'' and dated March 11, 2008, which shall be known as the ''Spice Run Wilderness''.

(b) Maps and Legal Description.—

(1) Filing and availability.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall file with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and legal description of each wilderness area designated or expanded by subsection (a). The maps and legal descriptions shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Supervisor of the Monongahela National Forest.

(2) Force and effect.—The maps and legal descriptions referred to in this subsection shall have the same force and effect as if included in this subtitle, except that the Secretary may correct errors in the maps and descriptions.

(c) Administration.—Subject to valid existing rights, the Federal lands designated as wilderness by subsection (a) shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.). The Secretary may continue to authorize the competitive running event permitted from 2003 through 2007 in the vicinity of the boundaries of the Dolly Sods Wilderness addition designated by paragraph (3) of subsection (a) and the Roaring Plains West Wilderness Area designated by paragraph (5) of such subsection, in a manner compatible with the preservation of such areas as wilderness.

(d) Effective Date of Wilderness Act.—With respect to the Federal lands designated as wilderness by subsection (a), any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act.

(e) Fish and Wildlife.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section affects the jurisdiction or responsibility of the State of West Virginia with respect to wildlife and fish.

SEC. 1002. BOUNDARY ADJUSTMENT, LAUREL FORK SOUTH WILDERNESS, MONONGAHELA NATIONAL FOREST.

(a) Boundary Adjustment.—The boundary of the Laurel Fork South Wilderness designated by section 1(3) of Public Law 97–466 (96 Stat. 2538) is modified to exclude two parcels of land, as generally depicted on the map entitled ''Monongahela National Forest Laurel Fork South Wilderness Boundary Modification'' and dated March 11, 2008, and more particularly described according to the site-specific maps and legal descriptions on file in the office of the Forest Supervisor, Monongahela National Forest. The general map shall be on file and available for public inspection in the Office of the Chief of the Forest Service.

(b) Management.—Federally owned land delineated on the maps referred to in subsection (a) as the Laurel Fork South Wilderness, as modified by such subsection, shall

continue to be administered by the Secretary of Agriculture in accordance with Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 1003. MONONGAHELA NATIONAL FOREST BOUNDARY CONFIRMATION.

(a) IN GENERAL.—The boundary of the Monongahela National Forest is confirmed to include the tracts of land as generally depicted on the map entitled ''Monongahela National Forest Boundary Confirmation'' and dated March 13, 2008, and all Federal lands under the jurisdiction of the Secretary of Agriculture, acting through the Chief of the Forest Service, encompassed within such boundary shall be managed under the laws and regulations pertaining to the National Forest System.

(b) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Monongahela National Forest, as confirmed by subsection (a), shall be considered to be the boundaries of the Monongahela National Forest as of January 1, 1965.

SEC. 1004. ENHANCED TRAIL OPPORTUNITIES.

(a) PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, in consultation with interested parties, shall develop a plan to provide for enhanced nonmotorized recreation trail opportunities on lands not designated as wilderness within the Monongahela National Forest.

(2) NONMOTORIZED RECREATION TRAIL DEFINED.—For the purposes of this subsection, the term ''nonmotorized recreation trail'' means a trail designed for hiking, bicycling, and equestrian use.

(b) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress a report on the implementation of the plan required under subsection (a), including the identification of priority trails for development.

(c) CONSIDERATION OF CONVERSION OF FOREST ROADS TO RECREATIONAL USES.—In considering possible closure and decommissioning of a Forest Service road within the Monongahela National Forest after the date of the enactment of this Act, the Secretary of Agriculture, in accordance with applicable law, may consider converting the road to nonmotorized uses to enhance recreational opportunities within the Monongahela National Forest.

Subtitle B—Virginia Ridge and Valley Wilderness

SEC. 1101. DEFINITIONS.

In this subtitle:

(1) SCENIC AREAS.—The term ''scenic areas'' means the Seng Mountain National Scenic Area and the Bear Creek National Scenic Area.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 1102. DESIGNATION OF ADDITIONAL NATIONAL FOREST SYSTEM LAND IN JEFFERSON NATIONAL FOREST, VIRGINIA, AS WILDERNESS OR A WILDERNESS STUDY AREA.

(a) DESIGNATION OF WILDERNESS.—Section 1 of Public Law 100–326 (16 U.S.C. 1132 note; 102 Stat. 584, 114 Stat. 2057), is amended—

(1) in the matter preceding paragraph (1), by striking ''System—'' and inserting ''System:'';

(2) by striking ''certain'' each place it appears and inserting ''Certain'';

(3) in each of paragraphs (1) through (6), by striking the semicolon at the end and inserting a period;

(4) in paragraph (7), by striking ''; and'' and inserting a period; and

(5) by adding at the end the following:

''(9) Certain land in the Jefferson National Forest comprising approximately 3,743 acres, as generally depicted on the map entitled 'Brush Mountain and Brush Mountain East' and dated May 5, 2008, which shall be known as the 'Brush Mountain East Wilderness'.

''(10) Certain land in the Jefferson National Forest comprising approximately 4,794 acres, as generally depicted on the map entitled 'Brush Mountain and Brush Mountain East' and dated May 5, 2008, which shall be known as the 'Brush Mountain Wilderness'.

''(11) Certain land in the Jefferson National Forest comprising approximately 4,223 acres, as generally depicted on the map entitled 'Seng Mountain and Raccoon Branch' and dated April 28, 2008, which shall be known as the 'Raccoon Branch Wilderness'.

''(12) Certain land in the Jefferson National Forest comprising approximately 3,270 acres, as generally depicted on the map entitled 'Stone Mountain' and dated April 28, 2008, which shall be known as the 'Stone Mountain Wilderness'.

''(13) Certain land in the Jefferson National Forest comprising approximately 8,470 acres, as generally depicted on the map entitled 'Garden Mountain and Hunting Camp Creek' and dated April 28, 2008, which shall be known as the 'Hunting Camp Creek Wilderness'.

''(14) Certain land in the Jefferson National Forest comprising approximately 3,291 acres, as generally depicted on the map entitled 'Garden Mountain and Hunting Camp Creek' and dated April 28, 2008, which shall be known as the 'Garden Mountain Wilderness'.

''(15) Certain land in the Jefferson National Forest comprising approximately 5,476 acres, as generally depicted on the map entitled 'Mountain Lake Additions' and dated April 28, 2008, which is incorporated in the Mountain Lake Wilderness designated by section 2(6) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586).

''(16) Certain land in the Jefferson National Forest comprising approximately 308 acres, as generally depicted on the map entitled 'Lewis Fork Addition and Little Wilson Creek Additions' and dated April 28, 2008, which is incorporated in the Lewis Fork Wilderness designated by section 2(3) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586).

''(17) Certain land in the Jefferson National Forest comprising approximately 1,845 acres, as generally depicted on the map entitled 'Lewis Fork Addition and Little Wilson Creek Additions' and dated April 28, 2008, which is incorporated in the Little Wilson Creek Wilderness designated by section 2(5) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586).

''(18) Certain land in the Jefferson National Forest comprising approximately 2,219 acres, as generally depicted on the map entitled 'Shawvers Run Additions' and dated April 28, 2008, which is incorporated in the Shawvers Run Wilderness designated by paragraph (4).

''(19) Certain land in the Jefferson National Forest comprising approximately 1,203 acres, as generally depicted on the map entitled 'Peters Mountain Addition' and dated April 28, 2008, which is incorporated in the Peters Mountain Wilderness designated by section 2(7) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586).

''(20) Certain land in the Jefferson National Forest comprising approximately 263 acres, as generally depicted on the map entitled 'Kimberling Creek Additions and Potential Wilderness Area' and dated April 28, 2008, which is incorporated in the Kimberling Creek Wilderness designated by section 2(2) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586).''.

(b) DESIGNATION OF WILDERNESS STUDY AREA.—The Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586) is amended—

(1) in the first section, by inserting ''as'' after ''cited''; and

(2) in section 6(a)—

(A) by striking ''certain'' each place it appears and inserting ''Certain'';

(B) in each of paragraphs (1) and (2), by striking the semicolon at the end and inserting a period;

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

(D) by adding at the end the following:

''(5) Certain land in the Jefferson National Forest comprising approximately 3,226 acres, as generally depicted on the map entitled 'Lynn Camp Creek Wilderness Study Area' and dated April 28, 2008, which shall be known as the 'Lynn Camp Creek Wilderness Study Area'.''.

SEC. 1103. DESIGNATION OF KIMBERLING CREEK POTENTIAL WILDERNESS AREA, JEFFERSON NATIONAL FOREST, VIRGINIA.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain land in the Jefferson National Forest comprising approximately 349 acres, as generally depicted on the map entitled ''Kimberling Creek Additions and Potential Wilderness Area'' and dated April 28, 2008, is designated as a potential wilderness area for incorporation in the Kimberling Creek Wilderness designated by section 2(2) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586).

(b) MANAGEMENT.—Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(c) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—For purposes of ecological restoration (including the elimination of nonnative species, removal of illegal, unused, or decommissioned roads, and any other activity necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may use motorized equipment and mechanized transport in the potential wilderness area until the date on which the potential wilderness area is incorporated into the Kimberling Creek Wilderness.

(2) LIMITATION.—To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.

(d) WILDERNESS DESIGNATION.—The potential wilderness area shall be designated as wilderness and incorporated in the Kimberling Creek Wilderness on the earlier of—

(1) the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.) have been removed; or

(2) the date that is 5 years after the date of enactment of this Act.

SEC. 1104. SENG MOUNTAIN AND BEAR CREEK SCENIC AREAS, JEFFERSON NATIONAL FOREST, VIRGINIA.

(a) ESTABLISHMENT.—There are designated as National Scenic Areas—

(1) certain National Forest System land in the Jefferson National Forest, comprising approximately 5,192 acres, as generally depicted on the map entitled ''Seng Mountain and Raccoon Branch'' and dated April 28, 2008, which shall be known as the ''Seng Mountain National Scenic Area''; and

(2) certain National Forest System land in the Jefferson National Forest, comprising approximately 5,128 acres, as generally depicted on the map entitled ''Bear Creek'' and dated April 28, 2008, which shall be known as the ''Bear Creek National Scenic Area''.

(b) PURPOSES.—The purposes of the scenic areas are—

(1) to ensure the protection and preservation of scenic quality, water quality, natural characteristics, and water resources of the scenic areas;

(2) consistent with paragraph (1), to protect wildlife and fish habitat in the scenic areas;

(3) to protect areas in the scenic areas that may develop characteristics of old-growth forests; and

(4) consistent with paragraphs (1), (2), and (3), to provide a variety of recreation opportunities in the scenic areas.

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer the scenic areas in accordance with—

(A) this subtitle; and

(B) the laws (including regulations) generally applicable to the National Forest System.

(2) AUTHORIZED USES.—The Secretary shall only allow uses of the scenic areas that the Secretary determines will further the purposes of the scenic areas, as described in subsection (b).

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop as an amendment to the land and resource management plan for the Jefferson National Forest a management plan for the scenic areas.

(2) EFFECT.—Nothing in this subsection requires the Secretary to revise the land and resource management plan for the Jefferson National Forest under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(e) ROADS.—

(1) IN GENERAL.—Except as provided in paragraph (2), after the date of enactment of this Act, no roads shall be established or constructed within the scenic areas.

(2) LIMITATION.—Nothing in this subsection denies any owner of private land (or an interest in private land) that is located in a scenic area the right to access the private land.

(f) TIMBER HARVEST.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no harvesting of timber shall be allowed within the scenic areas.

(2) EXCEPTIONS.—The Secretary may authorize harvesting of timber in the scenic areas if the Secretary determines that the harvesting is necessary to—

(A) control fire;

(B) provide for public safety or trail access; or

(C) control insect and disease outbreaks.

(3) FIREWOOD FOR PERSONAL USE.—Firewood may be harvested for personal use along perimeter roads in the scenic areas, subject to any conditions that the Secretary may impose.

(g) INSECT AND DISEASE OUTBREAKS.—The Secretary may control insect and disease outbreaks—

(1) to maintain scenic quality;

(2) to prevent tree mortality;

(3) to reduce hazards to visitors; or

(4) to protect private land.

(h) VEGETATION MANAGEMENT.—The Secretary may engage in vegetation manipulation practices in the scenic areas to maintain the visual quality and wildlife clearings in existence on the date of enactment of this Act.

(i) MOTORIZED VEHICLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), motorized vehicles shall not be allowed within the scenic areas.

(2) EXCEPTIONS.—The Secretary may authorize the use of motorized vehicles—

(A) to carry out administrative activities that further the purposes of the scenic areas, as described in subsection (b);

(B) to assist wildlife management projects in existence on the date of enactment of this Act; and

(C) during deer and bear hunting seasons—

(i) on Forest Development Roads 49410 and 84b; and

(ii) on the portion of Forest Development Road 6261 designated on the map described in subsection (a)(2) as ''open seasonally''.

(j) WILDFIRE SUPPRESSION.—Wildfire suppression within the scenic areas shall be conducted—

(1) in a manner consistent with the purposes of the scenic areas, as described in subsection (b); and

(2) using such means as the Secretary determines to be appropriate.

(k) WATER.—The Secretary shall administer the scenic areas in a manner that maintains and enhances water quality.

(l) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the scenic areas is withdrawn from—

(1) location, entry, and patent under the mining laws; and

(2) operation of the mineral leasing and geothermal leasing laws.

SEC. 1105. TRAIL PLAN AND DEVELOPMENT.

(a) TRAIL PLAN.—The Secretary, in consultation with interested parties, shall establish a trail plan to develop—

(1) in a manner consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), hiking and equestrian trails in the wilderness areas designated by paragraphs (9) through (20) of section 1 of Public Law 100–326 (16 U.S.C. 1132 note) (as added by section 1102(a)(5)); and

(2) nonmotorized recreation trails in the scenic areas.

(b) IMPLEMENTATION REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the implementation of the trail plan, including the identification of priority trails for development.

(c) SUSTAINABLE TRAIL REQUIRED.—The Secretary shall develop a sustainable trail, using a contour curvilinear alignment, to provide for nonmotorized travel along the southern boundary of the Raccoon Branch Wilderness established by section 1(11) of Public Law 100–326 (16 U.S.C. 1132 note) (as added by section 1102(a)(5)) connecting to Forest Development Road 49352 in Smyth County, Virginia.

SEC. 1106. MAPS AND BOUNDARY DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives maps and boundary descriptions of—

(1) the scenic areas;

(2) the wilderness areas designated by paragraphs (9) through (20) of section 1 of Public Law 100–326 (16 U.S.C. 1132 note) (as added by section 1102(a)(5));

(3) the wilderness study area designated by section 6(a)(5) of the Virginia Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–586) (as added by section 1102(b)(2)(D)); and

(4) the potential wilderness area designated by section 1103(a).

(b) FORCE AND EFFECT.—The maps and boundary descriptions filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any minor errors in the maps and boundary descriptions.

(c) AVAILABILITY OF MAP AND BOUNDARY DESCRIPTION.—The maps and boundary descriptions filed under subsection (a) shall be on file and available for public inspection in the Office of the Chief of the Forest Service.

(d) CONFLICT.—In the case of a conflict between a map filed under subsection (a) and the acreage of the applicable areas specified in this subtitle, the map shall control.

SEC. 1107. EFFECTIVE DATE.

Any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act for purposes of administering—

(1) the wilderness areas designated by paragraphs (9) through (20) of section 1 of Public Law 100–326 (16 U.S.C. 1132 note) (as added by section 1102(a)(5)); and

(2) the potential wilderness area designated by section 1103(a).

Subtitle C—Mt. Hood Wilderness, Oregon

SEC. 1201. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(2) STATE.—The term ''State'' means the State of Oregon.

SEC. 1202. DESIGNATION OF WILDERNESS AREAS.

(a) DESIGNATION OF LEWIS AND CLARK MOUNT HOOD WILDERNESS AREAS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State of Oregon are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) BADGER CREEK WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 4,140 acres, as generally depicted on the maps entitled ''Badger Creek Wilderness—Badger Creek Additions'' and ''Badger Creek Wilderness—Bonney Butte'', dated July 16, 2007, which is incorporated in, and considered to be a part of, the Badger Creek Wilderness, as designated by section 3(3) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(2) BULL OF THE WOODS WILDERNESS ADDITION.—Certain Federal land managed by the Forest Service, comprising approximately 10,180 acres, as generally depicted on the map entitled ''Bull of the Woods Wilderness—Bull of the Woods Additions'', dated July 16, 2007, which is incorporated in, and considered to be a part of, the Bull of the Woods Wilderness, as designated by section 3(4) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(3) CLACKAMAS WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 9,470 acres, as generally depicted on the maps entitled ''Clackamas Wilderness—Big Bottom'', ''Clackamas Wilderness—Clackamas Canyon'', ''Clackamas Wilderness—Memaloose Lake'', ''Clackamas Wilderness—Sisi Butte'', and ''Clackamas Wilderness—South Fork Clackamas'', dated July 16, 2007, which shall be known as the ''Clackamas Wilderness''.

(4) MARK O. HATFIELD WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 25,960 acres, as generally depicted on the maps entitled ''Mark O. Hatfield Wilderness—Gorge Face'' and ''Mark O. Hatfield Wilderness—Larch Mountain'', dated July 16, 2007, which is incorporated in, and considered to be a part of, the Mark O. Hatfield Wilderness, as designated by section 3(1) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(5) MOUNT HOOD WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 18,450 acres, as generally depicted on the maps entitled ''Mount Hood Wilderness—Barlow Butte'', ''Mount Hood Wilderness—Elk Cove/Mazama'', ''Mount Hood Wilderness—Richard L. Kohnstamm Memorial Area'', ''Mount Hood Wilderness—Sand Canyon'', ''Mount Hood Wilderness—Sandy Additions'', ''Mount Hood Wilderness—Twin Lakes'', and ''Mount Hood Wilderness—White River'', dated July

16, 2007, and the map entitled ''Mount Hood Wilderness—Cloud Cap'', dated July 20, 2007, which is incorporated in, and considered to be a part of, the Mount Hood Wilderness, as designated under section 3(a) of the Wilderness Act (16 U.S.C. 1132(a)) and enlarged by section 3(d) of the Endangered American Wilderness Act of 1978 (16 U.S.C. 1132 note; 92 Stat. 43).

(6) ROARING RIVER WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 36,550 acres, as generally depicted on the map entitled ''Roaring River Wilderness—Roaring River Wilderness'', dated July 16, 2007, which shall be known as the ''Roaring River Wilderness''.

(7) SALMON-HUCKLEBERRY WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 16,620 acres, as generally depicted on the maps entitled ''Salmon-Huckleberry Wilderness—Alder Creek Additions'', ''Salmon-Huckleberry Wilderness—Eagle Creek Addition'', ''Salmon-Huckleberry Wilderness—Hunchback Mountain'', ''Salmon-Huckleberry Wilderness—Inch Creek'', ''Salmon-Huckleberry Wilderness—Mirror Lake'', and ''Salmon-Huckleberry Wilderness—Salmon River Meadows'', dated July 16, 2007, which is incorporated in, and considered to be a part of, the Salmon-Huckleberry Wilderness, as designated by section 3(2) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(8) LOWER WHITE RIVER WILDERNESS.—Certain Federal land managed by the Forest Service and Bureau of Land Management, comprising approximately 2,870 acres, as generally depicted on the map entitled ''Lower White River Wilderness—Lower White River'', dated July 16, 2007, which shall be known as the ''Lower White River Wilderness''.

(b) RICHARD L. KOHNSTAMM MEMORIAL AREA.—Certain Federal land managed by the Forest Service, as generally depicted on the map entitled ''Mount Hood Wilderness—Richard L. Kohnstamm Memorial Area'', dated July 16, 2007, is designated as the ''Richard L. Kohnstamm Memorial Area''.

(c) POTENTIAL WILDERNESS AREA; ADDITIONS TO WILDERNESS AREAS.—

(1) ROARING RIVER POTENTIAL WILDERNESS AREA.—

(A) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain Federal land managed by the Forest Service, comprising approximately 900 acres identified as ''Potential Wilderness'' on the map entitled ''Roaring River Wilderness'', dated July 16, 2007, is designated as a potential wilderness area.

(B) MANAGEMENT.—The potential wilderness area designated by subparagraph (A) shall be managed in accordance with section 4 of the Wilderness Act (16 U.S.C. 1133).

(C) DESIGNATION AS WILDERNESS.—On the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area designated by subparagraph (A) are compatible with the Wilderness Act (16 U.S.C. 1131 et seq.), the potential wilderness shall be—

(i) designated as wilderness and as a component of the National Wilderness Preservation System; and

(ii) incorporated into the Roaring River Wilderness designated by subsection (a)(6).

(2) ADDITION TO THE MOUNT HOOD WILDERNESS.—On completion of the land exchange under section 1206(a)(2), certain Federal land managed by the Forest Service, comprising approximately 1,710 acres, as generally depicted on the map entitled ''Mount Hood Wilderness—Tilly Jane'', dated July 20, 2007, shall be incorporated in, and considered to be a part of, the Mount Hood Wilderness, as designated under section 3(a) of the Wilderness Act (16 U.S.C. 1132(a)) and enlarged by section 3(d) of the Endangered American Wilderness Act of 1978 (16 U.S.C. 1132 note; 92 Stat. 43) and subsection (a)(5).

(3) ADDITION TO THE SALMON-HUCKLEBERRY WILDERNESS.—On acquisition by the United States, the approximately 160 acres of land identified as ''Land to be acquired by USFS'' on the map entitled ''Hunchback Mountain Land Exchange, Clackamas County'', dated June 2006, shall be incorporated in, and considered to be a part of, the Salmon-Huckleberry Wilderness, as designated by section 3(2) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273) and enlarged by subsection (a)(7).

(d) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area and potential wilderness area designated by this section, with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the maps and legal descriptions.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service and Bureau of Land Management.

(4) DESCRIPTION OF LAND.—The boundaries of the areas designated as wilderness by subsection (a) that are immediately adjacent to a utility right-of-way or a Federal Energy Regulatory Commission project boundary shall be 100 feet from the boundary of the right-of-way or the project boundary.

(e) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, each area designated as wilderness by this section shall be administered by the Secretary that has jurisdiction over the land within the wilderness, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the land within the wilderness.

(2) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land within the boundary of a wilderness area designated by this section that is acquired by the United States shall—

(A) become part of the wilderness area in which the land is located; and

(B) be managed in accordance with this section, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(f) BUFFER ZONES.—

(1) IN GENERAL.—As provided in the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–328), Congress does not intend for designation of wilderness areas in the State under this section to lead to the creation of protective perimeters or buffer zones around each wilderness area.

(2) ACTIVITIES OR USES UP TO BOUNDARIES.—The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude the activities or uses up to the boundary of the wilderness area.

(g) FISH AND WILDLIFE.—Nothing in this section affects the jurisdiction or responsibilities of the State with respect to fish and wildlife.

(h) FIRE, INSECTS, AND DISEASES.—As provided in section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), within the wilderness areas designated by this section, the Secretary that has jurisdiction over the land within the wilderness (referred to in this subsection as the ''Secretary'') may take such measures as are necessary to control fire, insects, and diseases, subject to such terms and conditions as the Secretary determines to be desirable and appropriate.

(i) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this section is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

SEC. 1203. DESIGNATION OF STREAMS FOR WILD AND SCENIC RIVER PROTECTION IN THE MOUNT HOOD AREA.

(a) WILD AND SCENIC RIVER DESIGNATIONS, MOUNT HOOD NATIONAL FOREST.—

(1) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''(171) SOUTH FORK CLACKAMAS RIVER.—The 4.2-mile segment of the South Fork Clackamas River from its confluence with the East Fork of the South Fork Clackamas to its confluence with the Clackamas River, to be administered by the Secretary of Agriculture as a wild river.

''(172) EAGLE CREEK.—The 8.3-mile segment of Eagle Creek from its headwaters to the Mount Hood National Forest boundary, to be administered by the Secretary of Agriculture as a wild river.

''(173) MIDDLE FORK HOOD RIVER.—The 3.7-mile segment of the Middle Fork Hood River from the confluence of Clear and Coe Branches to the north section line of section 11, township 1 south, range 9 east, to be administered by the Secretary of Agriculture as a scenic river.

''(174) SOUTH FORK ROARING RIVER.—The 4.6-mile segment of the South Fork Roaring River from its headwaters to its confluence with Roaring River, to be administered by the Secretary of Agriculture as a wild river.

''(175) ZIG ZAG RIVER.—The 4.3-mile segment of the Zig Zag River from its headwaters to the Mount Hood Wilderness boundary, to be administered by the Secretary of Agriculture as a wild river.

''(176) FIFTEENMILE CREEK.—

''(A) IN GENERAL.—The 11.1-mile segment of Fifteenmile Creek from its source at Senecal Spring to the southern edge of the northwest quarter of the northwest quarter of section 20, township 2 south, range 12 east, to be administered by the Secretary of Agriculture in the following classes:

''(i) The 2.6-mile segment from its source at Senecal Spring to the Badger Creek Wilderness boundary, as a wild river.

''(ii) The 0.4-mile segment from the Badger Creek Wilderness boundary to the point 0.4 miles downstream, as a scenic river.

''(iii) The 7.9-mile segment from the point 0.4 miles downstream of the Badger Creek Wilderness boundary to the western edge of section 20, township 2 south, range 12 east as a wild river.

''(iv) The 0.2-mile segment from the western edge of section 20, township 2 south, range 12 east, to the southern edge of the northwest quarter of the northwest quarter

of section 20, township 2 south, range 12 east as a scenic river.

''(B) INCLUSIONS.—Notwithstanding section 3(b), the lateral boundaries of both the wild river area and the scenic river area along Fifteenmile Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

''(177) EAST FORK HOOD RIVER.—The 13.5-mile segment of the East Fork Hood River from Oregon State Highway 35 to the Mount Hood National Forest boundary, to be administered by the Secretary of Agriculture as a recreational river.

''(178) COLLAWASH RIVER.—The 17.8-mile segment of the Collawash River from the headwaters of the East Fork Collawash to the confluence of the mainstream of the Collawash River with the Clackamas River, to be administered by the Secretary of Agriculture in the following classes:

''(A) The 11.0-mile segment from the headwaters of the East Fork Collawash River to Buckeye Creek, as a scenic river.

''(B) The 6.8-mile segment from Buckeye Creek to the Clackamas River, as a recreational river.

''(179) FISH CREEK.—The 13.5-mile segment of Fish Creek from its headwaters to the confluence with the Clackamas River, to be administered by the Secretary of Agriculture as a recreational river.''.

(2) EFFECT.—The amendments made by paragraph (1) do not affect valid existing water rights.

(b) PROTECTION FOR HOOD RIVER, OREGON.—Section 13(a)(4) of the ''Columbia River Gorge National Scenic Area Act'' (16 U.S.C. 544k(a)(4)) is amended by striking ''for a period not to exceed twenty years from the date of enactment of this Act,''.

SEC. 1204. MOUNT HOOD NATIONAL RECREATION AREA.

(a) DESIGNATION.—To provide for the protection, preservation, and enhancement of recreational, ecological, scenic, cultural, watershed, and fish and wildlife values, there is established the Mount Hood National Recreation Area within the Mount Hood National Forest.

(b) BOUNDARY.—The Mount Hood National Recreation Area shall consist of certain Federal land managed by the Forest Service and Bureau of Land Management, comprising approximately 34,550 acres, as generally depicted on the maps entitled ''National Recreation Areas—Mount Hood NRA'', ''National Recreation Areas—Fifteenmile Creek NRA'', and ''National Recreation Areas—Shellrock Mountain'', dated February 2007.

(c) MAP AND LEGAL DESCRIPTION.—

(1) SUBMISSION OF LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Mount Hood National Recreation Area with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the map and the legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(d) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall—

(A) administer the Mount Hood National Recreation Area—

(i) in accordance with the laws (including regulations) and rules applicable to the National Forest System; and

(ii) consistent with the purposes described in subsection (a); and

(B) only allow uses of the Mount Hood National Recreation Area that are consistent with the purposes described in subsection (a).

(2) APPLICABLE LAW.—Any portion of a wilderness area designated by section 1202 that is located within the Mount Hood National Recreation Area shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(e) TIMBER.—The cutting, sale, or removal of timber within the Mount Hood National Recreation Area may be permitted—

(1) to the extent necessary to improve the health of the forest in a manner that—

(A) maximizes the retention of large trees—

(i) as appropriate to the forest type; and

(ii) to the extent that the trees promote stands that are fire-resilient and healthy;

(B) improves the habitats of threatened, endangered, or sensitive species; or

(C) maintains or restores the composition and structure of the ecosystem by reducing the risk of uncharacteristic wildfire;

(2) to accomplish an approved management activity in furtherance of the purposes established by this section, if the cutting, sale, or removal of timber is incidental to the management activity; or

(3) for de minimus personal or administrative use within the Mount Hood National Recreation Area, where such use will not impair the purposes established by this section.

(f) ROAD CONSTRUCTION.—No new or temporary roads shall be constructed or reconstructed within the Mount Hood National Recreation Area except as necessary—

(1) to protect the health and safety of individuals in cases of an imminent threat of flood, fire, or any other catastrophic event that, without intervention, would cause the loss of life or property;

(2) to conduct environmental cleanup required by the United States;

(3) to allow for the exercise of reserved or outstanding rights provided for by a statute or treaty;

(4) to prevent irreparable resource damage by an existing road; or

(5) to rectify a hazardous road condition.

(g) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Mount Hood National Recreation Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws relating to mineral and geothermal leasing.

(h) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—Administrative jurisdiction over the Federal land described in paragraph (2) is transferred from the Bureau of Land Management to the Forest Service.

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) is the approximately 130 acres of land administered by the Bureau of Land Management within or adjacent to the Mount Hood National Recreation Area that is identified as ''BLM Lands'' on the map entitled ''National Recreation Areas—Shellrock Mountain'', dated February 2007.

SEC. 1205. PROTECTIONS FOR CRYSTAL SPRINGS, UPPER BIG BOTTOM, AND CULTUS CREEK.

(a) CRYSTAL SPRINGS WATERSHED SPECIAL RESOURCES MANAGEMENT UNIT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—On completion of the land exchange under section 1206(a)(2), there shall be established a special resources management unit in the State consisting of certain Federal land managed by the Forest Service, as generally depicted on the map entitled ''Crystal Springs Watershed Special Resources Management Unit'', dated June 2006 (referred to in this subsection as the ''map''), to be known as the ''Crystal Springs Watershed Special Resources Management Unit'' (referred to in this subsection as the ''Management Unit'').

(B) EXCLUSION OF CERTAIN LAND.—The Management Unit does not include any National Forest System land otherwise covered by subparagraph (A) that is designated as wilderness by section 1202.

(C) WITHDRAWAL.—

(i) IN GENERAL.—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as the Management Unit is withdrawn from all forms of—

(I) entry, appropriation, or disposal under the public land laws;

(II) location, entry, and patent under the mining laws; and

(III) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(ii) EXCEPTION.—Clause (i)(I) does not apply to the parcel of land generally depicted as ''HES 151'' on the map.

(2) PURPOSES.—The purposes of the Management Unit are—

(A) to ensure the protection of the quality and quantity of the Crystal Springs watershed as a clean drinking water source for the residents of Hood River County, Oregon; and

(B) to allow visitors to enjoy the special scenic, natural, cultural, and wildlife values of the Crystal Springs watershed.

(3) MAP AND LEGAL DESCRIPTION.—

(A) SUBMISSION OF LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Management Unit with—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(B) FORCE OF LAW.—The map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the map and legal description.

(C) PUBLIC AVAILABILITY.—The map and legal description filed under subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(4) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall—

(i) administer the Management Unit—

(I) in accordance with the laws (including regulations) and rules applicable to units of the National Forest System; and

(II) consistent with the purposes described in paragraph (2); and

(ii) only allow uses of the Management Unit that are consistent with the purposes described in paragraph (2).

(B) FUEL REDUCTION IN PROXIMITY TO IMPROVEMENTS AND PRIMARY PUBLIC ROADS.—To protect the water quality, water quantity, and scenic, cultural, natural, and wildlife values of the Management Unit, the Secretary may conduct fuel reduction and forest health management treatments to maintain and restore fire-resilient forest structures containing late successional forest structure characterized by large trees and multistoried canopies, as ecologically appropriate, on National Forest System land in the Management Unit—

(i) in any area located not more than 400 feet from structures located on—

(I) National Forest System land; or

(II) private land adjacent to National Forest System land;

(ii) in any area located not more than 400 feet from the Cooper Spur Road, the Cloud Cap Road, or the Cooper Spur Ski Area Loop Road; and

(iii) on any other National Forest System land in the Management Unit, with priority given to activities that restore previously harvested stands, including the removal of logging slash, smaller diameter material, and ladder fuels.

(5) PROHIBITED ACTIVITIES.—Subject to valid existing rights, the following activities shall be prohibited on National Forest System land in the Management Unit:

(A) New road construction or renovation of existing non-System roads, except as necessary to protect public health and safety.

(B) Projects undertaken for the purpose of harvesting commercial timber (other than activities relating to the harvest of merchantable products that are byproducts of activities conducted to further the purposes described in paragraph (2)).

(C) Commercial livestock grazing.

(D) The placement of new fuel storage tanks.

(E) Except to the extent necessary to further the purposes described in paragraph (2), the application of any toxic chemicals (other than fire retardants), including pesticides, rodenticides, or herbicides.

(6) FOREST ROAD CLOSURES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may provide for the closure or gating to the general public of any Forest Service road within the Management Unit.

(B) EXCEPTION.—Nothing in this subsection requires the Secretary to close the road commonly known as ''Cloud Cap Road'', which shall be administered in accordance with otherwise applicable law.

(7) PRIVATE LAND.—

(A) EFFECT.—Nothing in this subsection affects the use of, or access to, any private property within the area identified on the map as the ''Crystal Springs Zone of Contribution'' by—

(i) the owners of the private property; and

(ii) guests to the private property.

(B) COOPERATION.—The Secretary is encouraged to work with private landowners who have agreed to cooperate with the Secretary to further the purposes of this subsection.

(8) ACQUISITION OF LAND.—

(A) IN GENERAL.—The Secretary may acquire from willing landowners any land located within the area identified on the map as the ''Crystal Springs Zone of Contribution''.

(B) INCLUSION IN MANAGEMENT UNIT.—On the date of acquisition, any land acquired under subparagraph (A) shall be incorporated in, and be managed as part of, the Management Unit.

(b) PROTECTIONS FOR UPPER BIG BOTTOM AND CULTUS CREEK.—

(1) IN GENERAL.—The Secretary shall manage the Federal land administered by the Forest Service described in paragraph (2) in a manner that preserves the natural and primitive character of the land for recreational, scenic, and scientific use.

(2) DESCRIPTION OF LAND.—The Federal land referred to in paragraph (1) is—

(A) the approximately 1,580 acres, as generally depicted on the map entitled ''Upper Big Bottom'', dated July 16, 2007; and

(B) the approximately 280 acres identified as ''Cultus Creek'' on the map entitled ''Clackamas Wilderness—South Fork Clackamas'', dated July 16, 2007.

(3) MAPS AND LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the Federal land described in paragraph (2) with—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(B) FORCE OF LAW.—The maps and legal descriptions filed under subparagraph (A) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the maps and legal descriptions.

(C) PUBLIC AVAILABILITY.—Each map and legal description filed under subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(4) USE OF LAND.—

(A) IN GENERAL.—Subject to valid existing rights, with respect to the Federal land described in paragraph (2), the Secretary shall only allow uses that are consistent with the purposes identified in paragraph (1).

(B) PROHIBITED USES.—The following shall be prohibited on the Federal land described in paragraph (2):

(i) Permanent roads.

(ii) Commercial enterprises.

(iii) Except as necessary to meet the minimum requirements for the administration of the Federal land and to protect public health and safety—

(I) the use of motor vehicles; or

(II) the establishment of temporary roads.

(5) WITHDRAWAL.—Subject to valid existing rights, the Federal land described in paragraph (2) is withdrawn from—

(A) all forms of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws relating to mineral and geothermal leasing.

SEC. 1206. LAND EXCHANGES.

(a) COOPER SPUR-GOVERNMENT CAMP LAND EXCHANGE.—

(1) DEFINITIONS.—In this subsection:

(A) COUNTY.—The term ''County'' means Hood River County, Oregon.

(B) EXCHANGE MAP.—The term ''exchange map'' means the map entitled ''Cooper Spur/Government Camp Land Exchange'', dated June 2006.

(C) FEDERAL LAND.—The term ''Federal land'' means the approximately 120 acres of National Forest System land in the Mount Hood National Forest in Government Camp, Clackamas County, Oregon, identified as ''USFS Land to be Conveyed'' on the exchange map.

(D) MT. HOOD MEADOWS.—The term ''Mt. Hood Meadows'' means the Mt. Hood Meadows Oregon, Limited Partnership.

(E) NON-FEDERAL LAND.—The term ''non-Federal land'' means—

(i) the parcel of approximately 770 acres of private land at Cooper Spur identified as ''Land to be acquired by USFS'' on the exchange map; and

(ii) any buildings, furniture, fixtures, and equipment at the Inn at Cooper Spur and the Cooper Spur Ski Area covered by an appraisal described in paragraph (2)(D).

(2) COOPER SPUR-GOVERNMENT CAMP LAND EXCHANGE.—

(A) CONVEYANCE OF LAND.—Subject to the provisions of this subsection, if Mt. Hood Meadows offers to convey to the United States all right, title, and interest of Mt. Hood Meadows in and to the non-Federal land, the Secretary shall convey to Mt. Hood Meadows all right, title, and interest of the United States in and to the Federal land (other than any easements reserved under subparagraph (G)), subject to valid existing rights.

(B) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this subsection, the Secretary shall carry out the land exchange under this subsection in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(C) CONDITIONS ON ACCEPTANCE.—

(i) TITLE.—As a condition of the land exchange under this subsection, title to the non-Federal land to be acquired by the Secretary under this subsection shall be acceptable to the Secretary.

(ii) TERMS AND CONDITIONS.—The conveyance of the Federal land and non-Federal land shall be subject to such terms and conditions as the Secretary may require.

(D) APPRAISALS.—

(i) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary and Mt. Hood Meadows shall select an appraiser to conduct an appraisal of the Federal land and non-Federal land.

(ii) REQUIREMENTS.—An appraisal under clause (i) shall be conducted in accordance with nationally recognized appraisal standards, including—

(I) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(II) the Uniform Standards of Professional Appraisal Practice.

(E) SURVEYS.—

(i) IN GENERAL.—The exact acreage and legal description of the Federal land and non-Federal land shall be determined by surveys approved by the Secretary.

(ii) COSTS.—The responsibility for the costs of any surveys conducted under clause (i), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and Mt. Hood Meadows.

(F) DEADLINE FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under this subsection shall be completed not later than 16 months after the date of enactment of this Act.

(G) RESERVATION OF EASEMENTS.—As a condition of the conveyance of the Federal land, the Secretary shall reserve—

(i) a conservation easement to the Federal land to protect existing wetland, as identified by the Oregon Department of State Lands, that allows equivalent wetland mitigation measures to compensate for minor wetland encroachments necessary for the orderly development of the Federal land; and

(ii) a trail easement to the Federal land that allows—

(I) nonmotorized use by the public of existing trails;

(II) roads, utilities, and infrastructure facilities to cross the trails; and

(III) improvement or relocation of the trails to accommodate development of the Federal land.

(b) PORT OF CASCADE LOCKS LAND EXCHANGE.—

(1) DEFINITIONS.—In this subsection:

(A) EXCHANGE MAP.—The term ''exchange map'' means the map entitled ''Port of Cascade Locks/Pacific Crest National Scenic Trail Land Exchange'', dated June 2006.

(B) FEDERAL LAND.—The term ''Federal land'' means the parcel of land consisting of approximately 10 acres of National Forest System land in the Columbia River Gorge National Scenic Area identified as ''USFS Land to be conveyed'' on the exchange map.

(C) NON-FEDERAL LAND.—The term ''non-Federal land'' means the parcels of land consisting of approximately 40 acres identified as ''Land to be acquired by USFS'' on the exchange map.

(D) PORT.—The term ''Port'' means the Port of Cascade Locks, Cascade Locks, Oregon.

(2) LAND EXCHANGE, PORT OF CASCADE LOCKS-PACIFIC CREST NATIONAL SCENIC TRAIL.—

(A) CONVEYANCE OF LAND.—Subject to the provisions of this subsection, if the Port offers to convey to the United States all right, title, and interest of the Port in and to the non-Federal land, the Secretary shall, subject to valid existing rights, convey to the Port all right, title, and interest of the United States in and to the Federal land.

(B) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this subsection, the Secretary shall carry out the land exchange under this subsection in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(3) CONDITIONS ON ACCEPTANCE.—

(A) TITLE.—As a condition of the land exchange under this subsection, title to the non-Federal land to be acquired by the Secretary under this subsection shall be acceptable to the Secretary.

(B) TERMS AND CONDITIONS.—The conveyance of the Federal land and non-Federal land shall be subject to such terms and conditions as the Secretary may require.

(4) APPRAISALS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall select an appraiser to conduct an appraisal of the Federal land and non-Federal land.

(B) REQUIREMENTS.—An appraisal under subparagraph (A) shall be conducted in accordance with nationally recognized appraisal standards, including—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(5) SURVEYS.—

(A) IN GENERAL.—The exact acreage and legal description of the Federal land and non-Federal land shall be determined by surveys approved by the Secretary.

(B) COSTS.—The responsibility for the costs of any surveys conducted under subparagraph (A), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and the Port.

(6) DEADLINE FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under this subsection shall be completed not later than 16 months after the date of enactment of this Act.

(c) HUNCHBACK MOUNTAIN LAND EXCHANGE AND BOUNDARY ADJUSTMENT.—

(1) DEFINITIONS.—In this subsection:

(A) COUNTY.—The term ''County'' means Clackamas County, Oregon.

(B) EXCHANGE MAP.—The term ''exchange map'' means the map entitled ''Hunchback Mountain Land Exchange, Clackamas County'', dated June 2006.

(C) FEDERAL LAND.—The term ''Federal land'' means the parcel of land consisting of approximately 160 acres of National Forest System land in the Mount Hood National Forest identified as ''USFS Land to be Conveyed'' on the exchange map.

(D) NON-FEDERAL LAND.—The term ''non-Federal land'' means the parcel of land consisting of approximately 160 acres identified as ''Land to be acquired by USFS'' on the exchange map.

(2) HUNCHBACK MOUNTAIN LAND EXCHANGE.—

(A) CONVEYANCE OF LAND.—Subject to the provisions of this paragraph, if the County offers to convey to the United States all right, title, and interest of the County in and to the non-Federal land, the Secretary shall, subject to valid existing rights, convey to the County all right, title, and interest of the United States in and to the Federal land.

(B) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this paragraph, the Secretary shall carry out the land exchange under this paragraph in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(C) CONDITIONS ON ACCEPTANCE.—

(i) TITLE.—As a condition of the land exchange under this paragraph, title to the non-Federal land to be acquired by the Secretary under this paragraph shall be acceptable to the Secretary.

(ii) TERMS AND CONDITIONS.—The conveyance of the Federal land and non-Federal land shall be subject to such terms and conditions as the Secretary may require.

(D) APPRAISALS.—

(i) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall select an appraiser to conduct an appraisal of the Federal land and non-Federal land.

(ii) REQUIREMENTS.—An appraisal under clause (i) shall be conducted in accordance with nationally recognized appraisal standards, including—

(I) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(II) the Uniform Standards of Professional Appraisal Practice.

(E) SURVEYS.—

(i) IN GENERAL.—The exact acreage and legal description of the Federal land and non-Federal land shall be determined by surveys approved by the Secretary.

(ii) COSTS.—The responsibility for the costs of any surveys conducted under clause (i), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and the County.

(F) DEADLINE FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under this paragraph shall be completed not later than 16 months after the date of enactment of this Act.

(3) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—The boundary of the Mount Hood National Forest shall be adjusted to incorporate—

(i) any land conveyed to the United States under paragraph (2); and

(ii) the land transferred to the Forest Service by section 1204(h)(1).

(B) ADDITIONS TO THE NATIONAL FOREST SYSTEM.—The Secretary shall administer the land described in subparagraph (A)—

(i) in accordance with—

(I) the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 480 et seq.); and

(II) any laws (including regulations) applicable to the National Forest System; and

(ii) subject to sections 1202(c)(3) and 1204(d), as applicable.

(C) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Mount Hood National Forest modified by this paragraph shall be considered to be the boundaries of the Mount Hood National Forest in existence as of January 1, 1965.

(d) CONDITIONS ON DEVELOPMENT OF FEDERAL LAND.—

(1) REQUIREMENTS APPLICABLE TO THE CONVEYANCE OF FEDERAL LAND.—

(A) IN GENERAL.—As a condition of each of the conveyances of Federal land under this section, the Secretary shall include in the deed of conveyance a requirement that applicable construction activities and alterations shall be conducted in accordance with—

(i) nationally recognized building and property maintenance codes; and

(ii) nationally recognized codes for development in the wildland-urban interface and wildfire hazard mitigation.

(B) APPLICABLE LAW.—To the maximum extent practicable, the codes required under subparagraph (A) shall be consistent with the nationally recognized codes adopted or referenced by the State or political subdivisions of the State.

(C) ENFORCEMENT.—The requirements under subparagraph (A) may be enforced by the same entities otherwise enforcing codes, ordinances, and standards.

(2) COMPLIANCE WITH CODES ON FEDERAL LAND.—The Secretary shall ensure that applicable construction activities and alterations undertaken or permitted by the Secretary on National Forest System land in the Mount Hood National Forest are conducted in accordance with—

(A) nationally recognized building and property maintenance codes; and

(B) nationally recognized codes for development in the wildland-urban interface development and wildfire hazard mitigation.

(3) EFFECT ON ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS.—Nothing in this subsection alters or limits the power of the State or a political subdivision of the State to implement or enforce any law (including regulations), rule, or standard relating to development or fire prevention and control.

SEC. 1207. TRIBAL PROVISIONS; PLANNING AND STUDIES.

(a) TRANSPORTATION PLAN.—

(1) IN GENERAL.—The Secretary shall seek to participate in the development of an integrated, multimodal transportation plan developed by the Oregon Department of Transportation for the Mount Hood region to achieve comprehensive solutions to transportation challenges in the Mount Hood region—

(A) to promote appropriate economic development;

(B) to preserve the landscape of the Mount Hood region; and

(C) to enhance public safety.

(2) ISSUES TO BE ADDRESSED.—In participating in the development of the transportation plan under paragraph (1), the Secretary shall seek to address—

(A) transportation alternatives between and among recreation areas and gateway communities that are located within the Mount Hood region;

(B) establishing park-and-ride facilities that shall be located at gateway communities;

(C) establishing intermodal transportation centers to link public transportation, parking, and recreation destinations;

(D) creating a new interchange on Oregon State Highway 26 located adjacent to or within Government Camp;

(E) designating, maintaining, and improving alternative routes using Forest Service or State roads for—

(i) providing emergency routes; or

(ii) improving access to, and travel within, the Mount Hood region;

(F) the feasibility of establishing—

(i) a gondola connection that—

(I) connects Timberline Lodge to Government Camp; and

(II) is located in close proximity to the site of the historic gondola corridor; and

(ii) an intermodal transportation center to be located in close proximity to Government Camp;

(G) burying power lines located in, or adjacent to, the Mount Hood National Forest along Interstate 84 near the City of Cascade Locks, Oregon; and

(H) creating mechanisms for funding the implementation of the transportation plan under paragraph (1), including—

(i) funds provided by the Federal Government;

(ii) public-private partnerships;

(iii) incremental tax financing; and

(iv) other financing tools that link transportation infrastructure improvements with development.

(b) MOUNT HOOD NATIONAL FOREST STEWARDSHIP STRATEGY.—

(1) IN GENERAL.—The Secretary shall prepare a report on, and implementation schedule for, the vegetation management strategy (including recommendations for biomass utilization) for the Mount Hood National Forest being developed by the Forest Service.

(2) SUBMISSION TO CONGRESS.—

(A) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(B) IMPLEMENTATION SCHEDULE.—Not later than 1 year after the date on which the vegetation management strategy referred to in paragraph (1) is completed, the Secretary shall submit the implementation schedule to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(c) LOCAL AND TRIBAL RELATIONSHIPS.—

(1) MANAGEMENT PLAN.—

(A) IN GENERAL.—The Secretary, in consultation with Indian tribes with treaty-reserved gathering rights on land encompassed by the Mount Hood National Forest and in a manner consistent with the memorandum of understanding entered into between the Department of Agriculture, the Bureau of Land Management, the Bureau of Indian Affairs, and the Confederated Tribes and Bands of the Warm Springs Reservation of Oregon, dated April 25, 2003, as modified, shall develop and implement a management plan that meets the cultural foods obligations of the United States under applicable treaties, including the Treaty with the Tribes and Bands of Middle Oregon of June 25, 1855 (12 Stat. 963).

(B) EFFECT.—This paragraph shall be considered to be consistent with, and is intended to help implement, the gathering rights reserved by the treaty described in subparagraph (A).

(2) SAVINGS PROVISIONS REGARDING RELATIONS WITH INDIAN TRIBES.—

(A) TREATY RIGHTS.—Nothing in this subtitle alters, modifies, enlarges, diminishes, or abrogates the treaty rights of any Indian tribe, including the off-reservation reserved rights secured by the Treaty with the Tribes and Bands of Middle Oregon of June 25, 1855 (12 Stat. 963).

(B) TRIBAL LAND.—Nothing in this subtitle affects land held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other land acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes.

(d) RECREATIONAL USES.—

(1) MOUNT HOOD NATIONAL FOREST RECREATIONAL WORKING GROUP.—The Secretary may establish a working group for the purpose of providing advice and recommendations to the Forest Service on planning and implementing recreation enhancements in the Mount Hood National Forest.

(2) CONSIDERATION OF CONVERSION OF FOREST ROADS TO RECREATIONAL USES.—In considering a Forest Service road in the Mount Hood National Forest for possible closure and decommissioning after the date of enactment of this Act, the Secretary, in accordance with applicable law, shall consider, as an alternative to decommissioning the road, converting the road to recreational uses to enhance recreational opportunities in the Mount Hood National Forest.

(3) IMPROVED TRAIL ACCESS FOR PERSONS WITH DISABILITIES.—The Secretary, in consultation with the public, may design and construct a trail at a location selected by the Secretary in Mount Hood National Forest suitable for use by persons with disabilities.

Subtitle D—Copper Salmon Wilderness, Oregon

SEC. 1301. DESIGNATION OF THE COPPER SALMON WILDERNESS.

(a) DESIGNATION.—Section 3 of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–328) is amended—

(1) in the matter preceding paragraph (1), by striking ''eight hundred fifty-nine thousand six hundred acres'' and inserting ''873,300 acres'';

(2) in paragraph (29), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(30) certain land in the Siskiyou National Forest, comprising approximately 13,700 acres, as generally depicted on the map entitled 'Proposed Copper Salmon Wilderness Area' and dated December 7, 2007, to be known as the 'Copper Salmon Wilderness'.''.

(b) MAPS AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture (referred to in this subtitle as the ''Secretary'') shall file a map and a legal description of the Copper Salmon Wilderness with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the map and legal description.

(3) BOUNDARY.—If the boundary of the Copper Salmon Wilderness shares a border with a road, the Secretary may only establish an offset that is not more than 150 feet from the centerline of the road.

(4) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

SEC. 1302. WILD AND SCENIC RIVER DESIGNATIONS, ELK RIVER, OREGON.

Section 3(a)(76) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(76)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''19-mile segment'' and inserting ''29-mile segment'';

(2) in subparagraph (A), by striking ''; and'' and inserting a period; and

(3) by striking subparagraph (B) and inserting the following:

''(B)(i) The approximately 0.6-mile segment of the North Fork Elk from its source in sec. 21, T. 33 S., R. 12 W., Willamette Meridian, downstream to 0.01 miles below Forest Service Road 3353, as a scenic river.

''(ii) The approximately 5.5-mile segment of the North Fork Elk from 0.01 miles below Forest Service Road 3353 to its confluence with the South Fork Elk, as a wild river.

''(C)(i) The approximately 0.9-mile segment of the South Fork Elk from its source in the southeast quarter of sec. 32, T. 33 S., R. 12 W., Willamette Meridian, downstream to 0.01 miles below Forest Service Road 3353, as a scenic river.

''(ii) The approximately 4.2-mile segment of the South Fork Elk from 0.01 miles below Forest Service Road 3353 to its confluence with the North Fork Elk, as a wild river.''.

SEC. 1303. PROTECTION OF TRIBAL RIGHTS.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as diminishing any right of any Indian tribe.

(b) MEMORANDUM OF UNDERSTANDING.—The Secretary shall seek to enter into a memorandum of understanding with the Coquille Indian Tribe regarding access to the Copper Salmon Wilderness to conduct historical and cultural activities.

Subtitle E—Cascade-Siskiyou National Monument, Oregon

SEC. 1401. DEFINITIONS.

In this subtitle:

(1) BOX R RANCH LAND EXCHANGE MAP.—The term ''Box R Ranch land exchange map'' means the map entitled ''Proposed Rowlett Land Exchange'' and dated June 13, 2006.

(2) BUREAU OF LAND MANAGEMENT LAND.—The term ''Bureau of Land Management land'' means the approximately 40 acres of land administered by the Bureau of Land Management identified as ''Rowlett Selected'', as generally depicted on the Box R Ranch land exchange map.

(3) DEERFIELD LAND EXCHANGE MAP.—The term ''Deerfield land exchange map'' means the map entitled ''Proposed Deerfield-BLM Property Line Adjustment'' and dated May 1, 2008.

(4) DEERFIELD PARCEL.—The term ''Deerfield parcel'' means the approximately 1.5 acres of land identified as ''From Deerfield to BLM'', as generally depicted on the Deerfield land exchange map.

(5) FEDERAL PARCEL.—The term ''Federal parcel'' means the approximately 1.3 acres of land administered by the Bureau of Land Management identified as ''From BLM to Deerfield'', as generally depicted on the Deerfield land exchange map.

(6) GRAZING ALLOTMENT.—The term ''grazing allotment'' means any of the Box R, Buck Lake, Buck Mountain, Buck Point, Conde Creek, Cove Creek, Cove Creek Ranch, Deadwood, Dixie, Grizzly, Howard Prairie, Jenny Creek, Keene Creek, North Cove Creek, and Soda Mountain grazing allotments in the State.

(7) GRAZING LEASE.—The term ''grazing lease'' means any document authorizing the use of a grazing allotment for the purpose of grazing livestock for commercial purposes.

(8) LANDOWNER.—The term ''Landowner'' means the owner of the Box R Ranch in the State.

(9) LESSEE.—The term ''lessee'' means a livestock operator that holds a valid existing grazing lease for a grazing allotment.

(10) LIVESTOCK.—The term ''livestock'' does not include beasts of burden used for recreational purposes.

(11) MONUMENT.—The term ''Monument'' means the Cascade-Siskiyou National Monument in the State.

(12) ROWLETT PARCEL.—The term ''Rowlett parcel'' means the parcel of approximately 40 acres of private land identified as ''Rowlett Offered'', as generally depicted on the Box R Ranch land exchange map.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(14) STATE.—The term ''State'' means the State of Oregon.

(15) WILDERNESS.—The term ''Wilderness'' means the Soda Mountain Wilderness designated by section 1405(a).

(16) WILDERNESS MAP.—The term ''wilderness map'' means the map entitled ''Soda Mountain Wilderness'' and dated May 5, 2008.

SEC. 1402. VOLUNTARY GRAZING LEASE DONATION PROGRAM.

(a) EXISTING GRAZING LEASES.—

(1) DONATION OF LEASE.—

(A) ACCEPTANCE BY SECRETARY.—The Secretary shall accept any grazing lease that is donated by a lessee.

(B) TERMINATION.—The Secretary shall terminate any grazing lease acquired under subparagraph (A).

(C) NO NEW GRAZING LEASE.—Except as provided in paragraph (3), with respect to each grazing lease donated under subparagraph (A), the Secretary shall—

(i) not issue any new grazing lease within the grazing allotment covered by the grazing lease; and

(ii) ensure a permanent end to livestock grazing on the grazing allotment covered by the grazing lease.

(2) DONATION OF PORTION OF GRAZING LEASE.—

(A) IN GENERAL.—A lessee with a grazing lease for a grazing allotment partially within the Monument may elect to donate only that portion of the grazing lease that is within the Monument.

(B) ACCEPTANCE BY SECRETARY.—The Secretary shall accept the portion of a grazing lease that is donated under subparagraph (A).

(C) MODIFICATION OF LEASE.—Except as provided in paragraph (3), if a lessee donates a portion of a grazing lease under subparagraph (A), the Secretary shall—

(i) reduce the authorized grazing level and area to reflect the donation; and

(ii) modify the grazing lease to reflect the reduced level and area of use.

(D) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the level and area of livestock grazing on the land covered by a portion of a grazing lease donated under subparagraph (A), the Secretary shall not allow grazing to exceed the authorized level and area established under subparagraph (C).

(3) COMMON ALLOTMENTS.—

(A) IN GENERAL.—If a grazing allotment covered by a grazing lease or portion of a grazing lease that is donated under paragraph (1) or (2) also is covered by another grazing lease that is not donated, the Secretary shall reduce the grazing level on the grazing allotment to reflect the donation.

(B) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the level of livestock grazing on the land covered by the grazing lease or portion of a grazing lease donated under paragraph (1) or (2), the Secretary shall not allow grazing to exceed the level established under subparagraph (A).

(b) LIMITATIONS.—The Secretary—

(1) with respect to the Agate, Emigrant Creek, and Siskiyou allotments in and near the Monument—

(A) shall not issue any grazing lease; and

(B) shall ensure a permanent end to livestock grazing on each allotment; and

(2) shall not establish any new allotments for livestock grazing that include any Monument land (whether leased or not leased for grazing on the date of enactment of this Act).

(c) EFFECT OF DONATION.—A lessee who donates a grazing lease or a portion of a grazing lease under this section shall be considered to have waived any claim to any range improvement on the associated grazing allotment or portion of the associated grazing allotment, as applicable.

SEC. 1403. BOX R RANCH LAND EXCHANGE.

(a) IN GENERAL.—For the purpose of protecting and consolidating Federal land within the Monument, the Secretary—

(1) may offer to convey to the Landowner the Bureau of Land Management land in exchange for the Rowlett parcel; and

(2) if the Landowner accepts the offer—

(A) the Secretary shall convey to the Landowner all right, title, and interest of the United States in and to the Bureau of Land Management land; and

(B) the Landowner shall convey to the Secretary all right, title, and interest of the Landowner in and to the Rowlett parcel.

(b) SURVEYS.—

(1) IN GENERAL.—The exact acreage and legal description of the Bureau of Land Management land and the Rowlett parcel shall be determined by surveys approved by the Secretary.

(2) COSTS.—The responsibility for the costs of any surveys conducted under paragraph (1), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and the Landowner.

(c) CONDITIONS.—The conveyance of the Bureau of Land Management land and the Rowlett parcel under this section shall be subject to—

(1) valid existing rights;

(2) title to the Rowlett parcel being acceptable to the Secretary and in conformance with the title approval standards applicable to Federal land acquisitions;

(3) such terms and conditions as the Secretary may require; and

(4) except as otherwise provided in this section, any laws (including regulations) applicable to the conveyance and acquisition of land by the Bureau of Land Management.

(d) APPRAISALS.—

(1) IN GENERAL.—The Bureau of Land Management land and the Rowlett parcel shall be appraised by an independent appraiser selected by the Secretary.

(2) REQUIREMENTS.—An appraisal conducted under paragraph (1) shall be conducted in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisition; and

(B) the Uniform Standards of Professional Appraisal Practice.

(3) APPROVAL.—The appraisals conducted under this subsection shall be submitted to the Secretary for approval.

(e) GRAZING ALLOTMENT.—As a condition of the land exchange authorized under this section, the lessee of the grazing lease for the Box R grazing allotment shall donate the Box R grazing lease in accordance with section 1402(a)(1).

SEC. 1404. DEERFIELD LAND EXCHANGE.

(a) IN GENERAL.—For the purpose of protecting and consolidating Federal land within the Monument, the Secretary—

(1) may offer to convey to Deerfield Learning Associates the Federal parcel in exchange for the Deerfield parcel; and

(2) if Deerfield Learning Associates accepts the offer—

(A) the Secretary shall convey to Deerfield Learning Associates all right, title, and interest of the United States in and to the Federal parcel; and

(B) Deerfield Learning Associates shall convey to the Secretary all right, title, and interest of Deerfield Learning Associates in and to the Deerfield parcel.

(b) SURVEYS.—

(1) IN GENERAL.—The exact acreage and legal description of the Federal parcel and the Deerfield parcel shall be determined by surveys approved by the Secretary.

(2) COSTS.—The responsibility for the costs of any surveys conducted under paragraph (1), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and Deerfield Learning Associates.

(c) CONDITIONS.—

(1) IN GENERAL.—The conveyance of the Federal parcel and the Deerfield parcel under this section shall be subject to—

(A) valid existing rights;

(B) title to the Deerfield parcel being acceptable to the Secretary and in conformance with the title approval standards applicable to Federal land acquisitions;

(C) such terms and conditions as the Secretary may require; and

(D) except as otherwise provided in this section, any laws (including regulations) applicable to the conveyance and acquisition of land by the Bureau of Land Management.

(d) APPRAISALS.—

(1) IN GENERAL.—The Federal parcel and the Deerfield parcel shall be appraised by an independent appraiser selected by the Secretary.

(2) REQUIREMENTS.—An appraisal conducted under paragraph (1) shall be conducted in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisition; and

(B) the Uniform Standards of Professional Appraisal Practice.

(3) APPROVAL.—The appraisals conducted under this subsection shall be submitted to the Secretary for approval.

SEC. 1405. SODA MOUNTAIN WILDERNESS.

(a) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), approximately 24,100 acres of Monument land, as generally depicted on the wilderness map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Soda Mountain Wilderness''.

(b) MAP AND LEGAL DESCRIPTION.—

(1) SUBMISSION OF MAP AND LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Wilderness with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE AND EFFECT.—

(A) IN GENERAL.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical or typographical error in the map or legal description.

(B) NOTIFICATION.—The Secretary shall submit to Congress notice of any changes made in the map or legal description under subparagraph (A), including notice of the reason for the change.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) ADMINISTRATION OF WILDERNESS.—

(1) IN GENERAL.—Subject to valid existing rights, the Wilderness shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in the Wilderness Act to the effective date of the Wilderness Act shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(2) FIRE, INSECT, AND DISEASE MANAGEMENT ACTIVITIES.—Except as provided by Presidential Proclamation Number 7318, dated June 9, 2000 (65 Fed. Reg. 37247), within the wilderness areas designated by this subtitle, the Secretary may take such measures in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) as are necessary to control fire, insects, and diseases, subject to such terms and conditions as the Secretary determines to be desirable and appropriate.

(3) LIVESTOCK.—Except as provided in section 1402 and by Presidential Proclamation Number 7318, dated June 9, 2000 (65 Fed. Reg. 37247), the grazing of livestock in the Wilderness, if established before the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as are considered necessary by the Secretary in accordance with—

(A) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(B) the guidelines set forth in Appendix A of the report of the Committee on Interior

and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(4) FISH AND WILDLIFE MANAGEMENT.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subtitle affects the jurisdiction of the State with respect to fish and wildlife on public land in the State.

(5) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundary of the Wilderness that is acquired by the United States shall—

(A) become part of the Wilderness; and

(B) be managed in accordance with this subtitle, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

SEC. 1406. EFFECT.

Nothing in this subtitle—

(1) affects the authority of a Federal agency to modify or terminate grazing permits or leases, except as provided in section 1402;

(2) authorizes the use of eminent domain;

(3) creates a property right in any grazing permit or lease on Federal land;

(4) establishes a precedent for future grazing permit or lease donation programs; or

(5) affects the allocation, ownership, interest, or control, in existence on the date of enactment of this Act, of any water, water right, or any other valid existing right held by the United States, an Indian tribe, a State, or a private individual, partnership, or corporation.

Subtitle F—Owyhee Public Land Management

SEC. 1501. DEFINITIONS.

In this subtitle:

(1) ACCOUNT.—The term ''account'' means the Owyhee Land Acquisition Account established by section 1505(b)(1).

(2) COUNTY.—The term ''County'' means Owyhee County, Idaho.

(3) OWYHEE FRONT.—The term ''Owyhee Front'' means the area of the County from Jump Creek on the west to Mud Flat Road on the east and draining north from the crest of the Silver City Range to the Snake River.

(4) PLAN.—The term ''plan'' means a travel management plan for motorized and mechanized off-highway vehicle recreation prepared under section 1507.

(5) PUBLIC LAND.—The term ''public land'' has the meaning given the term in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STATE.—The term ''State'' means the State of Idaho.

(8) TRIBES.—The term ''Tribes'' means the Shoshone Paiute Tribes of the Duck Valley Reservation.

SEC. 1502. OWYHEE SCIENCE REVIEW AND CONSERVATION CENTER.

(a) ESTABLISHMENT.—The Secretary, in coordination with the Tribes, State, and County, and in consultation with the University of Idaho, Federal grazing permittees, and public, shall establish the Owyhee Science Review and Conservation Center in the County to conduct research projects to address natural resources management issues affecting public and private rangeland in the County.

(b) PURPOSE.—The purpose of the center established under subsection (a) shall be to facilitate the collection and analysis of information to provide Federal and State agencies, the Tribes, the County, private landowners, and the public with information on improved rangeland management.

SEC. 1503. WILDERNESS AREAS.

(a) WILDERNESS AREAS DESIGNATION.—

(1) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(A) BIG JACKS CREEK WILDERNESS.—Certain land comprising approximately 52,826 acres, as generally depicted on the map entitled ''Little Jacks Creek and Big Jacks Creek Wilderness'' and dated May 5, 2008, which shall be known as the ''Big Jacks Creek Wilderness''.

(B) BRUNEAU-JARBIDGE RIVERS WILDERNESS.—Certain land comprising approximately 89,996 acres, as generally depicted on the map entitled ''Bruneau-Jarbidge Rivers Wilderness'' and dated May 5, 2008, which shall be known as the ''Bruneau-Jarbidge Rivers Wilderness''.

(C) LITTLE JACKS CREEK WILDERNESS.—Certain land comprising approximately 50,929 acres, as generally depicted on the map entitled ''Little Jacks Creek and Big Jacks Creek Wilderness'' and dated May 5, 2008, which shall be known as the ''Little Jacks Creek Wilderness''.

(D) NORTH FORK OWYHEE WILDERNESS.—Certain land comprising approximately 43,413 acres, as generally depicted on the map entitled ''North Fork Owyhee and Pole Creek Wilderness'' and dated May 5, 2008, which shall be known as the ''North Fork Owyhee Wilderness''.

(E) OWYHEE RIVER WILDERNESS.—Certain land comprising approximately 267,328 acres, as generally depicted on the map entitled ''Owyhee River Wilderness'' and dated May 5, 2008, which shall be known as the ''Owyhee River Wilderness''.

(F) POLE CREEK WILDERNESS.—Certain land comprising approximately 12,533 acres, as generally depicted on the map entitled ''North Fork Owyhee and Pole Creek Wilderness'' and dated May 5, 2008, which shall be known as the ''Pole Creek Wilderness''.

(2) MAPS AND LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a map and legal description for each area designated as wilderness by this subtitle.

(B) EFFECT.—Each map and legal description submitted under subparagraph (A) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct minor errors in the map or legal description.

(C) AVAILABILITY.—Each map and legal description submitted under subparagraph (A) shall be available in the appropriate offices of the Bureau of Land Management.

(3) RELEASE OF WILDERNESS STUDY AREAS.—

(A) IN GENERAL.—Congress finds that, for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land in the County administered by the Bureau of Land Management has been adequately studied for wilderness designation.

(B) RELEASE.—Any public land referred to in subparagraph (A) that is not designated as wilderness by this subtitle—

(i) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(ii) shall be managed in accordance with the applicable land use plan adopted under section 202 of that Act (43 U.S.C. 1712).

(b) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, each area designated as wilderness by this subtitle shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(2) WITHDRAWAL.—Subject to valid existing rights, the Federal land designated as wilderness by this subtitle is withdrawn from all forms of—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under the mineral leasing, mineral materials, and geothermal leasing laws.

(3) LIVESTOCK.—

(A) IN GENERAL.—In the wilderness areas designated by this subtitle, the grazing of livestock in areas in which grazing is established as of the date of enactment of this Act shall be allowed to continue, subject to such reasonable regulations, policies, and practices as the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines described in Appendix A of House Report 101–405.

(B) INVENTORY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct an inventory of existing facilities and improvements associated with grazing activities in the wilderness areas and wild and scenic rivers designated by this subtitle.

(C) FENCING.—The Secretary may construct and maintain fencing around wilderness areas designated by this subtitle as the Secretary determines to be appropriate to enhance wilderness values.

(D) DONATION OF GRAZING PERMITS OR LEASES.—

(i) ACCEPTANCE BY SECRETARY.—The Secretary shall accept the donation of any valid existing permits or leases authorizing grazing on public land, all or a portion of which is within the wilderness areas designated by this subtitle.

(ii) TERMINATION.—With respect to each permit or lease donated under clause (i), the Secretary shall—

(I) terminate the grazing permit or lease; and

(II) except as provided in clause (iii), ensure a permanent end to grazing on the land covered by the permit or lease.

(iii) COMMON ALLOTMENTS.—

(I) IN GENERAL.—If the land covered by a permit or lease donated under clause (i) is also covered by another valid existing permit or lease that is not donated under clause (i), the Secretary shall reduce the authorized grazing level on the land covered by the permit or lease to reflect the donation of the permit or lease under clause (i).

(II) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the level of grazing on the land covered by a permit or lease donated under clause (i), the Secretary shall not allow grazing use to exceed the authorized level established under subclause (I).

(iv) PARTIAL DONATION.—

(I) IN GENERAL.—If a person holding a valid grazing permit or lease donates less than the full amount of grazing use authorized under the permit or lease, the Secretary shall—

(aa) reduce the authorized grazing level to reflect the donation; and

(bb) modify the permit or lease to reflect the revised level of use.

(II) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the authorized level of grazing on the land covered by a permit or lease donated under subclause (I), the Secretary shall not allow grazing use

to exceed the authorized level established under that subclause.

(4) ACQUISITION OF LAND AND INTERESTS IN LAND.—

(A) IN GENERAL.—Consistent with applicable law, the Secretary may acquire land or interests in land within the boundaries of the wilderness areas designated by this subtitle by purchase, donation, or exchange.

(B) INCORPORATION OF ACQUIRED LAND.—Any land or interest in land in, or adjoining the boundary of, a wilderness area designated by this subtitle that is acquired by the United States shall be added to, and administered as part of, the wilderness area in which the acquired land or interest in land is located.

(5) TRAIL PLAN.—

(A) IN GENERAL.—The Secretary, after providing opportunities for public comment, shall establish a trail plan that addresses hiking and equestrian trails on the land designated as wilderness by this subtitle, in a manner consistent with the Wilderness Act (16 U.S.C. 1131 et seq.).

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the implementation of the trail plan.

(6) OUTFITTING AND GUIDE ACTIVITIES.—Consistent with section 4(d)(5) of the Wilderness Act (16 U.S.C. 1133(d)(5)), commercial services (including authorized outfitting and guide activities) are authorized in wilderness areas designated by this subtitle to the extent necessary for activities that fulfill the recreational or other wilderness purposes of the areas.

(7) ACCESS TO PRIVATE PROPERTY.—In accordance with section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)), the Secretary shall provide any owner of private property within the boundary of a wilderness area designated by this subtitle adequate access to the property.

(8) FISH AND WILDLIFE.—

(A) IN GENERAL.—Nothing in this subtitle affects the jurisdiction of the State with respect to fish and wildlife on public land in the State.

(B) MANAGEMENT ACTIVITIES.—

(i) IN GENERAL.—In furtherance of the purposes and principles of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may conduct any management activities that are necessary to maintain or restore fish and wildlife populations and habitats in the wilderness areas designated by this subtitle, if the management activities are—

(I) consistent with relevant wilderness management plans; and

(II) conducted in accordance with appropriate policies, such as the policies established in Appendix B of House Report 101–405.

(ii) INCLUSIONS.—Management activities under clause (i) may include the occasional and temporary use of motorized vehicles, if the use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values while causing the minimum impact necessary to accomplish those tasks.

(C) EXISTING ACTIVITIES.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and in accordance with appropriate policies, such as those established in Appendix B of House Report 101–405, the State may use aircraft (including helicopters) in the wilderness areas designated by this subtitle to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, feral horses, and feral burros.

(9) WILDFIRE, INSECT, AND DISEASE MANAGEMENT.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the Secretary may take any measures that the Secretary determines to be necessary to control fire, insects, and diseases, including, as the Secretary determines appropriate, the coordination of those activities with a State or local agency.

(10) ADJACENT MANAGEMENT.—

(A) IN GENERAL.—The designation of a wilderness area by this subtitle shall not create any protective perimeter or buffer zone around the wilderness area.

(B) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area designated by this subtitle shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

(11) MILITARY OVERFLIGHTS.—Nothing in this subtitle restricts or precludes—

(A) low-level overflights of military aircraft over the areas designated as wilderness by this subtitle, including military overflights that can be seen or heard within the wilderness areas;

(B) flight testing and evaluation; or

(C) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

(12) WATER RIGHTS.—

(A) IN GENERAL.—The designation of areas as wilderness by subsection (a) shall not create an express or implied reservation by the United States of any water or water rights for wilderness purposes with respect to such areas.

(B) EXCLUSIONS.—This paragraph does not apply to any components of the National Wild and Scenic Rivers System designated by section 1504.

SEC. 1504. DESIGNATION OF WILD AND SCENIC RIVERS.

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 1203(a)(1)) is amended by adding at the end the following:

''(180) BATTLE CREEK, IDAHO.—The 23.4 miles of Battle Creek from the confluence of the Owyhee River to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(181) BIG JACKS CREEK, IDAHO.—The 35.0 miles of Big Jacks Creek from the downstream border of the Big Jacks Creek Wilderness in sec. 8, T. 8 S., R. 4 E., to the point at which it enters the NW ¼ of sec. 26, T. 10 S., R. 2 E., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

''(182) BRUNEAU RIVER, IDAHO.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the 39.3-mile segment of the Bruneau River from the downstream boundary of the Bruneau-Jarbidge Wilderness to the upstream confluence with the west fork of the Bruneau River, to be administered by the Secretary of the Interior as a wild river.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the 0.6-mile segment of the Bruneau River at the Indian Hot Springs public road access shall be administered by the Secretary of the Interior as a recreational river.

''(183) WEST FORK BRUNEAU RIVER, IDAHO.—The approximately 0.35 miles of the West Fork of the Bruneau River from the confluence with the Jarbidge River to the downstream boundary of the Bruneau Canyon Grazing Allotment in the SE/NE of sec. 5, T. 13 S., R. 7 E., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

''(184) COTTONWOOD CREEK, IDAHO.—The 2.6 miles of Cottonwood Creek from the confluence with Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(185) DEEP CREEK, IDAHO.—The 13.1-mile segment of Deep Creek from the confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness in sec. 30, T. 12 S., R. 2 W., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

''(186) DICKSHOOTER CREEK, IDAHO.—The 9.25 miles of Dickshooter Creek from the confluence with Deep Creek to a point on the stream ¼ mile due west of the east boundary of sec. 16, T. 12 S., R. 2 W., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

''(187) DUNCAN CREEK, IDAHO.—The 0.9-mile segment of Duncan Creek from the confluence with Big Jacks Creek upstream to the east boundary of sec. 18, T. 10 S., R. 4 E., Boise Meridian, to be administered by the Secretary of the Interior as a wild river.

''(188) JARBIDGE RIVER, IDAHO.—The 28.8 miles of the Jarbidge River from the confluence with the West Fork Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(189) LITTLE JACKS CREEK, IDAHO.—The 12.4 miles of Little Jacks Creek from the downstream boundary of the Little Jacks Creek Wilderness, upstream to the mouth of OX Prong Creek, to be administered by the Secretary of the Interior as a wild river.

''(190) NORTH FORK OWYHEE RIVER, IDAHO.—The following segments of the North Fork of the Owyhee River, to be administered by the Secretary of the Interior:

''(A) The 5.7-mile segment from the Idaho-Oregon State border to the upstream boundary of the private land at the Juniper Mt. Road crossing, as a recreational river.

''(B) The 15.1-mile segment from the upstream boundary of the North Fork Owyhee River recreational segment designated in paragraph (A) to the upstream boundary of the North Fork Owyhee River Wilderness, as a wild river.

''(191) OWYHEE RIVER, IDAHO.—

''(A) IN GENERAL.—Subject to subparagraph (B), the 67.3 miles of the Owyhee River from the Idaho-Oregon State border to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(B) ACCESS.—The Secretary of the Interior shall allow for continued access across the Owyhee River at Crutchers Crossing, subject to such terms and conditions as the Secretary of the Interior determines to be necessary.

''(192) RED CANYON, IDAHO.—The 4.6 miles of Red Canyon from the confluence of the Owyhee River to the upstream boundary of the Owyhee River Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(193) SHEEP CREEK, IDAHO.—The 25.6 miles of Sheep Creek from the confluence with the Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness, to be administered by the Secretary of the Interior as a wild river.

''(194) SOUTH FORK OWYHEE RIVER, IDAHO.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the 31.4-mile segment of the South Fork of the Owyhee River upstream from the confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness at the Idaho–Nevada State border, to be administered by the Secretary of the Interior as a wild river.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the 1.2-mile segment of the South Fork of the Owyhee River from the

point at which the river enters the southernmost boundary to the point at which the river exits the northernmost boundary of private land in sec. 25 and 26, T. 14 S., R. 5 W., Boise Meridian, shall be administered by the Secretary of the Interior as a recreational river.

''(195) WICKAHONEY CREEK, IDAHO.—The 1.5 miles of Wickahoney Creek from the confluence of Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness, to be administered by the Secretary of the Interior as a wild river.''.

(b) BOUNDARIES.—Notwithstanding section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)), the boundary of a river segment designated as a component of the National Wild and Scenic Rivers System under this subtitle shall extend not more than the shorter of—

(1) an average distance of ¼ mile from the high water mark on both sides of the river segment; or

(2) the distance to the nearest confined canyon rim.

(c) LAND ACQUISITION.—The Secretary shall not acquire any private land within the exterior boundary of a wild and scenic river corridor without the consent of the owner.

SEC. 1505. LAND IDENTIFIED FOR DISPOSAL.

(a) IN GENERAL.—Consistent with applicable law, the Secretary may sell public land located within the Boise District of the Bureau of Land Management that, as of July 25, 2000, has been identified for disposal in appropriate resource management plans.

(b) USE OF PROCEEDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (other than a law that specifically provides for a proportion of the proceeds of a land sale to be distributed to any trust fund of the State), proceeds from the sale of public land under subsection (a) shall be deposited in a separate account in the Treasury of the United States to be known as the ''Owyhee Land Acquisition Account''.

(2) AVAILABILITY.—

(A) IN GENERAL.—Amounts in the account shall be available to the Secretary, without further appropriation, to purchase land or interests in land in, or adjacent to, the wilderness areas designated by this subtitle, including land identified as ''Proposed for Acquisition'' on the maps described in section 1503(a)(1).

(B) APPLICABLE LAW.—Any purchase of land or interest in land under subparagraph (A) shall be in accordance with applicable law.

(3) APPLICABILITY.—This subsection applies to public land within the Boise District of the Bureau of Land Management sold on or after January 1, 2008.

(4) ADDITIONAL AMOUNTS.—If necessary, the Secretary may use additional amounts appropriated to the Department of the Interior, subject to applicable reprogramming guidelines.

(c) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—The authority provided under this section terminates on the earlier of—

(A) the date that is 10 years after the date of enactment of this Act; or

(B) the date on which a total of $8,000,000 from the account is expended.

(2) AVAILABILITY OF AMOUNTS.—Any amounts remaining in the account on the termination of authority under this section shall be—

(A) credited as sales of public land in the State;

(B) transferred to the Federal Land Disposal Account established under section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)); and

(C) used in accordance with that subtitle.

SEC. 1506. TRIBAL CULTURAL RESOURCES.

(a) COORDINATION.—The Secretary shall coordinate with the Tribes in the implementation of the Shoshone Paiute Cultural Resource Protection Plan.

(b) AGREEMENTS.—The Secretary shall seek to enter into agreements with the Tribes to implement the Shoshone Paiute Cultural Resource Protection Plan to protect cultural sites and resources important to the continuation of the traditions and beliefs of the Tribes.

SEC. 1507. RECREATIONAL TRAVEL MANAGEMENT PLANS.

(a) IN GENERAL.—In accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Secretary shall, in coordination with the Tribes, State, and County, prepare 1 or more travel management plans for motorized and mechanized off-highway vehicle recreation for the land managed by the Bureau of Land Management in the County.

(b) INVENTORY.—Before preparing the plan under subsection (a), the Secretary shall conduct resource and route inventories of the area covered by the plan.

(c) LIMITATION TO DESIGNATED ROUTES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the plan shall limit recreational motorized and mechanized off-highway vehicle use to a system of designated roads and trails established by the plan.

(2) EXCEPTION.—Paragraph (1) shall not apply to snowmobiles.

(d) TEMPORARY LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), until the date on which the Secretary completes the plan, all recreational motorized and mechanized off-highway vehicle use shall be limited to roads and trails lawfully in existence on the day before the date of enactment of this Act.

(2) EXCEPTION.—Paragraph (1) shall not apply to—

(A) snowmobiles; or

(B) areas specifically identified as open, closed, or limited in the Owyhee Resource Management Plan.

(e) SCHEDULE.—

(1) OWYHEE FRONT.—It is the intent of Congress that, not later than 1 year after the date of enactment of this Act, the Secretary shall complete a transportation plan for the Owyhee Front.

(2) OTHER BUREAU OF LAND MANAGEMENT LAND IN THE COUNTY.—It is the intent of Congress that, not later than 3 years after the date of enactment of this Act, the Secretary shall complete a transportation plan for Bureau of Land Management land in the County outside the Owyhee Front.

SEC. 1508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle G—Sabinoso Wilderness, New Mexico

SEC. 1601. DEFINITIONS.

In this subtitle:

(1) MAP.—The term ''map'' means the map entitled ''Sabinoso Wilderness'' and dated September 8, 2008.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STATE.—The term ''State'' means the State of New Mexico.

SEC. 1602. DESIGNATION OF THE SABINOSO WILDERNESS.

(a) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 16,030 acres of land under the jurisdiction of the Taos Field Office Bureau of Land Management, New Mexico, as generally depicted on the map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Sabinoso Wilderness''.

(b) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Sabinoso Wilderness with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical and typographical errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) ADMINISTRATION OF WILDERNESS.—

(1) IN GENERAL.—Subject to valid existing rights, the Sabinoso Wilderness shall be administered by the Secretary in accordance with this subtitle and the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(2) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundary of the Sabinoso Wilderness that is acquired by the United States shall—

(A) become part of the Sabinoso Wilderness; and

(B) be managed in accordance with this subtitle and any other laws applicable to the Sabinoso Wilderness.

(3) GRAZING.—The grazing of livestock in the Sabinoso Wilderness, if established before the date of enactment of this Act, shall be administered in accordance with—

(A) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(B) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(4) FISH AND WILDLIFE.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subtitle affects the jurisdiction of the State with respect to fish and wildlife in the State.

(5) ACCESS.—

(A) IN GENERAL.—In accordance with section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)), the Secretary shall continue to allow private landowners adequate access to inholdings in the Sabinoso Wilderness.

(B) CERTAIN LAND.—For access purposes, private land within T. 16 N., R. 23 E., secs. 17 and 20 and the N½ of sec. 21, N.M.M., shall be managed as an inholding in the Sabinoso Wilderness.

(d) WITHDRAWAL.—Subject to valid existing rights, the land generally depicted on the map as ''Lands Withdrawn From Mineral Entry'' and ''Lands Released From Wilderness Study Area & Withdrawn From Mineral Entry'' is withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws, except disposal by exchange in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716);

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral materials and geothermal leasing laws.

Subtitle H—Pictured Rocks National Lakeshore Wilderness

SEC. 1651. DEFINITIONS.

In this subtitle:

(1) LINE OF DEMARCATION.—The term ''line of demarcation'' means the point on the bank or shore at which the surface waters of Lake Superior meet the land or sand beach, regardless of the level of Lake Superior.

(2) MAP.—The term ''map'' means the map entitled ''Pictured Rocks National Lakeshore Beaver Basin Wilderness Boundary'', numbered 625/80,051, and dated April 16, 2007.

(3) NATIONAL LAKESHORE.—The term ''National Lakeshore'' means the Pictured Rocks National Lakeshore.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) WILDERNESS.—The term ''Wilderness'' means the Beaver Basin Wilderness designated by section 1652(a).

SEC. 1652. DESIGNATION OF BEAVER BASIN WILDERNESS.

(a) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the land described in subsection (b) is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Beaver Basin Wilderness''.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is the land and inland water comprising approximately 11,740 acres within the National Lakeshore, as generally depicted on the map.

(c) BOUNDARY.—

(1) LINE OF DEMARCATION.—The line of demarcation shall be the boundary for any portion of the Wilderness that is bordered by Lake Superior.

(2) SURFACE WATER.—The surface water of Lake Superior, regardless of the fluctuating lake level, shall be considered to be outside the boundary of the Wilderness.

(d) MAP AND LEGAL DESCRIPTION.—

(1) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(2) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a legal description of the boundary of the Wilderness.

(3) FORCE AND EFFECT.—The map and the legal description submitted under paragraph (2) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical or typographical errors in the map and legal description.

SEC. 1653. ADMINISTRATION.

(a) MANAGEMENT.—Subject to valid existing rights, the Wilderness shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(2) with respect to land administered by the Secretary, any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(b) USE OF ELECTRIC MOTORS.—The use of boats powered by electric motors on Little Beaver and Big Beaver Lakes may continue, subject to any applicable laws (including regulations).

SEC. 1654. EFFECT.

Nothing in this subtitle—

(1) modifies, alters, or affects any treaty rights;

(2) alters the management of the water of Lake Superior within the boundary of the Pictured Rocks National Lakeshore in existence on the date of enactment of this Act; or

(3) prohibits—

(A) the use of motors on the surface water of Lake Superior adjacent to the Wilderness; or

(B) the beaching of motorboats at the line of demarcation.

Subtitle I—Oregon Badlands Wilderness

SEC. 1701. DEFINITIONS.

In this subtitle:

(1) DISTRICT.—The term ''District'' means the Central Oregon Irrigation District.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STATE.—The term ''State'' means the State of Oregon.

(4) WILDERNESS MAP.—The term ''wilderness map'' means the map entitled ''Badlands Wilderness'' and dated September 3, 2008.

SEC. 1702. OREGON BADLANDS WILDERNESS.

(a) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 29,301 acres of Bureau of Land Management land in the State, as generally depicted on the wilderness map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Oregon Badlands Wilderness''.

(b) ADMINISTRATION OF WILDERNESS.—

(1) IN GENERAL.—Subject to valid existing rights, the Oregon Badlands Wilderness shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(2) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundary of the Oregon Badlands Wilderness that is acquired by the United States shall—

(A) become part of the Oregon Badlands Wilderness; and

(B) be managed in accordance with this subtitle, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(3) GRAZING.—The grazing of livestock in the Oregon Badlands Wilderness, if established before the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as are considered necessary by the Secretary in accordance with—

(A) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(B) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(4) ACCESS TO PRIVATE PROPERTY.—In accordance with section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)), the Secretary shall provide any owner of private property within the boundary of the Oregon Badlands Wilderness adequate access to the property.

(c) POTENTIAL WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), a corridor of certain Federal land managed by the Bureau of Land Management with a width of 25 feet, as generally depicted on the wilderness map as ''Potential Wilderness'', is designated as potential wilderness.

(2) INTERIM MANAGEMENT.—The potential wilderness designated by paragraph (1) shall be managed in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that the Secretary may allow nonconforming uses that are authorized and in existence on the date of enactment of this Act to continue in the potential wilderness.

(3) DESIGNATION AS WILDERNESS.—On the date on which the Secretary publishes in the Federal Register notice that any nonconforming uses in the potential wilderness designated by paragraph (1) that are permitted under paragraph (2) have terminated, the potential wilderness shall be—

(A) designated as wilderness and as a component of the National Wilderness Preservation System; and

(B) incorporated into the Oregon Badlands Wilderness.

(d) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Oregon Badlands Wilderness with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct typographical errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 1703. RELEASE.

(a) FINDING.—Congress finds that, for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the portions of the Badlands wilderness study area that are not designated as the Oregon Badlands Wilderness or as potential wilderness have been adequately studied for wilderness or potential wilderness designation.

(b) RELEASE.—Any public land described in subsection (a) that is not designated as wilderness by this subtitle—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with the applicable land use plan adopted under section 202 of that Act (43 U.S.C. 1712).

SEC. 1704. LAND EXCHANGES.

(a) CLARNO LAND EXCHANGE.—

(1) CONVEYANCE OF LAND.—Subject to subsections (c) through (e), if the landowner offers to convey to the United States all right, title, and interest of the landowner in and to the non-Federal land described in paragraph (2)(A), the Secretary shall—

(A) accept the offer; and

(B) on receipt of acceptable title to the non-Federal land, convey to the Landowner all right, title, and interest of the United States in and to the Federal land described in paragraph (2)(B).

(2) DESCRIPTION OF LAND.—

(A) NON-FEDERAL LAND.—The non-Federal land referred to in paragraph (1) is the approximately 239 acres of non-Federal land identified on the wilderness map as ''Clarno to Federal Government''.

(B) FEDERAL LAND.—The Federal land referred to in paragraph (1)(B) is the approximately 209 acres of Federal land identified on the wilderness map as ''Federal Government to Clarno''.

(3) SURVEYS.—The exact acreage and legal description of the Federal land and non-Federal land described in paragraph (2) shall be determined by surveys approved by the Secretary.

(b) DISTRICT EXCHANGE.—

(1) CONVEYANCE OF LAND.—Subject to subsections (c) through (e), if the District offers to convey to the United States all right, title, and interest of the District in and to the non-Federal land described in paragraph (2)(A), the Secretary shall—

(A) accept the offer; and

(B) on receipt of acceptable title to the non-Federal land, convey to the District all right, title, and interest of the United States in and to the Federal land described in paragraph (2)(B).

(2) DESCRIPTION OF LAND.—

(A) NON-FEDERAL LAND.—The non-Federal land referred to in paragraph (1) is the approximately 527 acres of non-Federal land identified on the wilderness map as ''COID to Federal Government''.

(B) FEDERAL LAND.—The Federal land referred to in paragraph (1)(B) is the approximately 697 acres of Federal land identified on the wilderness map as ''Federal Government to COID''.

(3) SURVEYS.—The exact acreage and legal description of the Federal land and non-Federal land described in paragraph (2) shall be determined by surveys approved by the Secretary.

(c) APPLICABLE LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchanges under this section in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(d) VALUATION, APPRAISALS, AND EQUALIZATION.—

(1) IN GENERAL.—The value of the Federal land and the non-Federal land to be conveyed in a land exchange under this section—

(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

(B) if not equal, shall be equalized in accordance with paragraph (3).

(2) APPRAISALS.—

(A) IN GENERAL.—The Federal land and the non-Federal land to be exchanged under this section shall be appraised by an independent, qualified appraiser that is agreed to by the Secretary and the owner of the non-Federal land to be exchanged.

(B) REQUIREMENTS.—An appraisal under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(3) EQUALIZATION.—

(A) IN GENERAL.—If the value of the Federal land and the non-Federal land to be conveyed in a land exchange under this section is not equal, the value may be equalized by—

(i) making a cash equalization payment to the Secretary or to the owner of the non-Federal land, as appropriate, in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(ii) reducing the acreage of the Federal land or the non-Federal land to be exchanged, as appropriate.

(B) CASH EQUALIZATION PAYMENTS.—Any cash equalization payments received by the Secretary under subparagraph (A)(i) shall be—

(i) deposited in the Federal Land Disposal Account established by section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)); and

(ii) used in accordance with that Act.

(e) CONDITIONS OF EXCHANGE.—

(1) IN GENERAL.—The land exchanges under this section shall be subject to such terms and conditions as the Secretary may require.

(2) COSTS.—As a condition of a conveyance of Federal land and non-Federal land under this section, the Federal Government and the owner of the non-Federal land shall equally share all costs relating to the land exchange, including the costs of appraisals, surveys, and any necessary environmental clearances.

(3) VALID EXISTING RIGHTS.—The exchange of Federal land and non-Federal land under this section shall be subject to any easements, rights-of-way, and other valid rights in existence on the date of enactment of this Act.

(f) COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchanges under this section shall be completed not later than 2 years after the date of enactment of this Act.

SEC. 1705. PROTECTION OF TRIBAL TREATY RIGHTS.

Nothing in this subtitle alters, modifies, enlarges, diminishes, or abrogates the treaty rights of any Indian tribe, including the off-reservation reserved rights secured by the Treaty with the Tribes and Bands of Middle Oregon of June 25, 1855 (12 Stat. 963).

Subtitle J—Spring Basin Wilderness, Oregon

SEC. 1751. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means the State of Oregon.

(3) TRIBES.—The term ''Tribes'' means the Confederated Tribes of the Warm Springs Reservation of Oregon.

(4) WILDERNESS MAP.—The term ''wilderness map'' means the map entitled ''Spring Basin Wilderness with Land Exchange Proposals'' and dated September 3, 2008.

SEC. 1752. SPRING BASIN WILDERNESS.

(a) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 6,382 acres of Bureau of Land Management land in the State, as generally depicted on the wilderness map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Spring Basin Wilderness''.

(b) ADMINISTRATION OF WILDERNESS.—

(1) IN GENERAL.—Subject to valid existing rights, the Spring Basin Wilderness shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(2) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundary of the Spring Basin Wilderness that is acquired by the United States shall—

(A) become part of the Spring Basin Wilderness; and

(B) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(3) GRAZING.—The grazing of livestock in the Spring Basin Wilderness, if established before the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as are considered necessary by the Secretary, in accordance with—

(A) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(B) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Spring Basin Wilderness with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this section, except that the Secretary may correct any typographical errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 1753. RELEASE.

(a) FINDING.—Congress finds that, for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the portions of the Spring Basin wilderness study area that are not designated by section 1752(a) as the Spring Basin Wilderness in the following areas have been adequately studied for wilderness designation:

(1) T. 8 S., R. 19 E., sec. 10, NE ¼, W ½.

(2) T. 8 S., R.19 E., sec. 25, SE ¼, SE ¼.

(3) T. 8 S., R. 20 E., sec. 19, SE ¼, S ½ of the S ½.

(b) RELEASE.—Any public land described in subsection (a) that is not designated as wilderness by this subtitle—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with the applicable land use plan adopted under section 202 of that Act (43 U.S.C. 1712).

SEC. 1754. LAND EXCHANGES.

(a) CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION LAND EXCHANGE.—

(1) CONVEYANCE OF LAND.—Subject to subsections (e) through (g), if the Tribes offer to convey to the United States all right, title, and interest of the Tribes in and to the non-Federal land described in paragraph (2)(A), the Secretary shall—

(A) accept the offer; and

(B) on receipt of acceptable title to the non-Federal land, convey to the Tribes all right, title, and interest of the United States in and to the Federal land described in paragraph (2)(B).

(2) DESCRIPTION OF LAND.—

(A) NON-FEDERAL LAND.—The non-Federal land referred to in paragraph (1) is the approximately 4,480 acres of non-Federal land identified on the wilderness map as ''Lands proposed for transfer from the CTWSIR to the Federal Government''.

(B) FEDERAL LAND.—The Federal land referred to in paragraph (1)(B) is the approximately 4,578 acres of Federal land identified on the wilderness map as ''Lands proposed for transfer from the Federal Government to CTWSIR''.

(3) SURVEYS.—The exact acreage and legal description of the Federal land and non-Federal land described in paragraph (2) shall be determined by surveys approved by the Secretary.

(4) WITHDRAWAL.—Subject to valid existing rights, the land acquired by the Secretary under this subsection is withdrawn from all forms of—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under any law relating to mineral and geothermal leasing or mineral materials.

(b) MCGREER LAND EXCHANGE.—

(1) CONVEYANCE OF LAND.—Subject to subsections (e) through (g), if the landowner offers to convey to the United States all right, title, and interest of the landowner in and to the non-Federal land described in paragraph (2)(A), the Secretary shall—

(A) accept the offer; and

(B) on receipt of acceptable title to the non-Federal land, convey to the landowner all right, title, and interest of the United States in and to the Federal land described in paragraph (2)(B).

(2) DESCRIPTION OF LAND.—

(A) NON-FEDERAL LAND.—The non-Federal land referred to in paragraph (1) is the approximately 18 acres of non-Federal land identified on the wilderness map as ''Lands proposed for transfer from McGreer to the Federal Government''.

(B) FEDERAL LAND.—The Federal land referred to in paragraph (1)(B) is the approximately 327 acres of Federal land identified on the wilderness map as ''Lands proposed for transfer from the Federal Government to McGreer''.

(3) SURVEYS.—The exact acreage and legal description of the Federal land and non-Federal land described in paragraph (2) shall be determined by surveys approved by the Secretary.

(c) KEYS LAND EXCHANGE.—

(1) CONVEYANCE OF LAND.—Subject to subsections (e) through (g), if the landowner offers to convey to the United States all right, title, and interest of the landowner in and to the non-Federal land described in paragraph (2)(A), the Secretary shall—

(A) accept the offer; and

(B) on receipt of acceptable title to the non-Federal land, convey to the landowner all right, title, and interest of the United States in and to the Federal land described in paragraph (2)(B).

(2) DESCRIPTION OF LAND.—

(A) NON-FEDERAL LAND.—The non-Federal land referred to in paragraph (1) is the approximately 180 acres of non-Federal land identified on the wilderness map as ''Lands proposed for transfer from Keys to the Federal Government''.

(B) FEDERAL LAND.—The Federal land referred to in paragraph (1)(B) is the approximately 187 acres of Federal land identified on the wilderness map as ''Lands proposed for transfer from the Federal Government to Keys''.

(3) SURVEYS.—The exact acreage and legal description of the Federal land and non-Federal land described in paragraph (2) shall be determined by surveys approved by the Secretary.

(d) BOWERMAN LAND EXCHANGE.—

(1) CONVEYANCE OF LAND.—Subject to subsections (e) through (g), if the landowner offers to convey to the United States all right, title, and interest of the landowner in and to the non-Federal land described in paragraph (2)(A), the Secretary shall—

(A) accept the offer; and

(B) on receipt of acceptable title to the non-Federal land, convey to the landowner all right, title, and interest of the United States in and to the Federal land described in paragraph (2)(B).

(2) DESCRIPTION OF LAND.—

(A) NON-FEDERAL LAND.—The non-Federal land referred to in paragraph (1) is the approximately 32 acres of non-Federal land identified on the wilderness map as ''Lands proposed for transfer from Bowerman to the Federal Government''.

(B) FEDERAL LAND.—The Federal land referred to in paragraph (1)(B) is the approximately 24 acres of Federal land identified on the wilderness map as ''Lands proposed for transfer from the Federal Government to Bowerman''.

(3) SURVEYS.—The exact acreage and legal description of the Federal land and non-Federal land described in paragraph (2) shall be determined by surveys approved by the Secretary.

(e) APPLICABLE LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchanges under this section in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(f) VALUATION, APPRAISALS, AND EQUALIZATION.—

(1) IN GENERAL.—The value of the Federal land and the non-Federal land to be conveyed in a land exchange under this section—

(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

(B) if not equal, shall be equalized in accordance with paragraph (3).

(2) APPRAISALS.—

(A) IN GENERAL.—The Federal land and the non-Federal land to be exchanged under this section shall be appraised by an independent, qualified appraiser that is agreed to by the Secretary and the owner of the non-Federal land to be exchanged.

(B) REQUIREMENTS.—An appraisal under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(3) EQUALIZATION.—

(A) IN GENERAL.—If the value of the Federal land and the non-Federal land to be conveyed in a land exchange under this section is not equal, the value may be equalized by—

(i) making a cash equalization payment to the Secretary or to the owner of the non-Federal land, as appropriate, in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(ii) reducing the acreage of the Federal land or the non-Federal land to be exchanged, as appropriate.

(B) CASH EQUALIZATION PAYMENTS.—Any cash equalization payments received by the Secretary under subparagraph (A)(i) shall be—

(i) deposited in the Federal Land Disposal Account established by section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)); and

(ii) used in accordance with that Act.

(g) CONDITIONS OF EXCHANGE.—

(1) IN GENERAL.—The land exchanges under this section shall be subject to such terms and conditions as the Secretary may require.

(2) COSTS.—As a condition of a conveyance of Federal land and non-Federal land under this section, the Federal Government and the owner of the non-Federal land shall equally share all costs relating to the land exchange, including the costs of appraisals, surveys, and any necessary environmental clearances.

(3) VALID EXISTING RIGHTS.—The exchange of Federal land and non-Federal land under this section shall be subject to any easements, rights-of-way, and other valid rights in existence on the date of enactment of this Act.

(h) COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchanges under this section shall be completed not later than 2 years after the date of enactment of this Act.

SEC. 1755. PROTECTION OF TRIBAL TREATY RIGHTS.

Nothing in this subtitle alters, modifies, enlarges, diminishes, or abrogates the treaty rights of any Indian tribe, including the off-reservation reserved rights secured by the Treaty with the Tribes and Bands of Middle Oregon of June 25, 1855 (12 Stat. 963).

Subtitle K—Eastern Sierra and Northern San Gabriel Wilderness, California

SEC. 1801. DEFINITIONS.

In this subtitle:

(1) FOREST.—The term ''Forest'' means the Ancient Bristlecone Pine Forest designated by section 1808(a).

(2) RECREATION AREA.—The term ''Recreation Area'' means the Bridgeport Winter Recreation Area designated by section 1806(a).

(3) SECRETARY.—The term ''Secretary'' means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of California.

(5) TRAIL.—The term ''Trail'' means the Pacific Crest National Scenic Trail.

SEC. 1802. DESIGNATION OF WILDERNESS AREAS.

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness and as components of the National Wilderness Preservation System:

(1) HOOVER WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Humboldt-Toiyabe and Inyo National Forests, comprising approximately 79,820 acres and identified as ''Hoover East Wilderness Addition,'' ''Hoover West Wilderness Addition'', and ''Bighorn Proposed Wilderness Addition'', as generally depicted on the maps described in subparagraph (B), is incorporated in, and shall be considered to be a part of, the Hoover Wilderness.

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''Humboldt-Toiyabe National Forest Proposed Management'' and dated September 17, 2008; and

(ii) the map entitled ''Bighorn Proposed Wilderness Additions'' and dated September 23, 2008.

(C) EFFECT.—The designation of the wilderness under subparagraph (A) shall not affect the ongoing activities of the adjacent United States Marine Corps Mountain Warfare Training Center on land outside the designated wilderness, in accordance with the agreement between the Center and the Humboldt-Toiyabe National Forest.

(2) OWENS RIVER HEADWATERS WILDERNESS.—Certain land in the Inyo National Forest, comprising approximately 14,721 acres, as generally depicted on the map entitled ''Owens River Headwaters Proposed Wilderness'' and dated September 16, 2008, which shall be known as the ''Owens River Headwaters Wilderness''.

(3) JOHN MUIR WILDERNESS ADDITIONS.—

(A) IN GENERAL.—Certain land in the Inyo National Forest and certain land administered by the Bureau of Land Management in Inyo County, California, comprising approximately 70,479 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in, and shall be considered to be a part of, the John Muir Wilderness.

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''John Muir Proposed Additions 1 of 5'' and dated September 23, 2008;

(ii) the map entitled ''John Muir Proposed Additions 2 of 5'' and dated September 23, 2008;

(iii) the map entitled ''John Muir Proposed Additions 3 of 5'' and dated September 16, 2008;

(iv) the map entitled ''John Muir Proposed Additions 4 of 5'' and dated September 16, 2008; and

(v) the map entitled ''John Muir Proposed Additions 5 of 5'' and dated September 16, 2008.

(C) BOUNDARY REVISION.—The boundary of the John Muir Wilderness is revised as depicted on the map entitled ''John Muir Wilderness—Revised'' and dated September 16, 2008.

(4) ANSEL ADAMS WILDERNESS ADDITION.—Certain land in the Inyo National Forest, comprising approximately 528 acres, as generally depicted on the map entitled ''Ansel Adams Proposed Wilderness Addition'' and dated September 16, 2008, is incorporated in, and shall be considered to be a part of, the Ansel Adams Wilderness.

(5) WHITE MOUNTAINS WILDERNESS.—

(A) IN GENERAL.—Certain land in the Inyo National Forest and certain land administered by the Bureau of Land Management in Mono County, California, comprising approximately 229,993 acres, as generally depicted on the maps described in subparagraph (B), which shall be known as the ''White Mountains Wilderness''.

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled ''White Mountains Proposed Wilderness-Map 1 of 2 (North)'' and dated September 16, 2008; and

(ii) the map entitled ''White Mountains Proposed Wilderness-Map 2 of 2 (South)'' and dated September 16, 2008.

(6) GRANITE MOUNTAIN WILDERNESS.—Certain land in the Inyo National Forest and certain land administered by the Bureau of Land Management in Mono County, California, comprising approximately 35,179 acres, as generally depicted on the map entitled ''Granite Mountain Wilderness'' and dated September 19, 2008, which shall be known as the ''Granite Mountain Wilderness''.

(7) MAGIC MOUNTAIN WILDERNESS.—Certain land in the Angeles National Forest, comprising approximately 12,313 acres, as generally depicted on the map entitled ''Magic Mountain Proposed Wilderness'' and dated September 23, 2008, which shall be known as the ''Magic Mountain Wilderness''.

(8) PLEASANT VIEW RIDGE WILDERNESS.—Certain land in the Angeles National Forest, comprising approximately 27,564 acres, as generally depicted on the map entitled ''Pleasant View Ridge Proposed Wilderness'' and dated September 9, 2008, which shall be known as the ''Pleasant View Ridge Wilderness''.

SEC. 1803. ADMINISTRATION OF WILDERNESS AREAS.

(a) MANAGEMENT.—Subject to valid existing rights, the Secretary shall administer the wilderness areas and wilderness additions designated by this subtitle in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the land.

(b) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area and wilderness addition designated by this subtitle with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—Each map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land (or interest in land) within the boundary of a wilderness area or wilderness addition designated by this subtitle that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this subtitle, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(d) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, any Federal land designated as a wilderness area or wilderness addition by this subtitle is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under laws relating to mineral and geothermal leasing or mineral materials.

(e) FIRE MANAGEMENT AND RELATED ACTIVITIES.—

(1) IN GENERAL.—The Secretary may take such measures in a wilderness area or wilderness addition designated by this subtitle as are necessary for the control of fire, insects, and diseases in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and House Report 98–40 of the 98th Congress.

(2) FUNDING PRIORITIES.—Nothing in this subtitle limits funding for fire and fuels management in the wilderness areas and wilderness additions designated by this subtitle.

(3) REVISION AND DEVELOPMENT OF LOCAL FIRE MANAGEMENT PLANS.—As soon as practicable after the date of enactment of this Act, the Secretary shall amend the local fire management plans that apply to the land designated as a wilderness area or wilderness addition by this subtitle.

(4) ADMINISTRATION.—Consistent with paragraph (1) and other applicable Federal law, to ensure a timely and efficient response to fire emergencies in the wilderness areas and wilderness additions designated by this subtitle, the Secretary shall—

(A) not later than 1 year after the date of enactment of this Act, establish agency approval procedures (including appropriate delegations of authority to the Forest Supervisor, District Manager, or other agency officials) for responding to fire emergencies; and

(B) enter into agreements with appropriate State or local firefighting agencies.

(f) ACCESS TO PRIVATE PROPERTY.—The Secretary shall provide any owner of private property within the boundary of a wilderness area or wilderness addition designated by this subtitle adequate access to the property to ensure the reasonable use and enjoyment of the property by the owner.

(g) MILITARY ACTIVITIES.—Nothing in this subtitle precludes—

(1) low-level overflights of military aircraft over the wilderness areas or wilderness additions designated by this subtitle;

(2) the designation of new units of special airspace over the wilderness areas or wilderness additions designated by this subtitle; or

(3) the use or establishment of military flight training routes over wilderness areas or wilderness additions designated by this subtitle.

(h) LIVESTOCK.—Grazing of livestock and the maintenance of existing facilities relating to grazing in wilderness areas or wilderness additions designated by this subtitle, if established before the date of enactment of this Act, shall be permitted to continue in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(i) FISH AND WILDLIFE MANAGEMENT.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats in wilderness areas or wilderness additions designated by this subtitle if the activities are—

(A) consistent with applicable wilderness management plans; and

(B) carried out in accordance with applicable guidelines and policies.

(2) STATE JURISDICTION.—Nothing in this subtitle affects the jurisdiction of the State with respect to fish and wildlife on public land located in the State.

(j) HORSES.—Nothing in this subtitle precludes horseback riding in, or the entry of recreational or commercial saddle or pack stock into, an area designated as wilderness or as a wilderness addition by this subtitle—

(1) in accordance with section 4(d)(5) of the Wilderness Act (16 U.S.C. 1133(d)(5)); and

(2) subject to any terms and conditions determined to be necessary by the Secretary.

(k) OUTFITTER AND GUIDE USE.—Outfitter and guide activities conducted under permits issued by the Forest Service on the additions to the John Muir, Ansel Adams, and Hoover wilderness areas designated by this subtitle shall be in addition to any existing limits established for the John Muir, Ansel Adams, and Hoover wilderness areas.

(l) TRANSFER TO THE FOREST SERVICE.——

(1) WHITE MOUNTAINS WILDERNESS.—Administrative jurisdiction over the approximately 946 acres of land identified as ''Transfer of Administrative Jurisdiction from BLM to FS'' on the maps described in section 1802(5)(B) is transferred from the Bureau of Land Management to the Forest Service to be managed as part of the White Mountains Wilderness.

(2) JOHN MUIR WILDERNESS.—Administrative jurisdiction over the approximately 143 acres of land identified as ''Transfer of Administrative Jurisdiction from BLM to FS'' on the maps described in section 1802(3)(B) is transferred from the Bureau of Land Management to the Forest Service to be managed as part of the John Muir Wilderness.

(m) TRANSFER TO THE BUREAU OF LAND MANAGEMENT.—Administrative jurisdiction over the approximately 3,010 acres of land identified as ''Land from FS to BLM'' on the maps described in section 1802(6) is transferred from the Forest Service to the Bureau of Land Management to be managed as part of the Granite Mountain Wilderness.

SEC. 1804. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by this subtitle or any other Act enacted before the date of enactment of this Act has been adequately studied for wilderness.

(b) DESCRIPTION OF STUDY AREAS.—The study areas referred to in subsection (a) are—

(1) the Masonic Mountain Wilderness Study Area;

(2) the Mormon Meadow Wilderness Study Area;

(3) the Walford Springs Wilderness Study Area; and

(4) the Granite Mountain Wilderness Study Area.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area or wilderness addition by this subtitle or any other Act enacted before the date of enactment of this Act shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

SEC. 1805. DESIGNATION OF WILD AND SCENIC RIVERS.

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 1504(a)) is amended by adding at the end the following:

''(196) AMARGOSA RIVER, CALIFORNIA.—The following segments of the Amargosa River in the State of California, to be administered by the Secretary of the Interior:

''(A) The approximately 4.1-mile segment of the Amargosa River from the northern boundary of sec. 7, T. 21 N., R. 7 E., to 100 feet upstream of the Tecopa Hot Springs road crossing, as a scenic river.

''(B) The approximately 8-mile segment of the Amargosa River from 100 feet downstream of the Tecopa Hot Springs Road crossing to 100 feet upstream of the Old Spanish Trail Highway crossing near Tecopa, as a scenic river.

''(C) The approximately 7.9-mile segment of the Amargosa River from the northern boundary of sec. 16, T. 20 N., R. 7 E., to .25 miles upstream of the confluence with Sperry Wash in sec. 10, T. 19 N., R. 7 E., as a wild river.

''(D) The approximately 4.9-mile segment of the Amargosa River from .25 miles upstream of the confluence with Sperry Wash in sec. 10, T. 19 N., R. 7 E. to 100 feet upstream of the Dumont Dunes access road crossing in sec. 32, T. 19 N., R. 7 E., as a recreational river.

''(E) The approximately 1.4-mile segment of the Amargosa River from 100 feet downstream of the Dumont Dunes access road crossing in sec. 32, T. 19 N., R. 7 E., as a recreational river.

''(197) OWENS RIVER HEADWATERS, CALIFORNIA.—The following segments of the Owens River in the State of California, to be administered by the Secretary of Agriculture:

''(A) The 2.3-mile segment of Deadman Creek from the 2-forked source east of San Joaquin Peak to the confluence with the unnamed tributary flowing north into Deadman Creek from sec. 12, T. 3 S., R. 26 E., as a wild river.

''(B) The 2.3-mile segment of Deadman Creek from the unnamed tributary confluence in sec. 12, T. 3 S., R. 26 E., to the Road 3S22 crossing, as a scenic river.

''(C) The 4.1-mile segment of Deadman Creek from the road 3S22 crossing to .25 miles downstream of the Highway 395 crossing, as a recreational river.

''(D) The 3-mile segment of Deadman Creek from .25 miles downstream of the highway 395 crossing to 100 feet upstream of Big Springs, as a scenic river.

''(E) The 1-mile segment of the Upper Owens River from 100 feet upstream of Big Springs to the private property boundary in sec. 19, T. 2 S., R. 28 E., as a recreational river.

''(F) The 4-mile segment of Glass Creek from its 2-forked source to 100 feet upstream of the Glass Creek Meadow Trailhead parking area in sec. 29, T. 2 S., R.27 E., as a wild river.

''(G) The 1.3-mile segment of Glass Creek from 100 feet upstream of the trailhead parking area in sec. 29 to the end of the Glass Creek road in sec. 21, T. 2 S., R. 27 E., as a scenic river.

''(H) The 1.1-mile segment of Glass Creek from the end of Glass Creek road in sec. 21, T. 2 S., R. 27 E., to the confluence with Deadman Creek, as a recreational river.

''(198) COTTONWOOD CREEK, CALIFORNIA.—The following segments of Cottonwood Creek in the State of California:

''(A) The 17.4-mile segment from its headwaters at the spring in sec. 27, T 4 S., R. 34 E., to the Inyo National Forest boundary at the east section line of sec 3, T. 6 S., R. 36 E., as a wild river to be administered by the Secretary of Agriculture.

''(B) The 4.1-mile segment from the Inyo National Forest boundary to the northern boundary of sec. 5, T.4 S., R. 34 E., as a recreational river, to be administered by the Secretary of the Interior.

''(199) PIRU CREEK, CALIFORNIA.—The following segments of Piru Creek in the State of California, to be administered by the Secretary of Agriculture:

''(A) The 3-mile segment of Piru Creek from 0.5 miles downstream of Pyramid Dam at the first bridge crossing to the boundary of the Sespe Wilderness, as a recreational river.

''(B) The 4.25-mile segment from the boundary of the Sespe Wilderness to the boundary between Los Angeles and Ventura Counties, as a wild river.''.

(b) EFFECT.—The designation of Piru Creek under subsection (a) shall not affect valid rights in existence on the date of enactment of this Act.

SEC. 1806. BRIDGEPORT WINTER RECREATION AREA.

(a) DESIGNATION.—The approximately 7,254 acres of land in the Humboldt-Toiyabe National Forest identified as the ''Bridgeport Winter Recreation Area'', as generally depicted on the map entitled ''Humboldt-Toiyabe National Forest Proposed Management'' and dated September 17, 2008, is designated as the Bridgeport Winter Recreation Area.

(b) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Recreation Area with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) MANAGEMENT.—

(1) INTERIM MANAGEMENT.—Until completion of the management plan required under subsection (d), and except as provided in paragraph (2), the Recreation Area shall be managed in accordance with the Toiyabe National Forest Land and Resource Management Plan of 1986 (as in effect on the day of enactment of this Act).

(2) USE OF SNOWMOBILES.—The winter use of snowmobiles shall be allowed in the Recreation Area—

(A) during periods of adequate snow coverage during the winter season; and

(B) subject to any terms and conditions determined to be necessary by the Secretary.

(d) MANAGEMENT PLAN.—To ensure the sound management and enforcement of the Recreation Area, the Secretary shall, not later than 1 year after the date of enactment of this Act, undergo a public process to develop a winter use management plan that provides for—

(1) adequate signage;

(2) a public education program on allowable usage areas;

(3) measures to ensure adequate sanitation;

(4) a monitoring and enforcement strategy; and

(5) measures to ensure the protection of the Trail.

(e) ENFORCEMENT.—The Secretary shall prioritize enforcement activities in the Recreation Area—

(1) to prohibit degradation of natural resources in the Recreation Area;

(2) to prevent interference with nonmotorized recreation on the Trail; and

(3) to reduce user conflicts in the Recreation Area.

(f) PACIFIC CREST NATIONAL SCENIC TRAIL.—The Secretary shall establish an appropriate snowmobile crossing point along the Trail in the area identified as ''Pacific Crest Trail Proposed Crossing Area'' on the map entitled ''Humboldt-Toiyable National Forest Proposed Management'' and dated September 17, 2008—

(1) in accordance with—

(A) the National Trails System Act (16 U.S.C. 1241 et seq.); and

(B) any applicable environmental and public safety laws; and

(2) subject to the terms and conditions the Secretary determines to be necessary to ensure that the crossing would not—

(A) interfere with the nature and purposes of the Trail; or

(B) harm the surrounding landscape.

SEC. 1807. MANAGEMENT OF AREA WITHIN HUMBOLDT-TOIYABE NATIONAL FOREST.

Certain land in the Humboldt-Toiyabe National Forest, comprising approximately 3,690 acres identified as ''Pickel Hill Management Area'', as generally depicted on the map entitled ''Humboldt-Toiyabe National Forest Proposed Management'' and dated September 17, 2008, shall be managed in a manner consistent with the non-Wilderness forest areas immediately surrounding the Pickel Hill Management Area, including the allowance of snowmobile use.

SEC. 1808. ANCIENT BRISTLECONE PINE FOREST.

(a) DESIGNATION.—To conserve and protect the Ancient Bristlecone Pines by maintaining near-natural conditions and to ensure the survival of the Pines for the purposes of public enjoyment and scientific study, the approximately 31,700 acres of public land in the State, as generally depicted on the map entitled ''Ancient Bristlecone Pine Forest—Proposed'' and dated July 16, 2008, is designated as the ''Ancient Bristlecone Pine Forest''.

(b) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable, but not later than 3 years after the date of enactment of this Act, the Secretary shall file a map and legal description of the Forest with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall administer the Forest—

(A) in a manner that—

(i) protect the resources and values of the area in accordance with the purposes for which the Forest is established, as described in subsection (a); and

(ii) promotes the objectives of the applicable management plan (as in effect on the date of enactment of this Act), including objectives relating to—

(I) the protection of bristlecone pines for public enjoyment and scientific study;

(II) the recognition of the botanical, scenic, and historical values of the area; and

(III) the maintenance of near-natural conditions by ensuring that all activities are subordinate to the needs of protecting and preserving bristlecone pines and wood remnants; and

(B) in accordance with the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), this section, and any other applicable laws.

(2) USES.—

(A) IN GENERAL.—The Secretary shall allow only such uses of the Forest as the Secretary determines would further the purposes for which the Forest is established, as described in subsection (a).

(B) SCIENTIFIC RESEARCH.—Scientific research shall be allowed in the Forest in accordance with the Inyo National Forest Land and Resource Management Plan (as in effect on the date of enactment of this Act).

(3) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Forest is withdrawn from—

(A) all forms of entry, appropriation or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws relating to mineral and geothermal leasing or mineral materials.

Subtitle L—Riverside County Wilderness, California

SEC. 1851. WILDERNESS DESIGNATION.

(a) DEFINITION OF SECRETARY.—In this section, the term ''Secretary'' means—

(1) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(2) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) DESIGNATION OF WILDERNESS, CLEVELAND AND SAN BERNARDINO NATIONAL FORESTS, JOSHUA TREE NATIONAL PARK, AND BUREAU OF LAND MANAGEMENT LAND IN RIVERSIDE COUNTY, CALIFORNIA.—

(1) DESIGNATIONS.—

(A) AGUA TIBIA WILDERNESS ADDITIONS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land in the Cleveland National Forest and certain land administered by the Bureau of Land Management in Riverside County, California, together comprising approximately 2,053 acres, as generally depicted on the map titled ''Proposed Addition to Agua Tibia Wilderness'', and dated May 9, 2008, is designated as wilderness and is incorporated in, and shall be deemed to be a part of, the Agua Tibia Wilderness designated by section 2(a) of Public Law 93–632 (88 Stat. 2154; 16 U.S.C. 1132 note).

(B) CAHUILLA MOUNTAIN WILDERNESS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land in the San Bernardino National Forest, California, comprising approximately 5,585 acres, as generally depicted on the map titled ''Cahuilla Mountain Proposed Wilderness'', and dated May 1, 2008, is designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, which shall be known as the ''Cahuilla Mountain Wilderness''.

(C) SOUTH FORK SAN JACINTO WILDERNESS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land in the San Bernardino National Forest, California, comprising approximately 20,217 acres, as generally depicted on the map titled ''South Fork San Jacinto Proposed Wilderness'', and dated May 1, 2008, is designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, which shall be known as the ''South Fork San Jacinto Wilderness''.

(D) SANTA ROSA WILDERNESS ADDITIONS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land in the San Bernardino National Forest, California, and certain land administered by the Bureau of Land Management in Riverside County, California, comprising approximately 2,149 acres, as generally depicted on the map titled ''Santa Rosa-San Jacinto National Monument Expansion and Santa Rosa Wilderness Addition'', and dated March 12, 2008, is designated as wilderness and is incorporated in, and shall be deemed to be a part of, the Santa Rosa Wilderness designated by section 101(a)(28) of Public Law 98–425 (98 Stat. 1623; 16 U.S.C. 1132 note) and expanded by paragraph (59) of section 102 of Public Law 103–433 (108 Stat. 4472; 16 U.S.C. 1132 note).

(E) BEAUTY MOUNTAIN WILDERNESS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land administered by the Bureau of Land Management in Riverside County, California, comprising approximately 15,621 acres, as generally depicted on the map titled ''Beauty Mountain Proposed Wilderness'', and dated April 3, 2007, is designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, which shall be known as the ''Beauty Mountain Wilderness''.

(F) JOSHUA TREE NATIONAL PARK WILDERNESS ADDITIONS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land in Joshua Tree National Park, comprising approximately 36,700 acres, as generally depicted on the map numbered 156/80,055, and titled ''Joshua Tree National Park Proposed Wilderness Additions'', and dated March 2008, is designated as wilderness and is incorporated in, and shall be deemed to be a part of, the Joshua Tree Wilderness designated by section 1(g) of Public Law 94–567 (90 Stat. 2692; 16 U.S.C. 1132 note).

(G) OROCOPIA MOUNTAINS WILDERNESS ADDITIONS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land administered by the Bureau of Land Management in Riverside County, California, comprising approximately 4,635 acres, as generally depicted on the map titled ''Orocopia Mountains Proposed Wilderness Addition'', and dated May 8, 2008, is designated as wilderness and is incorporated in, and shall be deemed to be a part of, the Orocopia Mountains Wilderness as designated by paragraph (44) of section 102 of Public Law 103–433 (108 Stat. 4472; 16 U.S.C. 1132 note), except that the wilderness boundaries established by this subsection in Township 7 South exclude—

(i) a corridor 250 feet north of the centerline of the Bradshaw Trail;

(ii) a corridor 250 feet from both sides of the centerline of the vehicle route in the unnamed wash that flows between the Eagle Mountain Railroad on the south and the existing Orocopia Mountains Wilderness boundary; and

(iii) a corridor 250 feet from both sides of the centerline of the vehicle route in the unnamed wash that flows between the Chocolate Mountain Aerial Gunnery Range on the south and the existing Orocopia Mountains Wilderness boundary.

(H) PALEN/MCCOY WILDERNESS ADDITIONS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land administered by the Bureau of Land Management in Riverside County, California, comprising approximately 22,645 acres, as generally depicted on the map titled ''Palen-McCoy Proposed Wilderness Additions'', and dated May 8, 2008, is designated as wilderness and is incorporated in, and shall be deemed to be a part of, the Palen/McCoy Wilderness as designated by paragraph (47) of section 102 of Public Law 103–433 (108 Stat. 4472; 16 U.S.C. 1132 note).

(I) PINTO MOUNTAINS WILDERNESS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land administered by the Bureau of Land Management in Riverside County, California, comprising approximately 24,404 acres, as generally depicted on the map titled ''Pinto Mountains Proposed Wilderness'', and dated February 21, 2008, is designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, which shall be known as the ''Pinto Mountains Wilderness''.

(J) CHUCKWALLA MOUNTAINS WILDERNESS ADDITIONS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain land administered by the Bureau of Land Management in Riverside County, California, comprising approximately 12,815 acres, as generally depicted on the map titled ''Chuckwalla Mountains Proposed Wilderness Addition'', and dated May 8, 2008, is designated as wilderness and is incorporated in, and shall be deemed to be a part of the Chuckwalla Mountains Wilderness as designated by paragraph (12) of section 102 of Public Law 103–433 (108 Stat. 4472; 16 U.S.C. 1132 note).

(2) MAPS AND DESCRIPTIONS.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file a map and legal description of each wilderness area and wilderness addition designated by this section with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) FORCE OF LAW.—A map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this section, except that the Secretary may correct errors in the map and legal description.

(C) PUBLIC AVAILABILITY.—Each map and legal description filed under subparagraph (A) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(3) UTILITY FACILITIES.—Nothing in this section prohibits the construction, operation, or maintenance, using standard industry practices, of existing utility facilities located outside of the wilderness areas and wilderness additions designated by this section.

(c) JOSHUA TREE NATIONAL PARK POTENTIAL WILDERNESS.—

(1) DESIGNATION OF POTENTIAL WILDERNESS.—Certain land in the Joshua Tree National Park, comprising approximately 43,300 acres, as generally depicted on the map numbered 156/80,055, and titled ''Joshua Tree National Park Proposed Wilderness Additions'', and dated March 2008, is designated potential wilderness and shall be managed by the Secretary of the Interior insofar as practicable as wilderness until such time as the land is designated as wilderness pursuant to paragraph (2).

(2) DESIGNATION AS WILDERNESS.—The land designated potential wilderness by paragraph (1) shall be designated as wilderness and incorporated in, and be deemed to be a part of, the Joshua Tree Wilderness designated by section 1(g) of Public Law 94–567 (90 Stat.

2692; 16 U.S.C. 1132 note), effective upon publication by the Secretary of the Interior in the Federal Register of a notice that—

(A) all uses of the land within the potential wilderness prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) have ceased; and

(B) sufficient inholdings within the boundaries of the potential wilderness have been acquired to establish a manageable wilderness unit.

(3) MAP AND DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date on which the notice required by paragraph (2) is published in the Federal Register, the Secretary shall file a map and legal description of the land designated as wilderness and potential wilderness by this section with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) FORCE OF LAW.—The map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this section, except that the Secretary may correct errors in the map and legal description.

(C) PUBLIC AVAILABILITY.—Each map and legal description filed under subparagraph (A) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(d) ADMINISTRATION OF WILDERNESS.—

(1) MANAGEMENT.—Subject to valid existing rights, the land designated as wilderness or as a wilderness addition by this section shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(A) any reference in that Act to the effective date of that Act shall be deemed to be a reference to—

(i) the date of the enactment of this Act; or

(ii) in the case of the wilderness addition designated by subsection (c), the date on which the notice required by such subsection is published in the Federal Register; and

(B) any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary that has jurisdiction over the land.

(2) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land within the boundaries of a wilderness area or wilderness addition designated by this section that is acquired by the United States shall—

(A) become part of the wilderness area in which the land is located; and

(B) be managed in accordance with this section, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(3) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, the land designated as wilderness by this section is withdrawn from all forms of—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(4) FIRE MANAGEMENT AND RELATED ACTIVITIES.—

(A) IN GENERAL.—The Secretary may take such measures in a wilderness area or wilderness addition designated by this section as are necessary for the control of fire, insects, and diseases in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and House Report 98–40 of the 98th Congress.

(B) FUNDING PRIORITIES.—Nothing in this section limits funding for fire and fuels management in the wilderness areas and wilderness additions designated by this section.

(C) REVISION AND DEVELOPMENT OF LOCAL FIRE MANAGEMENT PLANS.—As soon as practicable after the date of enactment of this Act, the Secretary shall amend the local fire management plans that apply to the land designated as a wilderness area or wilderness addition by this section.

(D) ADMINISTRATION.—Consistent with subparagraph (A) and other applicable Federal law, to ensure a timely and efficient response to fire emergencies in the wilderness areas and wilderness additions designated by this section, the Secretary shall—

(i) not later than 1 year after the date of enactment of this Act, establish agency approval procedures (including appropriate delegations of authority to the Forest Supervisor, District Manager, or other agency officials) for responding to fire emergencies; and

(ii) enter into agreements with appropriate State or local firefighting agencies.

(5) GRAZING.—Grazing of livestock in a wilderness area or wilderness addition designated by this section shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 96–617 to accompany H.R. 5487 of the 96th Congress.

(6) NATIVE AMERICAN USES AND INTERESTS.—

(A) ACCESS AND USE.—To the extent practicable, the Secretary shall ensure access to the Cahuilla Mountain Wilderness by members of an Indian tribe for traditional cultural purposes. In implementing this paragraph, the Secretary, upon the request of an Indian tribe, may temporarily close to the general public use of one or more specific portions of the wilderness area in order to protect the privacy of traditional cultural activities in such areas by members of the Indian tribe. Any such closure shall be made to affect the smallest practicable area for the minimum period necessary for such purposes. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996), commonly referred to as the American Indian Religious Freedom Act, and the Wilderness Act (16 U.S.C. 1131 et seq.).

(B) INDIAN TRIBE DEFINED.—In this paragraph, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community of Indians which is recognized as eligible by the Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) MILITARY ACTIVITIES.—Nothing in this section precludes—

(A) low-level overflights of military aircraft over the wilderness areas or wilderness additions designated by this section;

(B) the designation of new units of special airspace over the wilderness areas or wilderness additions designated by this section; or

(C) the use or establishment of military flight training routes over wilderness areas or wilderness additions designated by this section.

SEC. 1852. WILD AND SCENIC RIVER DESIGNATIONS, RIVERSIDE COUNTY, CALIFORNIA.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 1805) is amended by adding at the end the following new paragraphs:

''(200) NORTH FORK SAN JACINTO RIVER, CALIFORNIA.—The following segments of the North Fork San Jacinto River in the State of California, to be administered by the Secretary of Agriculture:

''(A) The 2.12-mile segment from the source of the North Fork San Jacinto River at Deer Springs in Mt. San Jacinto State Park to the State Park boundary, as a wild river.

''(B) The 1.66-mile segment from the Mt. San Jacinto State Park boundary to the Lawler Park boundary in section 26, township 4 south, range 2 east, San Bernardino meridian, as a scenic river.

''(C) The 0.68-mile segment from the Lawler Park boundary to its confluence with Fuller Mill Creek, as a recreational river.

''(D) The 2.15-mile segment from its confluence with Fuller Mill Creek to .25 miles upstream of the 5S09 road crossing, as a wild river.

''(E) The 0.6-mile segment from .25 miles upstream of the 5S09 Road crossing to its confluence with Stone Creek, as a scenic river.

''(F) The 2.91-mile segment from the Stone Creek confluence to the northern boundary of section 17, township 5 south, range 2 east, San Bernardino meridian, as a wild river.

''(201) FULLER MILL CREEK, CALIFORNIA.—The following segments of Fuller Mill Creek in the State of California, to be administered by the Secretary of Agriculture:

''(A) The 1.2-mile segment from the source of Fuller Mill Creek in the San Jacinto Wilderness to the Pinewood property boundary in section 13, township 4 south, range 2 east, San Bernardino meridian, as a scenic river.

''(B) The 0.9-mile segment in the Pine Wood property, as a recreational river.

''(C) The 1.4-mile segment from the Pinewood property boundary in section 23, township 4 south, range 2 east, San Bernardino meridian, to its confluence with the North Fork San Jacinto River, as a scenic river.

''(202) PALM CANYON CREEK, CALIFORNIA.—The 8.1-mile segment of Palm Canyon Creek in the State of California from the southern boundary of section 6, township 7 south, range 5 east, San Bernardino meridian, to the San Bernardino National Forest boundary in section 1, township 6 south, range 4 east, San Bernardino meridian, to be administered by the Secretary of Agriculture as a wild river, and the Secretary shall enter into a cooperative management agreement with the Agua Caliente Band of Cahuilla Indians to protect and enhance river values.

''(203) BAUTISTA CREEK, CALIFORNIA.—The 9.8-mile segment of Bautista Creek in the State of California from the San Bernardino National Forest boundary in section 36, township 6 south, range 2 east, San Bernardino meridian, to the San Bernardino National Forest boundary in section 2, township 6 south, range 1 east, San Bernardino meridian, to be administered by the Secretary of Agriculture as a recreational river.''.

SEC. 1853. ADDITIONS AND TECHNICAL CORRECTIONS TO SANTA ROSA AND SAN JACINTO MOUNTAINS NATIONAL MONUMENT.

(a) BOUNDARY ADJUSTMENT, SANTA ROSA AND SAN JACINTO MOUNTAINS NATIONAL MONUMENT.—Section 2 of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (Public Law 106–351; 114 U.S.C. 1362; 16 U.S.C. 431 note) is amended by adding at the end the following new subsection:

''(e) EXPANSION OF BOUNDARIES.—In addition to the land described in subsection (c), the boundaries of the National Monument shall include the following lands identified as additions to the National Monument on the map titled 'Santa Rosa-San Jacinto National Monument Expansion and Santa Rosa Wilderness Addition', and dated March 12, 2008:

''(1) The 'Santa Rosa Peak Area Monument Expansion'.

''(2) The 'Snow Creek Area Monument Expansion'.

''(3) The 'Tahquitz Peak Area Monument Expansion'.

''(4) The 'Southeast Area Monument Expansion', which is designated as wilderness in section 512(d), and is thus incorporated into, and shall be deemed part of, the Santa Rosa Wilderness.''.

(b) TECHNICAL AMENDMENTS TO THE SANTA ROSA AND SAN JACINTO MOUNTAINS NATIONAL

MONUMENT ACT OF 2000.—Section 7(d) of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (Public Law 106–351; 114 U.S.C. 1362; 16 U.S.C. 431 note) is amended by striking ''eight'' and inserting ''a majority of the appointed''.

Subtitle M—Sequoia and Kings Canyon National Parks Wilderness, California

SEC. 1901. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means the State of California.

SEC. 1902. DESIGNATION OF WILDERNESS AREAS.

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) JOHN KREBS WILDERNESS.—

(A) DESIGNATION.—Certain land in Sequoia and Kings Canyon National Parks, comprising approximately 39,740 acres of land, and 130 acres of potential wilderness additions as generally depicted on the map numbered 102/60014b, titled ''John Krebs Wilderness'', and dated September 16, 2008.

(B) EFFECT.—Nothing in this paragraph affects—

(i) the cabins in, and adjacent to, Mineral King Valley; or

(ii) the private inholdings known as ''Silver City'' and ''Kaweah Han''.

(C) POTENTIAL WILDERNESS ADDITIONS.—The designation of the potential wilderness additions under subparagraph (A) shall not prohibit the operation, maintenance, and repair of the small check dams and water impoundments on Lower Franklin Lake, Crystal Lake, Upper Monarch Lake, and Eagle Lake. The Secretary is authorized to allow the use of helicopters for the operation, maintenance, and repair of the small check dams and water impoundments on Lower Franklin Lake, Crystal Lake, Upper Monarch Lake, and Eagle Lake. The potential wilderness additions shall be designated as wilderness and incorporated into the John Krebs Wilderness established by this section upon termination of the non-conforming uses.

(2) SEQUOIA-KINGS CANYON WILDERNESS ADDITION.—Certain land in Sequoia and Kings Canyon National Parks, California, comprising approximately 45,186 acres as generally depicted on the map titled ''Sequoia-Kings Canyon Wilderness Addition'', numbered 102/60015a, and dated March 10, 2008, is incorporated in, and shall be considered to be a part of, the Sequoia-Kings Canyon Wilderness.

(3) RECOMMENDED WILDERNESS.—Land in Sequoia and Kings Canyon National Parks that was managed as of the date of enactment of this Act as recommended or proposed wilderness but not designated by this section as wilderness shall continue to be managed as recommended or proposed wilderness, as appropriate.

SEC. 1903. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each area designated as wilderness by this subtitle shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference in the Wilderness Act to the effective date of the Wilderness Act shall be considered to be a reference to the date of enactment of this Act.

(b) MAP AND LEGAL DESCRIPTION.—

(1) SUBMISSION OF MAP AND LEGAL DESCRIPTION.—As soon as practicable, but not later than 3 years, after the date of enactment of this Act, the Secretary shall file a map and legal description of each area designated as wilderness by this subtitle with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE AND EFFECT.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical or typographical error in the map or legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the Office of the Secretary.

(c) HYDROLOGIC, METEOROLOGIC, AND CLIMATOLOGICAL DEVICES, FACILITIES, AND ASSOCIATED EQUIPMENT.—The Secretary shall continue to manage maintenance and access to hydrologic, meteorologic, and climatological devices, facilities and associated equipment consistent with House Report 98–40.

(d) AUTHORIZED ACTIVITIES OUTSIDE WILDERNESS.—Nothing in this subtitle precludes authorized activities conducted outside of an area designated as wilderness by this subtitle by cabin owners (or designees) in the Mineral King Valley area or property owners or lessees (or designees) in the Silver City inholding, as identified on the map described in section 3(1)(A).

(e) HORSEBACK RIDING.—Nothing in this subtitle precludes horseback riding in, or the entry of recreational or commercial saddle or pack stock into, an area designated as wilderness by this subtitle—

(1) in accordance with section 4(d)(5) of the Wilderness Act (16 U.S.C. 1133(d)(5)); and

(2) subject to any terms and conditions determined to be necessary by the Secretary.

SEC. 1904. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle N—Rocky Mountain National Park Wilderness, Colorado

SEC. 1951. DEFINITIONS.

In this subtitle:

(1) MAP.—The term ''map'' means the map entitled ''Rocky Mountain National Park Wilderness Act of 2007'' and dated September 2006.

(2) PARK.—The term ''Park'' means Rocky Mountain National Park located in the State of Colorado.

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

(4) TRAIL.—The term ''Trail'' means the East Shore Trail established under section 1954(a).

(5) WILDERNESS.—The term ''Wilderness'' means the wilderness designated by section 1952(a).

SEC. 1952. ROCKY MOUNTAIN NATIONAL PARK WILDERNESS, COLORADO.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is designated as wilderness and as a component of the National Wilderness Preservation System approximately 249,339 acres of land in the Park, as generally depicted on the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a map and boundary description of the Wilderness; and

(B) submit the map and boundary description prepared under subparagraph (A) to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(2) AVAILABILITY; FORCE OF LAW.—The map and boundary description submitted under paragraph (1)(B) shall—

(A) be on file and available for public inspection in appropriate offices of the National Park Service; and

(B) have the same force and effect as if included in this subtitle.

(c) INCLUSION OF POTENTIAL WILDERNESS.—

(1) IN GENERAL.—On publication in the Federal Register of a notice by the Secretary that all uses inconsistent with the Wilderness Act (16 U.S.C. 1131 et seq.) have ceased on the land identified on the map as a ''Potential Wilderness Area'', the land shall be—

(A) included in the Wilderness; and

(B) administered in accordance with subsection (e).

(2) BOUNDARY DESCRIPTION.—On inclusion in the Wilderness of the land referred to in paragraph (1), the Secretary shall modify the map and boundary description submitted under subsection (b) to reflect the inclusion of the land.

(d) EXCLUSION OF CERTAIN LAND.—The following areas are specifically excluded from the Wilderness:

(1) The Grand River Ditch (including the main canal of the Grand River Ditch and a branch of the main canal known as the Specimen Ditch), the right-of-way for the Grand River Ditch, land 200 feet on each side of the center line of the Grand River Ditch, and any associated appurtenances, structures, buildings, camps, and work sites in existence as of June 1, 1998.

(2) Land owned by the St. Vrain & Left Hand Water Conservancy District, including Copeland Reservoir and the Inlet Ditch to the Reservoir from North St. Vrain Creek, comprising approximately 35.38 acres.

(3) Land owned by the Wincenstsen-Harms Trust, comprising approximately 2.75 acres.

(4) Land within the area depicted on the map as the ''East Shore Trail Area''.

(e) ADMINISTRATION.—Subject to valid existing rights, any land designated as wilderness under this section or added to the Wilderness after the date of enactment of this Act under subsection (c) shall be administered by the Secretary in accordance with this subtitle and the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act, or the date on which the additional land is added to the Wilderness, respectively; and

(2) any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(f) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the United States has existing rights to water within the Park;

(B) the existing water rights are sufficient for the purposes of the Wilderness; and

(C) based on the findings described in subparagraphs (A) and (B), there is no need for the United States to reserve or appropriate any additional water rights to fulfill the purposes of the Wilderness.

(2) EFFECT.—Nothing in this subtitle—

(A) constitutes an express or implied reservation by the United States of water or water rights for any purpose; or

(B) modifies or otherwise affects any existing water rights held by the United States for the Park.

(g) FIRE, INSECT, AND DISEASE CONTROL.—The Secretary may take such measures in the Wilderness as are necessary to control fire, insects, and diseases, as are provided for in accordance with—

(1) the laws applicable to the Park; and

(2) the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 1953. GRAND RIVER DITCH AND COLORADO-BIG THOMPSON PROJECTS.

(a) CONDITIONAL WAIVER OF STRICT LIABILITY.—During any period in which the Water

Supply and Storage Company (or any successor in interest to the company with respect to the Grand River Ditch) operates and maintains the portion of the Grand River Ditch in the Park in compliance with an operations and maintenance agreement between the Water Supply and Storage Company and the National Park Service, the provisions of paragraph (6) of the stipulation approved June 28, 1907—

(1) shall be suspended; and

(2) shall not be enforceable against the Company (or any successor in interest).

(b) AGREEMENT.—The agreement referred to in subsection (a) shall—

(1) ensure that—

(A) Park resources are managed in accordance with the laws generally applicable to the Park, including—

(i) the Act of January 26, 1915 (16 U.S.C. 191 et seq.); and

(ii) the National Park Service Organic Act (16 U.S.C. 1 et seq.);

(B) Park land outside the right-of-way corridor remains unimpaired consistent with the National Park Service management policies in effect as of the date of enactment of this Act; and

(C) any use of Park land outside the right-of-way corridor (as of the date of enactment of this Act) shall be permitted only on a temporary basis, subject to such terms and conditions as the Secretary determines to be necessary; and

(2) include stipulations with respect to—

(A) flow monitoring and early warning measures;

(B) annual and periodic inspections;

(C) an annual maintenance plan;

(D) measures to identify on an annual basis capital improvement needs; and

(E) the development of plans to address the needs identified under subparagraph (D).

(c) LIMITATION.—Nothing in this section limits or otherwise affects—

(1) the liability of any individual or entity for damages to, loss of, or injury to any resource within the Park resulting from any cause or event that occurred before the date of enactment of this Act; or

(2) Public Law 101–337 (16 U.S.C. 19jj et seq.), including the defenses available under that Act for damage caused—

(A) solely by—

(i) an act of God;

(ii) an act of war; or

(iii) an act or omission of a third party (other than an employee or agent); or

(B) by an activity authorized by Federal or State law.

(d) COLORADO-BIG THOMPSON PROJECT AND WINDY GAP PROJECT.—

(1) IN GENERAL.—Nothing in this subtitle, including the designation of the Wilderness, prohibits or affects current and future operation and maintenance activities in, under, or affecting the Wilderness that were allowed as of the date of enactment of this Act under the Act of January 26, 1915 (16 U.S.C. 191), relating to the Alva B. Adams Tunnel or other Colorado–Big Thompson Project facilities located within the Park.

(2) ALVA B. ADAMS TUNNEL.—Nothing in this subtitle, including the designation of the Wilderness, prohibits or restricts the conveyance of water through the Alva B. Adams Tunnel for any purpose.

(e) RIGHT-OF-WAY.—Notwithstanding the Act of March 3, 1891 (43 U.S.C. 946) and the Act of May 11, 1898 (43 U.S.C. 951), the right of way for the Grand River Ditch shall not be terminated, forfeited, or otherwise affected as a result of the water transported by the Grand River Ditch being used primarily for domestic purposes or any purpose of a public nature, unless the Secretary determines that the change in the main purpose or use adversely affects the Park.

(f) NEW RECLAMATION PROJECTS.—Nothing in the first section of the Act of January 26, 1915 (16 U.S.C. 191), shall be construed to allow development in the Wilderness of any reclamation project not in existence as of the date of enactment of this Act.

(g) CLARIFICATION OF MANAGEMENT AUTHORITY.—Nothing in this section reduces or limits the authority of the Secretary to manage land and resources within the Park under applicable law.

SEC. 1954. EAST SHORE TRAIL AREA.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish within the East Shore Trail Area in the Park an alignment line for a trail, to be known as the ''East Shore Trail'', to maximize the opportunity for sustained use of the Trail without causing—

(1) harm to affected resources; or

(2) conflicts among users.

(b) BOUNDARIES.—

(1) IN GENERAL.—After establishing the alignment line for the Trail under subsection (a), the Secretary shall—

(A) identify the boundaries of the Trail, which shall not extend more than 25 feet east of the alignment line or be located within the Wilderness; and

(B) modify the map of the Wilderness prepared under section 1952(b)(1)(A) so that the western boundary of the Wilderness is 50 feet east of the alignment line.

(2) ADJUSTMENTS.—To the extent necessary to protect Park resources, the Secretary may adjust the boundaries of the Trail, if the adjustment does not place any portion of the Trail within the boundary of the Wilderness.

(c) INCLUSION IN WILDERNESS.—On completion of the construction of the Trail, as authorized by the Secretary—

(1) any portion of the East Shore Trail Area that is not traversed by the Trail, that is not west of the Trail, and that is not within 50 feet of the centerline of the Trail shall be—

(A) included in the Wilderness; and

(B) managed as part of the Wilderness in accordance with section 1952; and

(2) the Secretary shall modify the map and boundary description of the Wilderness prepared under section 1952(b)(1)(A) to reflect the inclusion of the East Shore Trail Area land in the Wilderness.

(d) EFFECT.—Nothing in this section—

(1) requires the construction of the Trail along the alignment line established under subsection (a); or

(2) limits the extent to which any otherwise applicable law or policy applies to any decision with respect to the construction of the Trail.

(e) RELATION TO LAND OUTSIDE WILDERNESS.—

(1) IN GENERAL.—Except as provided in this subsection, nothing in this subtitle affects the management or use of any land not included within the boundaries of the Wilderness or the potential wilderness land.

(2) MOTORIZED VEHICLES AND MACHINERY.—No use of motorized vehicles or other motorized machinery that was not permitted on March 1, 2006, shall be allowed in the East Shore Trail Area except as the Secretary determines to be necessary for use in—

(A) constructing the Trail, if the construction is authorized by the Secretary; or

(B) maintaining the Trail.

(3) MANAGEMENT OF LAND BEFORE INCLUSION.—Until the Secretary authorizes the construction of the Trail and the use of the Trail for non-motorized bicycles, the East Shore Trail Area shall be managed—

(A) to protect any wilderness characteristics of the East Shore Trail Area; and

(B) to maintain the suitability of the East Shore Trail Area for inclusion in the Wilderness.

SEC. 1955. NATIONAL FOREST AREA BOUNDARY ADJUSTMENTS.

(a) INDIAN PEAKS WILDERNESS BOUNDARY ADJUSTMENT.—Section 3(a) of the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (16 U.S.C. 1132 note; Public Law 95–450) is amended—

(1) by striking ''seventy thousand acres'' and inserting ''74,195 acres''; and

(2) by striking '', dated July 1978'' and inserting ''and dated May 2007''.

(b) ARAPAHO NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT.—Section 4(a) of the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (16 U.S.C. 460jj(a)) is amended—

(1) by striking ''thirty-six thousand two hundred thirty-five acres'' and inserting ''35,235 acres''; and

(2) by striking '', dated July 1978'' and inserting ''and dated May 2007''.

SEC. 1956. AUTHORITY TO LEASE LEIFFER TRACT.

(a) IN GENERAL.—Section 3(k) of Public Law 91–383 (16 U.S.C. 1a–2(k)) shall apply to the parcel of land described in subsection (b).

(b) DESCRIPTION OF THE LAND.—The parcel of land referred to in subsection (a) is the parcel of land known as the ''Leiffer tract'' that is—

(1) located near the eastern boundary of the Park in Larimer County, Colorado; and

(2) administered by the National Park Service.

TITLE II—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

Subtitle A—National Landscape Conservation System

SEC. 2001. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) SYSTEM.—The term ''system'' means the National Landscape Conservation System established by section 2002(a).

SEC. 2002. ESTABLISHMENT OF THE NATIONAL LANDSCAPE CONSERVATION SYSTEM.

(a) ESTABLISHMENT.—In order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, there is established in the Bureau of Land Management the National Landscape Conservation System.

(b) COMPONENTS.—The system shall include each of the following areas administered by the Bureau of Land Management:

(1) Each area that is designated as—

(A) a national monument;

(B) a national conservation area;

(C) a wilderness study area;

(D) a national scenic trail or national historic trail designated as a component of the National Trails System;

(E) a component of the National Wild and Scenic Rivers System; or

(F) a component of the National Wilderness Preservation System.

(2) Any area designated by Congress to be administered for conservation purposes, including—

(A) the Steens Mountain Cooperative Management and Protection Area;

(B) the Headwaters Forest Reserve;

(C) the Yaquina Head Outstanding Natural Area;

(D) public land within the California Desert Conservation Area administered by the Bureau of Land Management for conservation purposes; and

(E) any additional area designated by Congress for inclusion in the system.

(c) MANAGEMENT.—The Secretary shall manage the system—

(1) in accordance with any applicable law (including regulations) relating to any component of the system included under subsection (b); and

(2) in a manner that protects the values for which the components of the system were designated.

(d) EFFECT.—Nothing in this subtitle enhances, diminishes, or modifies any law or proclamation (including regulations relating to the law or proclamation) under which the components of the system described in subsection (b) were established or are managed, including—

(1) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.);

(2) the Wilderness Act (16 U.S.C. 1131 et seq.);

(3) the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(4) the National Trails System Act (16 U.S.C. 1241 et seq.); and

(5) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)

SEC. 2003. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle B—Prehistoric Trackways National Monument

SEC. 2101. FINDINGS.

Congress finds that—

(1) in 1987, a major deposit of Paleozoic Era fossilized footprint megatrackways was discovered in the Robledo Mountains in southern New Mexico;

(2) the trackways contain footprints of numerous amphibians, reptiles, and insects (including previously unknown species), plants, and petrified wood dating back approximately 280,000,000 years, which collectively provide new opportunities to understand animal behaviors and environments from a time predating the dinosaurs;

(3) title III of Public Law 101–578 (104 Stat. 2860)—

(A) provided interim protection for the site at which the trackways were discovered; and

(B) directed the Secretary of the Interior to—

(i) prepare a study assessing the significance of the site; and

(ii) based on the study, provide recommendations for protection of the paleontological resources at the site;

(4) the Bureau of Land Management completed the Paleozoic Trackways Scientific Study Report in 1994, which characterized the site as containing ''the most scientifically significant Early Permian tracksites'' in the world;

(5) despite the conclusion of the study and the recommendations for protection, the site remains unprotected and many irreplaceable trackways specimens have been lost to vandalism or theft; and

(6) designation of the trackways site as a National Monument would protect the unique fossil resources for present and future generations while allowing for public education and continued scientific research opportunities.

SEC. 2102. DEFINITIONS.

In this subtitle:

(1) MONUMENT.—The term ''Monument'' means the Prehistoric Trackways National Monument established by section 2103(a).

(2) PUBLIC LAND.—The term ''public land'' has the meaning given the term ''public lands'' in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

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

SEC. 2103. ESTABLISHMENT.

(a) IN GENERAL.—In order to conserve, protect, and enhance the unique and nationally important paleontological, scientific, educational, scenic, and recreational resources and values of the public land described in subsection (b), there is established the Prehistoric Trackways National Monument in the State of New Mexico.

(b) DESCRIPTION OF LAND.—The Monument shall consist of approximately 5,280 acres of public land in Doña Ana County, New Mexico, as generally depicted on the map entitled ''Prehistoric Trackways National Monument'' and dated January 25, 2007.

(c) MAP; LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare and submit to Congress an official map and legal description of the Monument.

(2) CORRECTIONS.—The map and legal description submitted under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical or typographical errors in the legal description and the map.

(3) CONFLICT BETWEEN MAP AND LEGAL DESCRIPTION.—In the case of a conflict between the map and the legal description, the map shall control.

(4) AVAILABILITY OF MAP AND LEGAL DESCRIPTION.—Copies of the map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) MINOR BOUNDARY ADJUSTMENTS.—If additional paleontological resources are discovered on public land adjacent to the Monument after the date of enactment of this Act, the Secretary may make minor boundary adjustments to the Monument to include the resources in the Monument.

SEC. 2104. ADMINISTRATION.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Monument—

(A) in a manner that conserves, protects, and enhances the resources and values of the Monument, including the resources and values described in section 2103(a); and

(B) in accordance with—

(i) this subtitle;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) other applicable laws.

(2) NATIONAL LANDSCAPE CONSERVATION SYSTEM.—The Monument shall be managed as a component of the National Landscape Conservation System.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a comprehensive management plan for the long-term protection and management of the Monument.

(2) COMPONENTS.—The management plan under paragraph (1)—

(A) shall—

(i) describe the appropriate uses and management of the Monument, consistent with the provisions of this subtitle; and

(ii) allow for continued scientific research at the Monument during the development of the management plan; and

(B) may—

(i) incorporate any appropriate decisions contained in any current management or activity plan for the land described in section 2103(b); and

(ii) use information developed in studies of any land within or adjacent to the Monument that were conducted before the date of enactment of this Act.

(c) AUTHORIZED USES.—The Secretary shall only allow uses of the Monument that the Secretary determines would further the purposes for which the Monument has been established.

(d) INTERPRETATION, EDUCATION, AND SCIENTIFIC RESEARCH.—

(1) IN GENERAL.—The Secretary shall provide for public interpretation of, and education and scientific research on, the paleontological resources of the Monument, with priority given to exhibiting and curating the resources in Doña Ana County, New Mexico.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate public entities to carry out paragraph (1).

(e) SPECIAL MANAGEMENT AREAS.—

(1) IN GENERAL.—The establishment of the Monument shall not change the management status of any area within the boundary of the Monument that is—

(A) designated as a wilderness study area and managed in accordance with section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); or

(B) managed as an area of critical environment concern.

(2) CONFLICT OF LAWS.—If there is a conflict between the laws applicable to the areas described in paragraph (1) and this subtitle, the more restrictive provision shall control.

(f) MOTORIZED VEHICLES.—

(1) IN GENERAL.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Monument shall be allowed only on roads and trails designated for use by motorized vehicles under the management plan prepared under subsection (b).

(2) PERMITTED EVENTS.—The Secretary may issue permits for special recreation events involving motorized vehicles within the boundaries of the Monument, including the ''Chile Challenge''—

(A) to the extent the events do not harm paleontological resources; and

(B) subject to any terms and conditions that the Secretary determines to be necessary.

(g) WITHDRAWALS.—Subject to valid existing rights, any Federal land within the Monument and any land or interest in land that is acquired by the United States for inclusion in the Monument after the date of enactment of this Act are withdrawn from—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing laws, geothermal leasing laws, and minerals materials laws.

(h) GRAZING.—The Secretary may allow grazing to continue in any area of the Monument in which grazing is allowed before the date of enactment of this Act, subject to applicable laws (including regulations).

(i) WATER RIGHTS.—Nothing in this subtitle constitutes an express or implied reservation by the United States of any water or water rights with respect to the Monument.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle C—Fort Stanton-Snowy River Cave National Conservation Area

SEC. 2201. DEFINITIONS.

In this subtitle:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Fort Stanton-Snowy River Cave National Conservation Area established by section 2202(a).

(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan developed for the Conservation Area under section 2203(c).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting

through the Director of the Bureau of Land Management.

SEC. 2202. ESTABLISHMENT OF THE FORT STANTON-SNOWY RIVER CAVE NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT; PURPOSES.—There is established the Fort Stanton-Snowy River Cave National Conservation Area in Lincoln County, New Mexico, to protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, archaeological, natural, and educational subterranean cave resources of the Fort Stanton-Snowy River cave system.

(b) AREA INCLUDED.—The Conservation Area shall include the area within the boundaries depicted on the map entitled ''Fort Stanton-Snowy River Cave National Conservation Area'' and dated January 25, 2007.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 2203. MANAGEMENT OF THE CONSERVATION AREA.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area, including the resources and values described in section 2202(a); and

(B) in accordance with—

(i) this subtitle;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) any other applicable laws.

(2) USES.—The Secretary shall only allow uses of the Conservation Area that are consistent with the protection of the cave resources.

(3) REQUIREMENTS.—In administering the Conservation Area, the Secretary shall provide for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses or other new uses of the Conservation Area that do not impair the purposes for which the Conservation Area is established;

(D) management of the surface area of the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001, or any amendments to the plan, consistent with this subtitle; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—The establishment of the Conservation Area shall not—

(1) create a protective perimeter or buffer zone around the Conservation Area; or

(2) preclude uses or activities outside the Conservation Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Conservation Area.

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may, in a manner consistent with this subtitle, enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this subtitle.

(f) WATER RIGHTS.—Nothing in this subtitle constitutes an express or implied reservation of any water right.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle D—Snake River Birds of Prey National Conservation Area

SEC. 2301. SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA.

(a) RENAMING.—Public Law 103–64 is amended—

(1) in section 2(2) (16 U.S.C. 460iii–1(2)), by inserting ''Morley Nelson'' before ''Snake River Birds of Prey National Conservation Area''; and

(2) in section 3(a)(1) (16 U.S.C. 460iii–2(a)(1)), by inserting ''Morley Nelson'' before ''Snake River Birds of Prey National Conservation Area''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Snake River Birds of Prey National Conservation Area shall be deemed to be a reference to the Morley Nelson Snake River Birds of Prey National Conservation Area.

(c) TECHNICAL CORRECTIONS.—Public Law 103–64 is further amended—

(1) in section 3(a)(1) (16 U.S.C. 460iii–2(a)(1)), by striking ''(hereafter referred to as the 'conservation area')''; and

(2) in section 4 (16 U.S.C. 460iii–3)—

(A) in subsection (a)(2), by striking ''Conservation Area'' and inserting ''conservation area''; and

(B) in subsection (d), by striking ''Visitors Center'' and inserting ''visitors center''.

Subtitle E—Dominguez-Escalante National Conservation Area

SEC. 2401. DEFINITIONS.

In this subtitle:

(1) CONSERVATION AREA.—The term Conservation Area means the Dominguez-Escalante National Conservation Area established by section 2402(a)(1).

(2) COUNCIL.—The term Council means the Dominguez-Escalante National Conservation Area Advisory Council established under section 2407.

(3) MANAGEMENT PLAN.—The term management plan means the management plan developed under section 2406.

(4) MAP.—The term Map means the map entitled Dominguez-Escalante National Conservation Area and dated September 15, 2008.

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

(6) STATE.—The term State means the State of Colorado.

(7) WILDERNESS.—The term Wilderness means the Dominguez Canyon Wilderness Area designated by section 2403(a).

SEC. 2402. DOMINGUEZ-ESCALANTE NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Dominguez-Escalante National Conservation Area in the State.

(2) AREA INCLUDED.—The Conservation Area shall consist of approximately 209,610 acres of public land, as generally depicted on the Map.

(b) PURPOSES.—The purposes of the Conservation Area are to conserve and protect for the benefit and enjoyment of present and future generations—

(1) the unique and important resources and values of the land, including the geological, cultural, archaeological, paleontological, natural, scientific, recreational, wilderness, wildlife, riparian, historical, educational, and scenic resources of the public land; and

(2) the water resources of area streams, based on seasonally available flows, that are necessary to support aquatic, riparian, and terrestrial species and communities.

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) as a component of the National Landscape Conservation System;

(B) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area described in subsection (b); and

(C) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this subtitle; and

(iii) any other applicable laws.

(2) USES.—

(A) IN GENERAL.—The Secretary shall allow only such uses of the Conservation Area as the Secretary determines would further the purposes for which the Conservation Area is established.

(B) USE OF MOTORIZED VEHICLES.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), use of motorized vehicles in the Conservation Area shall be allowed—

(I) before the effective date of the management plan, only on roads and trails designated for use of motor vehicles in the management plan that applies on the date of the

enactment of this Act to the public land in the Conservation Area; and

(II) after the effective date of the management plan, only on roads and trails designated in the management plan for the use of motor vehicles.

(ii) ADMINISTRATIVE AND EMERGENCY RESPONSE USE.—Clause (i) shall not limit the use of motor vehicles in the Conservation Area for administrative purposes or to respond to an emergency.

(iii) LIMITATION.—This subparagraph shall not apply to the Wilderness.

SEC. 2403. DOMINGUEZ CANYON WILDERNESS AREA.

(a) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 66,280 acres of public land in Mesa, Montrose, and Delta Counties, Colorado, as generally depicted on the Map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Dominguez Canyon Wilderness Area''.

(b) ADMINISTRATION OF WILDERNESS.—The Wilderness shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this subtitle, except that—

(1) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

SEC. 2404. MAPS AND LEGAL DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Conservation Area and the Wilderness with—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Natural Resources of the House of Representatives.

(b) FORCE AND EFFECT.—The Map and legal descriptions filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct clerical and typographical errors in the Map and legal descriptions.

(c) PUBLIC AVAILABILITY.—The Map and legal descriptions filed under subsection (a) shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 2405. MANAGEMENT OF CONSERVATION AREA AND WILDERNESS.

(a) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Conservation Area and the Wilderness and all land and interests in land acquired by the United States within the Conservation Area or the Wilderness is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(b) GRAZING.—

(1) GRAZING IN CONSERVATION AREA.—Except as provided in paragraph (2), the Secretary shall issue and administer any grazing leases or permits in the Conservation Area in accordance with the laws (including regulations) applicable to the issuance and administration of such leases and permits on other land under the jurisdiction of the Bureau of Land Management.

(2) GRAZING IN WILDERNESS.—The grazing of livestock in the Wilderness, if established as of the date of enactment of this Act, shall be permitted to continue—

(A) subject to any reasonable regulations, policies, and practices that the Secretary determines to be necessary; and

(B) in accordance with—

(i) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(c) NO BUFFER ZONES.—

(1) IN GENERAL.—Nothing in this subtitle creates a protective perimeter or buffer zone around the Conservation Area.

(2) ACTIVITIES OUTSIDE CONSERVATION AREA.—The fact that an activity or use on land outside the Conservation Area can be seen or heard within the Conservation Area shall not preclude the activity or use outside the boundary of the Conservation Area.

(d) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire non-Federal land within the boundaries of the Conservation Area or the Wilderness only through exchange, donation, or purchase from a willing seller.

(2) MANAGEMENT.—Land acquired under paragraph (1) shall—

(A) become part of the Conservation Area and, if applicable, the Wilderness; and

(B) be managed in accordance with this subtitle and any other applicable laws.

(e) FIRE, INSECTS, AND DISEASES.—Subject to such terms and conditions as the Secretary determines to be desirable and appropriate, the Secretary may undertake such measures as are necessary to control fire, insects, and diseases—

(1) in the Wilderness, in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and

(2) except as provided in paragraph (1), in the Conservation Area in accordance with this subtitle and any other applicable laws.

(f) ACCESS.—The Secretary shall continue to provide private landowners adequate access to inholdings in the Conservation Area.

(g) INVASIVE SPECIES AND NOXIOUS WEEDS.—In accordance with any applicable laws and subject to such terms and conditions as the Secretary determines to be desirable and appropriate, the Secretary may prescribe measures to control nonnative invasive plants and noxious weeds within the Conservation Area.

(h) WATER RIGHTS.—

(1) EFFECT.—Nothing in this subtitle—

(A) affects the use or allocation, in existence on the date of enactment of this Act, of any water, water right, or interest in water;

(B) affects any vested absolute or decreed conditional water right in existence on the date of enactment of this Act, including any water right held by the United States;

(C) affects any interstate water compact in existence on the date of enactment of this Act;

(D) authorizes or imposes any new reserved Federal water rights; or

(E) shall be considered to be a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State on or before the date of enactment of this Act.

(2) WILDERNESS WATER RIGHTS.—

(A) IN GENERAL.—The Secretary shall ensure that any water rights within the Wilderness required to fulfill the purposes of the Wilderness are secured in accordance with subparagraphs (B) through (G).

(B) STATE LAW.—

(i) PROCEDURAL REQUIREMENTS.—Any water rights within the Wilderness for which the Secretary pursues adjudication shall be adjudicated, changed, and administered in accordance with the procedural requirements and priority system of State law.

(ii) ESTABLISHMENT OF WATER RIGHTS.—

(I) IN GENERAL.—Except as provided in subclause (II), the purposes and other substantive characteristics of the water rights pursued under this paragraph shall be established in accordance with State law.

(II) EXCEPTION.—Notwithstanding subclause (I) and in accordance with this subtitle, the Secretary may appropriate and seek adjudication of water rights to maintain surface water levels and stream flows on and across the Wilderness to fulfill the purposes of the Wilderness.

(C) DEADLINE.—The Secretary shall promptly, but not earlier than January 2009, appropriate the water rights required to fulfill the purposes of the Wilderness.

(D) REQUIRED DETERMINATION.—The Secretary shall not pursue adjudication for any instream flow water rights unless the Secretary makes a determination pursuant to subparagraph (E)(ii) or (F).

(E) COOPERATIVE ENFORCEMENT.—

(i) IN GENERAL.—The Secretary shall not pursue adjudication of any Federal instream flow water rights established under this paragraph if—

(I) the Secretary determines, upon adjudication of the water rights by the Colorado Water Conservation Board, that the Board holds water rights sufficient in priority, amount, and timing to fulfill the purposes of the Wilderness; and

(II) the Secretary has entered into a perpetual agreement with the Colorado Water Conservation Board to ensure the full exercise, protection, and enforcement of the State water rights within the Wilderness to reliably fulfill the purposes of the Wilderness.

(ii) ADJUDICATION.—If the Secretary determines that the provisions of clause (i) have not been met, the Secretary shall adjudicate and exercise any Federal water rights required to fulfill the purposes of the Wilderness in accordance with this paragraph.

(F) INSUFFICIENT WATER RIGHTS.—If the Colorado Water Conservation Board modifies the instream flow water rights obtained under subparagraph (E) to such a degree that the Secretary determines that water rights held by the State are insufficient to fulfill the purposes of the Wilderness, the Secretary shall adjudicate and exercise Federal water rights required to fulfill the purposes of the Wilderness in accordance with subparagraph (B).

(G) FAILURE TO COMPLY.—The Secretary shall promptly act to exercise and enforce the water rights described in subparagraph (E) if the Secretary determines that—

(i) the State is not exercising its water rights consistent with subparagraph (E)(i)(I); or

(ii) the agreement described in subparagraph (E)(i)(II) is not fulfilled or complied with sufficiently to fulfill the purposes of the Wilderness.

(3) WATER RESOURCE FACILITY.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), beginning on the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new irrigation and pumping facility, reservoir, water conservation work, aqueduct, canal, ditch, pipeline, well, hydropower project, transmission, other ancillary facility, or other water, diversion, storage, or carriage structure in the Wilderness.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may allow construction of new livestock watering facilities within the Wilderness in accordance with—

(i) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior

and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(4) CONSERVATION AREA WATER RIGHTS.—With respect to water within the Conservation Area, nothing in this subtitle—

(A) authorizes any Federal agency to appropriate or otherwise acquire any water right on the mainstem of the Gunnison River; or

(B) prevents the State from appropriating or acquiring, or requires the State to appropriate or acquire, an instream flow water right on the mainstem of the Gunnison River.

(5) WILDERNESS BOUNDARIES ALONG GUNNISON RIVER.—

(A) IN GENERAL.—In areas in which the Gunnison River is used as a reference for defining the boundary of the Wilderness, the boundary shall—

(i) be located at the edge of the river; and

(ii) change according to the river level.

(B) EXCLUSION FROM WILDERNESS.—Regardless of the level of the Gunnison River, no portion of the Gunnison River is included in the Wilderness.

(i) EFFECT.—Nothing in this subtitle—

(1) diminishes the jurisdiction of the State with respect to fish and wildlife in the State; or

(2) imposes any Federal water quality standard upstream of the Conservation Area or within the mainstem of the Gunnison River that is more restrictive than would be applicable had the Conservation Area not been established.

(j) VALID EXISTING RIGHTS.—The designation of the Conservation Area and Wilderness is subject to valid rights in existence on the date of enactment of this Act.

SEC. 2406. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a comprehensive management plan for the long-term protection and management of the Conservation Area.

(b) PURPOSES.—The management plan shall—

(1) describe the appropriate uses and management of the Conservation Area;

(2) be developed with extensive public input;

(3) take into consideration any information developed in studies of the land within the Conservation Area; and

(4) include a comprehensive travel management plan.

SEC. 2407. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish an advisory council, to be known as the ''Dominguez-Escalante National Conservation Area Advisory Council''.

(b) DUTIES.—The Council shall advise the Secretary with respect to the preparation and implementation of the management plan.

(c) APPLICABLE LAW.—The Council shall be subject to—

(1) the Federal Advisory Committee Act (5 U.S.C. App.); and

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(d) MEMBERS.—The Council shall include 10 members to be appointed by the Secretary, of whom, to the extent practicable—

(1) 1 member shall be appointed after considering the recommendations of the Mesa County Commission;

(2) 1 member shall be appointed after considering the recommendations of the Montrose County Commission;

(3) 1 member shall be appointed after considering the recommendations of the Delta County Commission;

(4) 1 member shall be appointed after considering the recommendations of the permittees holding grazing allotments within the Conservation Area or the Wilderness; and

(5) 5 members shall reside in, or within reasonable proximity to, Mesa County, Delta County, or Montrose County, Colorado, with backgrounds that reflect—

(A) the purposes for which the Conservation Area or Wilderness was established; and

(B) the interests of the stakeholders that are affected by the planning and management of the Conservation Area and Wilderness.

(e) REPRESENTATION.—The Secretary shall ensure that the membership of the Council is fairly balanced in terms of the points of view represented and the functions to be performed by the Council.

(f) DURATION.—The Council shall terminate on the date that is 1 year from the date on which the management plan is adopted by the Secretary.

SEC. 2408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle F—Rio Puerco Watershed Management Program

SEC. 2501. RIO PUERCO WATERSHED MANAGEMENT PROGRAM.

(a) RIO PUERCO MANAGEMENT COMMITTEE.—Section 401(b) of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4147) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (I) through (N) as subparagraphs (J) through (O), respectively; and

(B) by inserting after subparagraph (H) the following:

''(I) the Environmental Protection Agency;''; and

(2) in paragraph (4), by striking ''enactment of this Act'' and inserting ''enactment of the Omnibus Public Lands Management Act of 2008''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 401(e) of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4148) is amended by striking ''enactment of this Act'' and inserting ''enactment of the Omnibus Public Lands Management Act of 2008''.

Subtitle G—Land Conveyances and Exchanges

SEC. 2601. CARSON CITY, NEVADA, LAND CONVEYANCES.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means Carson City Consolidated Municipality, Nevada.

(2) MAP.—The term ''Map'' means the map entitled ''Carson City, Nevada Area'', dated September 12, 2008, and on file and available for public inspection in the appropriate offices of—

(A) the Bureau of Land Management;

(B) the Forest Service; and

(C) the City.

(3) SECRETARY.—The term ''Secretary'' means—

(A) with respect to land in the National Forest System, the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) with respect to other Federal land, the Secretary of the Interior.

(4) SECRETARIES.—The term ''Secretaries'' means the Secretary of Agriculture and the Secretary of the Interior, acting jointly.

(5) TRIBE.—The term ''Tribe'' means the Washoe Tribe of Nevada and California, which is a federally recognized Indian tribe.

(b) CONVEYANCES OF FEDERAL LAND AND CITY LAND.—

(1) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), if the City offers to convey to the United States title to the non-Federal land described in paragraph (2)(A) that is acceptable to the Secretary of Agriculture—

(A) the Secretary shall accept the offer; and

(B) not later than 180 days after the date on which the Secretary receives acceptable title to the non-Federal land described in paragraph (2)(A), the Secretaries shall convey to the City, subject to valid existing rights and for no consideration, except as provided in paragraph (3)(A), all right, title, and interest of the United States in and to the Federal land (other than any easement reserved under paragraph (3)(B)) or interest in land described in paragraph (2)(B).

(2) DESCRIPTION OF LAND.—

(A) NON-FEDERAL LAND.—The non-Federal land referred to in paragraph (1) is the approximately 2,264 acres of land administered by the City and identified on the Map as ''To U.S. Forest Service''.

(B) FEDERAL LAND.—The Federal land referred to in paragraph (1)(B) is—

(i) the approximately 935 acres of Forest Service land identified on the Map as ''To Carson City for Natural Areas'';

(ii) the approximately 3,604 acres of Bureau of Land Management land identified on the Map as ''Silver Saddle Ranch and Carson River Area'';

(iii) the approximately 1,862 acres of Bureau of Land Management land identified on the Map as ''To Carson City for Parks and Public Purposes''; and

(iv) the approximately 75 acres of City land in which the Bureau of Land Management has a reversionary interest that is identified on the Map as ''Reversionary Interest of the United States Released''.

(3) CONDITIONS.—

(A) CONSIDERATION.—Before the conveyance of the 62–acre Bernhard parcel to the City, the City shall deposit in the special account established by subsection (e)(2)(A) an amount equal to 25 percent of the difference between—

(i) the amount for which the Bernhard parcel was purchased by the City on July 18, 2001; and

(ii) the amount for which the Bernhard parcel was purchased by the Secretary on March 24, 2006.

(B) CONSERVATION EASEMENT.—As a condition of the conveyance of the land described in paragraph (2)(B)(ii), the Secretary, in consultation with Carson City and affected local interests, shall reserve a perpetual conservation easement to the land to protect, preserve, and enhance the conservation values of the land, consistent with paragraph (4)(B).

(C) COSTS.—Any costs relating to the conveyance under paragraph (1), including any costs for surveys and other administrative costs, shall be paid by the recipient of the land being conveyed.

(4) USE OF LAND.—

(A) NATURAL AREAS.—

(i) IN GENERAL.—Except as provided in clause (ii), the land described in paragraph (2)(B)(i) shall be managed by the City to maintain undeveloped open space and to preserve the natural characteristics of the land in perpetuity.

(ii) EXCEPTION.—Notwithstanding clause (i), the City may—

(I) conduct projects on the land to reduce fuels;

(II) construct and maintain trails, trailhead facilities, and any infrastructure on the land that is required for municipal water and flood management activities; and

(III) maintain or reconstruct any improvements on the land that are in existence on the date of enactment of this Act.

(B) SILVER SADDLE RANCH AND CARSON RIVER AREA.—

(i) IN GENERAL.—Except as provided in clause (ii), the land described in paragraph (2)(B)(ii) shall—

(I) be managed by the City to protect and enhance the Carson River, the floodplain and surrounding upland, and important wildlife habitat; and

(II) be used for undeveloped open space, passive recreation, customary agricultural practices, and wildlife protection.

(ii) EXCEPTION.—Notwithstanding clause (i), the City may—

(I) construct and maintain trails and trailhead facilities on the land;

(II) conduct projects on the land to reduce fuels;

(III) maintain or reconstruct any improvements on the land that are in existence on the date of enactment of this Act; and

(IV) allow the use of motorized vehicles on designated roads, trails, and areas in the south end of Prison Hill.

(C) PARKS AND PUBLIC PURPOSES.—The land described in paragraph (2)(B)(iii) shall be managed by the City for—

(i) undeveloped open space; and

(ii) recreation or other public purposes consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(D) REVERSIONARY INTEREST.—

(i) RELEASE.—The reversionary interest described in paragraph (2)(B)(iv) shall terminate on the date of enactment of this Act.

(ii) CONVEYANCE BY CITY.—

(I) IN GENERAL.—If the City sells, leases, or otherwise conveys any portion of the land described in paragraph (2)(B)(iv), the sale, lease, or conveyance of land shall be—

(aa) through a competitive bidding process; and

(bb) except as provided in subclause (II), for not less than fair market value.

(II) CONVEYANCE TO GOVERNMENT OR NONPROFIT.—A sale, lease, or conveyance of land described in paragraph (2)(B)(iv) to the Federal Government, a State government, a unit of local government, or a nonprofit organization shall be for consideration in an amount equal to the price established by the Secretary of the Interior under section 2741 of title 43, Code of Federal Regulation (or successor regulations).

(III) DISPOSITION OF PROCEEDS.—The gross proceeds from the sale, lease, or conveyance of land under subclause (I) shall be distributed in accordance with subsection (e)(1).

(5) REVERSION.—If land conveyed under paragraph (1) is used in a manner that is inconsistent with the uses described in subparagraph (A), (B), (C), or (D) of paragraph (4), the land shall, at the discretion of the Secretary, revert to the United States.

(6) MISCELLANEOUS PROVISIONS.—

(A) IN GENERAL.—On conveyance of the non-Federal land under paragraph (1) to the Secretary of Agriculture, the non-Federal land shall—

(i) become part of the Humboldt-Toiyabe National Forest; and

(ii) be administered in accordance with the laws (including the regulations) and rules generally applicable to the National Forest System.

(B) MANAGEMENT PLAN.—The Secretary of Agriculture, in consultation with the City and other interested parties, may develop and implement a management plan for National Forest System land that ensures the protection and stabilization of the National Forest System land to minimize the impacts of flooding on the City.

(7) CONVEYANCE TO BUREAU OF LAND MANAGEMENT.—

(A) IN GENERAL.—If the City offers to convey to the United States title to the non-Federal land described in subparagraph (B) that is acceptable to the Secretary of the Interior, the land shall, at the discretion of the Secretary, be conveyed to the United States.

(B) DESCRIPTION OF LAND.—The non-Federal land referred to in subparagraph (A) is the approximately 136 acres of land administered by the City and identified on the Map as ''To Bureau of Land Management''.

(C) COSTS.—Any costs relating to the conveyance under subparagraph (A), including any costs for surveys and other administrative costs, shall be paid by the Secretary of the Interior.

(c) TRANSFER OF ADMINISTRATIVE JURISDICTION FROM THE FOREST SERVICE TO THE BUREAU OF LAND MANAGEMENT.—

(1) IN GENERAL.—Administrative jurisdiction over the approximately 50 acres of Forest Service land identified on the Map as ''Parcel #1'' is transferred, from the Secretary of Agriculture to the Secretary of the Interior.

(2) COSTS.—Any costs relating to the transfer under paragraph (1), including any costs for surveys and other administrative costs, shall be paid by the Secretary of the Interior.

(3) USE OF LAND.—

(A) RIGHT-OF-WAY.—Not later than 120 days after the date of enactment of this Act, the Secretary of the Interior shall grant to the City a right-of-way for the maintenance of flood management facilities located on the land.

(B) DISPOSAL.—The land referred to in paragraph (1) shall be disposed of in accordance with subsection (d).

(C) DISPOSITION OF PROCEEDS.—The gross proceeds from the disposal of land under subparagraph (B) shall be distributed in accordance with subsection (e)(1).

(d) DISPOSAL OF CARSON CITY LAND.—

(1) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary of the Interior shall, in accordance with that Act, this subsection, and other applicable law, and subject to valid existing rights, conduct sales of the Federal land described in paragraph (2) to qualified bidders.

(2) DESCRIPTION OF LAND.—The Federal land referred to in paragraph (1) is—

(A) the approximately 108 acres of Bureau of Land Management land identified as ''Lands for Disposal'' on the Map; and

(B) the approximately 50 acres of land identified as ''Parcel #1'' on the Map.

(3) COMPLIANCE WITH LOCAL PLANNING AND ZONING LAWS.—Before a sale of Federal land under paragraph (1), the City shall submit to the Secretary a certification that qualified bidders have agreed to comply with—

(A) City zoning ordinances; and

(B) any master plan for the area approved by the City.

(4) METHOD OF SALE; CONSIDERATION.—The sale of Federal land under paragraph (1) shall be—

(A) consistent with subsections (d) and (f) of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713);

(B) unless otherwise determined by the Secretary, through a competitive bidding process; and

(C) for not less than fair market value.

(5) WITHDRAWAL.—

(A) IN GENERAL.—Subject to valid existing rights and except as provided in subparagraph (B), the Federal land described in paragraph (2) is withdrawn from—

(i) all forms of entry and appropriation under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) operation of the mineral leasing and geothermal leasing laws.

(B) EXCEPTION.—Subparagraph (A)(i) shall not apply to sales made consistent with this subsection.

(6) DEADLINE FOR SALE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 1 year after the date of enactment of this Act, if there is a qualified bidder for the land described in subparagraphs (A) and (B) of paragraph (2), the Secretary of the Interior shall offer the land for sale to the qualified bidder.

(B) POSTPONEMENT; EXCLUSION FROM SALE.—

(i) REQUEST BY CARSON CITY FOR POSTPONEMENT OR EXCLUSION.—At the request of the City, the Secretary shall postpone or exclude from the sale under subparagraph (A) all or a portion of the land described in subparagraphs (A) and (B) of paragraph (2).

(ii) INDEFINITE POSTPONEMENT.—Unless specifically requested by the City, a postponement under clause (i) shall not be indefinite.

(e) DISPOSITION OF PROCEEDS.—

(1) IN GENERAL.—Of the proceeds from the sale of land under subsections (b)(4)(D)(ii) and (d)(1)—

(A) 5 percent shall be paid directly to the State for use in the general education program of the State; and

(B) the remainder shall be deposited in a special account in the Treasury of the United States, to be known as the ''Carson City Special Account'', and shall be available without further appropriation to the Secretary until expended to—

(i) reimburse costs incurred by the Bureau of Land Management for preparing for the sale of the Federal land described in subsection (d)(2), including the costs of—

(I) surveys and appraisals; and

(II) compliance with—

(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(bb) sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713);

(ii) reimburse costs incurred by the Bureau of Land Management and Forest Service for preparing for, and carrying out, the transfers of land to be held in trust by the United States under subsection (h)(1); and

(iii) acquire environmentally sensitive land or an interest in environmentally sensitive land in the City.

(2) SILVER SADDLE ENDOWMENT ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a special account, to be known as the ''Silver Saddle Endowment Account'', consisting of such amounts as are deposited under subsection (b)(3)(A).

(B) AVAILABILITY OF AMOUNTS.—Amounts deposited in the account established by paragraph (1) shall be available to the Secretary, without further appropriation, for the oversight and enforcement of the conservation easement established under subsection (b)(3)(B).

(f) URBAN INTERFACE.—

(1) IN GENERAL.—Except as otherwise provided in this section and subject to valid existing rights, the Federal land described in paragraph (2) is permanently withdrawn from—

(A) all forms of entry and appropriation under the public land laws and mining laws;

(B) location and patent under the mining laws; and

(C) operation of the mineral laws, geothermal leasing laws, and mineral material laws.

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) consists of approximately 19,747 acres, which is identified on the Map as ''Urban Interface Withdrawal''.

(3) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of the land described

in paragraph (2) that is acquired by the United States after the date of enactment of this Act shall be withdrawn in accordance with this subsection.

(4) OFF-HIGHWAY VEHICLE MANAGEMENT.—Until the date on which the Secretary, in consultation with the State, the City, and any other interested persons, completes a transportation plan for Federal land in the City, the use of motorized and mechanical vehicles on Federal land within the City shall be limited to roads and trails in existence on the date of enactment of this Act unless the use of the vehicles is needed—

(A) for administrative purposes; or

(B) to respond to an emergency.

(g) AVAILABILITY OF FUNDS.—Section 4(e) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346; 116 Stat. 2007; 117 Stat. 1317; 118 Stat. 2414; 120 Stat. 3045) is amended—

(1) in paragraph (3)(A)(iv), by striking ''Clark, Lincoln, and White Pine Counties and Washoe County (subject to paragraph 4))'' and inserting ''Clark, Lincoln, and White Pine Counties and Washoe County (subject to paragraph 4)) and Carson City (subject to paragraph (5))'';

(2) in paragraph (3)(A)(v), by striking ''Clark, Lincoln, and White Pine Counties'' and inserting ''Clark, Lincoln, and White Pine Counties and Carson City (subject to paragraph (5))'';

(3) in paragraph (4), by striking ''2011'' and inserting ''2015''; and

(4) by adding at the end the following:

''(5) LIMITATION FOR CARSON CITY.—Carson City shall be eligible to nominate for expenditure amounts to acquire land or an interest in land for parks or natural areas and for conservation initiatives—

''(A) adjacent to the Carson River; or

''(B) within the floodplain of the Carson River.''.

(h) TRANSFER OF LAND TO BE HELD IN TRUST FOR WASHOE TRIBE.—

(1) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the land described in paragraph (2)—

(A) shall be held in trust by the United States for the benefit and use of the Tribe; and

(B) shall be part of the reservation of the Tribe.

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) consists of approximately 293 acres, which is identified on the Map as ''To Washoe Tribe''.

(3) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust under paragraph (1).

(4) USE OF LAND.—

(A) GAMING.—Land taken into trust under paragraph (1) shall not be eligible, or considered to have been taken into trust, for class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

(B) TRUST LAND FOR CEREMONIAL USE AND CONSERVATION.—With respect to the use of the land taken into trust under paragraph (1) that is above the 5,200′ elevation contour, the Tribe—

(i) shall limit the use of the land to—

(I) traditional and customary uses; and

(II) stewardship conservation for the benefit of the Tribe; and

(ii) shall not permit any—

(I) permanent residential or recreational development on the land; or

(II) commercial use of the land, including commercial development or gaming.

(C) TRUST LAND FOR COMMERCIAL AND RESIDENTIAL USE.—With respect to the use of the land taken into trust under paragraph (1), the Tribe shall limit the use of the land below the 5,200′ elevation to—

(i) traditional and customary uses;

(ii) stewardship conservation for the benefit of the Tribe; and

(iii)(I) residential or recreational development; or

(II) commercial use.

(D) THINNING; LANDSCAPE RESTORATION.—With respect to the land taken into trust under paragraph (1), the Secretary of Agriculture, in consultation and coordination with the Tribe, may carry out any thinning and other landscape restoration activities on the land that is beneficial to the Tribe and the Forest Service.

(i) CORRECTION OF SKUNK HARBOR CONVEYANCE.—

(1) PURPOSE.—The purpose of this subsection is to amend Public Law 108–67 (117 Stat. 880) to make a technical correction relating to the land conveyance authorized under that Act.

(2) TECHNICAL CORRECTION.—Section 2 of Public Law 108–67 (117 Stat. 880) is amended—

(A) by striking ''Subject to'' and inserting the following:

''(a) IN GENERAL.—Subject to'';

(B) in subsection (a) (as designated by paragraph (1)), by striking ''the parcel'' and all that follows through the period at the end and inserting the following: ''and to approximately 23 acres of land identified as 'Parcel A' on the map entitled 'Skunk Harbor Conveyance Correction' and dated September 12, 2008, the western boundary of which is the low water line of Lake Tahoe at elevation 6,223.0′ (Lake Tahoe Datum).''; and

(C) by adding at the end the following:

''(b) SURVEY AND LEGAL DESCRIPTION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary of Agriculture shall complete a survey and legal description of the boundary lines to establish the boundaries of the trust land.

''(2) TECHNICAL CORRECTIONS.—The Secretary may correct any technical errors in the survey or legal description completed under paragraph (1).

''(c) PUBLIC ACCESS AND USE.—Nothing in this Act prohibits any approved general public access (through existing easements or by boat) to, or use of, land remaining within the Lake Tahoe Basin Management Unit after the conveyance of the land to the Secretary of the Interior, in trust for the Tribe, under subsection (a), including access to, and use of, the beach and shoreline areas adjacent to the portion of land conveyed under that subsection.''.

(3) DATE OF TRUST STATUS.—The trust land described in section 2(a) of Public Law 108–67 (117 Stat. 880) shall be considered to be taken into trust as of August 1, 2003.

(4) TRANSFER.—The Secretary of the Interior, acting on behalf of and for the benefit of the Tribe, shall transfer to the Secretary of Agriculture administrative jurisdiction over the land identified as ''Parcel B'' on the map entitled ''Skunk Harbor Conveyance Correction'' and dated September 12, 2008.

(j) AGREEMENT WITH FOREST SERVICE.—The Secretary of Agriculture, in consultation with the Tribe, shall develop and implement a cooperative agreement that ensures regular access by members of the Tribe and other people in the community of the Tribe across National Forest System land from the City to Lake Tahoe for cultural and religious purposes.

(k) ARTIFACT COLLECTION.—

(1) NOTICE.—At least 180 days before conducting any ground disturbing activities on the land identified as ''Parcel #2'' on the Map, the City shall notify the Tribe of the proposed activities to provide the Tribe with adequate time to inventory and collect any artifacts in the affected area.

(2) AUTHORIZED ACTIVITIES.—On receipt of notice under paragraph (1), the Tribe may collect and possess any artifacts relating to the Tribe in the land identified as ''Parcel #2'' on the Map.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 2602. SOUTHERN NEVADA LIMITED TRANSITION AREA CONVEYANCE.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means the City of Henderson, Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STATE.—The term ''State'' means the State of Nevada.

(4) TRANSITION AREA.—The term ''Transition Area'' means the approximately 502 acres of Federal land located in Henderson, Nevada, and identified as ''Limited Transition Area'' on the map entitled ''Southern Nevada Limited Transition Area Act'' and dated March 20, 2006.

(b) SOUTHERN NEVADA LIMITED TRANSITION AREA.—

(1) CONVEYANCE.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), on request of the City, the Secretary shall, without consideration and subject to all valid existing rights, convey to the City all right, title, and interest of the United States in and to the Transition Area.

(2) USE OF LAND FOR NONRESIDENTIAL DEVELOPMENT.—

(A) IN GENERAL.—After the conveyance to the City under paragraph (1), the City may sell, lease, or otherwise convey any portion or portions of the Transition Area for purposes of nonresidential development.

(B) METHOD OF SALE.—

(i) IN GENERAL.—The sale, lease, or conveyance of land under subparagraph (A) shall be through a competitive bidding process.

(ii) FAIR MARKET VALUE.—Any land sold, leased, or otherwise conveyed under subparagraph (A) shall be for not less than fair market value.

(C) COMPLIANCE WITH CHARTER.—Except as provided in subparagraphs (B) and (D), the City may sell, lease, or otherwise convey parcels within the Transition Area only in accordance with the procedures for conveyances established in the City Charter.

(D) DISPOSITION OF PROCEEDS.—The gross proceeds from the sale of land under subparagraph (A) shall be distributed in accordance with section 4(e) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

(3) USE OF LAND FOR RECREATION OR OTHER PUBLIC PURPOSES.—The City may elect to retain parcels in the Transition Area for public recreation or other public purposes consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.) by providing to the Secretary written notice of the election.

(4) NOISE COMPATIBILITY REQUIREMENTS.—The City shall—

(A) plan and manage the Transition Area in accordance with section 47504 of title 49, United States Code (relating to airport noise compatibility planning), and regulations promulgated in accordance with that section; and

(B) agree that if any land in the Transition Area is sold, leased, or otherwise conveyed by the City, the sale, lease, or conveyance shall contain a limitation to require uses compatible with that airport noise compatibility planning.

(5) REVERSION.—

(A) IN GENERAL.—If any parcel of land in the Transition Area is not conveyed for nonresidential development under this section or reserved for recreation or other public purposes under paragraph (3) by the date that is 20 years after the date of enactment of this Act, the parcel of land shall, at the discretion of the Secretary, revert to the United States.

(B) INCONSISTENT USE.—If the City uses any parcel of land within the Transition Area in a manner that is inconsistent with the uses specified in this subsection—

(i) at the discretion of the Secretary, the parcel shall revert to the United States; or

(ii) if the Secretary does not make an election under clause (i), the City shall sell the parcel of land in accordance with this subsection.

SEC. 2603. NEVADA CANCER INSTITUTE LAND CONVEYANCE.

(a) DEFINITIONS.—In this section:

(1) ALTA-HUALAPAI SITE.—The term ''Alta-Hualapai Site'' means the approximately 80 acres of land that is—

(A) patented to the City under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.); and

(B) identified on the map as the ''Alta-Hualapai Site''.

(2) CITY.—The term ''City'' means the city of Las Vegas, Nevada.

(3) INSTITUTE.—The term ''Institute'' means the Nevada Cancer Institute, a nonprofit organization described under section 501(c)(3) of the Internal Revenue Code of 1986, the principal place of business of which is at 10441 West Twain Avenue, Las Vegas, Nevada.

(4) MAP.—The term ''map'' means the map titled ''Nevada Cancer Institute Expansion Act'' and dated July 17, 2006.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(6) WATER DISTRICT.—The term ''Water District'' means the Las Vegas Valley Water District.

(b) LAND CONVEYANCE.—

(1) SURVEY AND LEGAL DESCRIPTION.—The City shall prepare a survey and legal description of the Alta-Hualapai Site. The survey shall conform to the Bureau of Land Management cadastral survey standards and be subject to approval by the Secretary.

(2) ACCEPTANCE.—The Secretary may accept the relinquishment by the City of all or part of the Alta-Hualapai Site.

(3) CONVEYANCE FOR USE AS NONPROFIT CANCER INSTITUTE.—After relinquishment of all or part of the Alta-Hualapai Site to the Secretary, and not later than 180 days after request of the Institute, the Secretary shall convey to the Institute, subject to valid existing rights, the portion of the Alta-Hualapai Site that is necessary for the development of a nonprofit cancer institute.

(4) ADDITIONAL CONVEYANCES.—Not later than 180 days after a request from the City, the Secretary shall convey to the City, subject to valid existing rights, any remaining portion of the Alta-Hualapai Site necessary for ancillary medical or nonprofit use compatible with the mission of the Institute.

(5) APPLICABLE LAW.—Any conveyance by the City of any portion of the land received under this section shall be for no less than fair market value and the proceeds shall be distributed in accordance with section 4(e)(1) of Public Law 105–263 (112 Stat. 2345).

(6) TRANSACTION COSTS.—All land conveyed by the Secretary under this section shall be at no cost, except that the Secretary may require the recipient to bear any costs associated with transfer of title or any necessary land surveys.

(7) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on all transactions conducted under Public Law 105–263 (112 Stat. 2345).

(c) RIGHTS-OF-WAY.—Consistent with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), the Secretary may grant rights-of-way to the Water District on a portion of the Alta-Hualapai Site for a flood control project and a water pumping facility.

(d) REVERSION.—Any property conveyed pursuant to this section which ceases to be used for the purposes specified in this section shall, at the discretion of the Secretary, revert to the United States, along with any improvements thereon or thereto.

SEC. 2604. TURNABOUT RANCH LAND CONVEYANCE, UTAH.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term ''Federal land'' means the approximately 25 acres of Bureau of Land Management land identified on the map as ''Lands to be conveyed to Turnabout Ranch''.

(2) MAP.—The term ''map'' means the map entitled ''Turnabout Ranch Conveyance'' dated May 12, 2006, and on file in the office of the Director of the Bureau of Land Management.

(3) MONUMENT.—The term ''Monument'' means the Grand Staircase-Escalante National Monument located in southern Utah.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) TURNABOUT RANCH.—The term ''Turnabout Ranch'' means the Turnabout Ranch in Escalante, Utah, owned by Aspen Education Group.

(b) CONVEYANCE OF FEDERAL LAND TO TURNABOUT RANCH.—

(1) IN GENERAL.—Notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), if not later than 30 days after completion of the appraisal required under paragraph (2), Turnabout Ranch of Escalante, Utah, submits to the Secretary an offer to acquire the Federal land for the appraised value, the Secretary shall, not later than 30 days after the date of the offer, convey to Turnabout Ranch all right, title, and interest to the Federal land, subject to valid existing rights.

(2) APPRAISAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete an appraisal of the Federal land. The appraisal shall be completed in accordance with the ''Uniform Appraisal Standards for Federal Land Acquisitions'' and the ''Uniform Standards of Professional Appraisal Practice''. All costs associated with the appraisal shall be born by Turnabout Ranch.

(3) PAYMENT OF CONSIDERATION.—Not later than 30 days after the date on which the Federal land is conveyed under paragraph (1), as a condition of the conveyance, Turnabout Ranch shall pay to the Secretary an amount equal to the appraised value of the Federal land, as determined under paragraph (2).

(4) COSTS OF CONVEYANCE.—As a condition of the conveyance, any costs of the conveyance under this section shall be paid by Turnabout Ranch.

(5) DISPOSITION OF PROCEEDS.—The Secretary shall deposit the proceeds from the conveyance of the Federal land under paragraph (1) in the Federal Land Deposit Account established by section 206 of the Federal Land Transaction Facilitation Act(43 U.S.C. 2305), to be expended in accordance with that Act.

(c) MODIFICATION OF MONUMENT BOUNDARY.—When the conveyance authorized by subsection (b) is completed, the boundaries of the Grand Staircase-Escalante National Monument in the State of Utah are hereby modified to exclude the Federal land conveyed to Turnabout Ranch.

SEC. 2605. BOY SCOUTS LAND EXCHANGE, UTAH.

(a) DEFINITIONS.—In this section:

(1) BOY SCOUTS.—The term ''Boy Scouts'' means the Utah National Parks Council of the Boy Scouts of America.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) BOY SCOUTS OF AMERICA LAND EXCHANGE.—

(1) AUTHORITY TO CONVEY.—

(A) IN GENERAL.—Subject to paragraph (3) and notwithstanding the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.), the Boy Scouts may convey to Brian Head Resort, subject to valid existing rights and, except as provided in subparagraph (B), any rights reserved by the United States, all right, title, and interest granted to the Boy Scouts by the original patent to the parcel described in paragraph (2)(A) in exchange for the conveyance by Brian Head Resort to the Boy Scouts of all right, title, and interest in and to the parcels described in paragraph (2)(B).

(B) REVERSIONARY INTEREST.—On conveyance of the parcel of land described in paragraph (2)(A), the Secretary shall have discretion with respect to whether or not the reversionary interests of the United States are to be exercised.

(2) DESCRIPTION OF LAND.—The parcels of land referred to in paragraph (1) are—

(A) the 120-acre parcel that is part of a tract of public land acquired by the Boy Scouts under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.) for the purpose of operating a camp, which is more particularly described as the W 1/2 SE 1/4 and SE 1/4 SE 1/4 sec. 26, T. 35 S., R. 9 W., Salt Lake Base and Meridian; and

(B) the 2 parcels of private land owned by Brian Head Resort that total 120 acres, which are more particularly described as—

(i) NE 1/4 NW 1/4 and NE 1/4 NE 1/4 sec. 25, T. 35 S., R. 9 W., Salt Lake Base and Meridian; and

(ii) SE 1/4 SE 1/4 sec. 24, T. 35. S., R. 9 W., Salt Lake Base Meridian.

(3) CONDITIONS.—On conveyance to the Boy Scouts under paragraph (1)(A), the parcels of land described in paragraph (2)(B) shall be subject to the terms and conditions imposed on the entire tract of land acquired by the Boy Scouts for a camp under the Bureau of Land Management patent numbered 43–75–0010.

(4) MODIFICATION OF PATENT.—On completion of the exchange under paragraph (1)(A), the Secretary shall amend the original Bureau of Land Management patent providing for the conveyance to the Boy Scouts under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.) numbered 43–75–0010 to take into account the exchange under paragraph (1)(A).

SEC. 2606. DOUGLAS COUNTY, WASHINGTON, LAND CONVEYANCE.

(a) DEFINITIONS.—In this section:

(1) PUBLIC LAND.—The term ''public land'' means the approximately 622 acres of Federal land managed by the Bureau of Land Management and identified for conveyance on the map prepared by the Bureau of Land Management entitled ''Douglas County Public Utility District Proposal'' and dated March 2, 2006.

(2) PUD.—The term ''PUD'' means the Public Utility District No. 1 of Douglas County, Washington.

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

(4) WELLS HYDROELECTRIC PROJECT.—The term ''Wells Hydroelectric Project'' means Federal Energy Regulatory Commission Project No. 2149.

(b) CONVEYANCE OF PUBLIC LAND, WELLS HYDROELECTRIC PROJECT, PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY, WASHINGTON.—

(1) CONVEYANCE REQUIRED.—Notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), and notwithstanding section 24 of the Federal Power Act (16 U.S.C. 818) and Federal Power Order for Project 2149, and subject to valid existing rights, if not later than 45 days after the date of completion of the appraisal required under paragraph (2), the Public Utility District No. 1 of Douglas County, Washington, submits to the Secretary an offer to acquire the public land for the appraised value, the Secretary shall convey, not later than 30 days after the date of the offer, to the PUD all right, title, and interest of the United States in and to the public land.

(2) APPRAISAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall complete an appraisal of the public land. The appraisal shall be conducted in accordance with the ''Uniform Appraisal Standards for Federal Land Acquisitions'' and the ''Uniform Standards of Professional Appraisal Practice''.

(3) PAYMENT.—Not later than 30 days after the date on which the public land is conveyed under this subsection, the PUD shall pay to the Secretary an amount equal to the appraised value of the public land as determined under paragraph (2).

(4) MAP AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary shall finalize legal descriptions of the public land to be conveyed under this subsection. The Secretary may correct any minor errors in the map referred to in subsection (a)(1) or in the legal descriptions. The map and legal descriptions shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

(5) COSTS OF CONVEYANCE.—As a condition of conveyance, any costs related to the conveyance under this subsection shall be paid by the PUD.

(6) DISPOSITION OF PROCEEDS.—The Secretary shall deposit the proceeds from the sale in the Federal Land Disposal Account established by section 206 of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305) to be expended to improve access to public lands administered by the Bureau of Land Management in the State of Washington.

(c) SEGREGATION OF LANDS.—

(1) WITHDRAWAL.—Except as provided in subsection (b)(1), effective immediately upon enactment of this Act, and subject to valid existing rights, the public land is withdrawn from—

(A) all forms of entry, appropriation, or disposal under the public land laws, and all amendments thereto;

(B) location, entry, and patenting under the mining laws, and all amendments thereto; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

(2) DURATION.—This subsection expires two years after the date of enactment of this Act or on the date of the completion of the conveyance under subsection (b), whichever is earlier.

(d) RETAINED AUTHORITY.—The Secretary shall retain the authority to place conditions on the license to insure adequate protection and utilization of the public land granted to the Secretary in section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) until the Federal Energy Regulatory Commission has issued a new license for the Wells Hydroelectric Project, to replace the original license expiring May 31, 2012, consistent with section 15 of the Federal Power Act (16 U.S.C. 808).

SEC. 2607. TWIN FALLS, IDAHO, LAND CONVEYANCE.

(a) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey to the city of Twin Falls, Idaho, subject to valid existing rights, without consideration, all right, title, and interest of the United States in and to the 4 parcels of land described in subsection (b).

(b) LAND DESCRIPTION.—The 4 parcels of land to be conveyed under subsection (a) are the approximately 165 acres of land in Twin Falls County, Idaho, that are identified as ''Land to be conveyed to Twin Falls'' on the map titled ''Twin Falls Land Conveyance'' and dated July 28, 2008.

(c) MAP ON FILE.—A map depicting the land described in subsection (b) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) USE OF CONVEYED LANDS.—

(1) PURPOSE.—The land conveyed under this section shall be used to support the public purposes of the Auger Falls Project, including a limited agricultural exemption to allow for water quality and wildlife habitat improvements.

(2) RESTRICTION.—The land conveyed under this section shall not be used for residential or commercial purposes, except for the limited agricultural exemption described in paragraph (1).

(3) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Interior may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(e) REVERSION.—If the land conveyed under this section is no longer used in accordance with subsection (d)—

(1) the land shall, at the discretion of the Secretary based on his determination of the best interests of the United States, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States and if the Secretary determines that the land is environmentally contaminated, the city of Twin Falls, Idaho, or any other person responsible for the contamination shall remediate the contamination.

(f) ADMINISTRATIVE COSTS.—The Secretary shall require that the city of Twin Falls, Idaho, pay all survey costs and other administrative costs necessary for the preparation and completion of any patents of and transfer of title to property under this section.

SEC. 2608. SUNRISE MOUNTAIN INSTANT STUDY AREA RELEASE, NEVADA.

(a) FINDING.—Congress finds that the land described in subsection (c) has been adequately studied for wilderness designation under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) RELEASE.—The land described in subsection (c)—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) cooperative conservation agreements in existence on the date of the enactment of this Act.

(c) DESCRIPTION OF LAND.—The land referred to in subsections (a) and (b) is the approximately 70 acres of land in the Sunrise Mountain Instant Study Area of Clark County, Nevada, that is designated on the map entitled ''Sunrise Mountain ISA Release Areas'' and dated September 6, 2008.

SEC. 2609. PARK CITY, UTAH, LAND CONVEYANCE.

(a) CONVEYANCE OF LAND BY THE BUREAU OF LAND MANAGEMENT TO PARK CITY, UTAH.—

(1) LAND TRANSFER.—Notwithstanding the planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary of the Interior shall convey, not later than 180 days after the date of the enactment of this Act, to Park City, Utah, all right, title, and interest of the United States in and to two parcels of real property located in Park City, Utah, that are currently under the management jurisdiction of the Bureau of Land Management and designated as parcel 8 (commonly known as the White Acre parcel) and parcel 16 (commonly known as the Gambel Oak parcel). The conveyance shall be subject to all valid existing rights.

(2) DEED RESTRICTION.—The conveyance of the lands under paragraph (1) shall be made by a deed or deeds containing a restriction requiring that the lands be maintained as open space and used solely for public recreation purposes or other purposes consistent with their maintenance as open space. This restriction shall not be interpreted to prohibit the construction or maintenance of recreational facilities, utilities, or other structures that are consistent with the maintenance of the lands as open space or its use for public recreation purposes.

(3) CONSIDERATION.—In consideration for the transfer of the land under paragraph (1), Park City shall pay to the Secretary of the Interior an amount consistent with conveyances to governmental entities for recreational purposes under the Act of June 14, 1926 (commonly known as the Recreation and Public Purposes Act; 43 U.S.C. 869 et seq.).

(b) SALE OF BUREAU OF LAND MANAGEMENT LAND IN PARK CITY, UTAH, AT AUCTION.—

(1) SALE OF LAND.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Interior shall offer for sale any right, title, or interest of the United States in and to two parcels of real property located in Park City, Utah, that are currently under the management jurisdiction of the Bureau of Land Management and are designated as parcels 17 and 18 in the Park City, Utah, area. The sale of the land shall be carried out in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) and other applicable law, other than the planning provisions of sections 202 and 203 of such Act (43 U.S.C. 1712, 1713), and shall be subject to all valid existing rights.

(2) METHOD OF SALE.—The sale of the land under paragraph (1) shall be consistent with subsections (d) and (f) of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) through a competitive bidding process and for not less than fair market value.

(c) DISPOSITION OF LAND SALES PROCEEDS.—All proceeds derived from the sale of land described in this section shall be deposited in the Federal Land Disposal Account established by section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)).

SEC. 2610. RELEASE OF REVERSIONARY INTEREST IN CERTAIN LANDS IN RENO, NEVADA.

(a) RAILROAD LANDS DEFINED.—For the purposes of this section, the term ''railroad lands'' means those lands within the City of Reno, Nevada, located within portions of sections 10, 11, and 12 of T.19 N., R. 19 E., and

portions of section 7 of T.19 N., R. 20 E., Mount Diablo Meridian, Nevada, that were originally granted to the Union Pacific Railroad under the provisions of the Act of July 1, 1862, commonly known as the Union Pacific Railroad Act.

(b) RELEASE OF REVERSIONARY INTEREST.—Any reversionary interests of the United States (including interests under the Act of July 1, 1862, commonly known as the Union Pacific Railroad Act) in and to the railroad lands as defined in subsection (a) of this section are hereby released.

SEC. 2611. TUOLUMNE BAND OF ME-WUK INDIANS OF THE TUOLUMNE RANCHERIA.

(a) IN GENERAL.—

(1) FEDERAL LANDS.—Subject to valid existing rights, all right, title, and interest (including improvements and appurtenances) of the United States in and to the Federal lands described in subsection (b), the Federal lands shall be declared to be held in trust by the United States for the benefit of the Tribe for nongaming purposes, and shall be subject to the same terms and conditions as those lands described in the California Indian Land Transfer Act (Public Law 106–568; 114 Stat. 2921).

(2) TRUST LANDS.—Lands described in subsection (c) of this section that are taken or to be taken in trust by the United States for the benefit of the Tribe shall be subject to subsection (c) of section 903 of the California Indian Land Transfer Act (Public Law 106–568; 114 Stat. 2921).

(b) FEDERAL LANDS DESCRIBED.—The Federal lands described in this subsection, comprising approximately 66 acres, are as follows:

(1) Township 1 North, Range 16 East, Section 6, Lots 10 and 12, MDM, containing 50.24 acres more or less.

(2) Township 1 North, Range 16 East, Section 5, Lot 16, MDM, containing 15.35 acres more or less.

(3) Township 2 North, Range 16 East, Section 32, Indian Cemetery Reservation within Lot 22, MDM, containing 0.4 acres more or less.

(c) TRUST LANDS DESCRIBED.—The trust lands described in this subsection, comprising approximately 357 acres, are commonly referred to as follows:

(1) Thomas property, pending trust acquisition, 104.50 acres.

(2) Coenenburg property, pending trust acquisition, 192.70 acres, subject to existing easements of record, including but not limited to a non-exclusive easement for ingress and egress for the benefit of adjoining property as conveyed by Easement Deed recorded July 13, 1984, in Volume 755, Pages 189 to 192, and as further defined by Stipulation and Judgment entered by Tuolumne County Superior Court on September 2, 1983, and recorded June 4, 1984, in Volume 751, Pages 61 to 67.

(3) Assessor Parcel No. 620505300, 1.5 acres, trust land.

(4) Assessor Parcel No. 620505400, 19.23 acres, trust land.

(5) Assessor Parcel No. 620505600, 3.46 acres, trust land.

(6) Assessor Parcel No. 620505700, 7.44 acres, trust land.

(7) Assessor Parcel No. 620401700, 0.8 acres, trust land.

(8) A portion of Assessor Parcel No. 620500200, 2.5 acres, trust land.

(9) Assessor Parcel No. 620506200, 24.87 acres, trust land.

(d) SURVEY.—As soon as practicable after the date of the enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall complete fieldwork required for a survey of the lands described in subsections (b) and (c) for the purpose of incorporating those lands within the boundaries of the Tuolumne Rancheria. Not later than 90 days after that fieldwork is completed, that office shall complete the survey.

(e) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Community Council of the Tribe of the survey completed under subsection (d), the Secretary of the Interior shall publish in the Federal Register—

(A) a legal description of the new boundary lines of the Tuolumne Rancheria; and

(B) a legal description of the land surveyed under subsection (d).

(2) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1), such legal descriptions shall be the official legal descriptions of those boundary lines of the Tuolumne Rancheria and the lands surveyed.

TITLE III—FOREST SERVICE AUTHORIZATIONS

Subtitle A—Watershed Restoration and Enhancement

SEC. 3001. WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS.

Section 323 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011 note; Public Law 105–277), is amended—

(1) in subsection (a), by striking ''each of fiscal years 2006 through 2011'' and inserting ''fiscal year 2006 and each fiscal year thereafter'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

''(d) APPLICABLE LAW.—Chapter 63 of title 31, United States Code, shall not apply to—

''(1) a watershed restoration and enhancement agreement entered into under this section; or

''(2) an agreement entered into under the first section of Public Law 94–148 (16 U.S.C. 565a–1).''.

Subtitle B—Wildland Firefighter Safety

SEC. 3101. WILDLAND FIREFIGHTER SAFETY.

(a) DEFINITIONS.—In this section:

(1) SECRETARIES.—The term ''Secretaries'' means—

(A) the Secretary of the Interior, acting through the Directors of the Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service, and the Bureau of Indian Affairs; and

(B) the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) WILDLAND FIREFIGHTER.—The term ''wildland firefighter'' means any person who participates in wildland firefighting activities—

(A) under the direction of either of the Secretaries; or

(B) under a contract or compact with a federally recognized Indian tribe.

(b) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—The Secretaries shall jointly submit to Congress an annual report on the wildland firefighter safety practices of the Secretaries, including training programs and activities for wildland fire suppression, prescribed burning, and wildland fire use, during the preceding calendar year.

(2) TIMELINE.—Each report under paragraph (1) shall—

(A) be submitted by not later than March of the year following the calendar year covered by the report; and

(B) include—

(i) a description of, and any changes to, wildland firefighter safety practices, including training programs and activities for wildland fire suppression, prescribed burning, and wildland fire use;

(ii) statistics and trend analyses;

(iii) an estimate of the amount of Federal funds expended by the Secretaries on wildland firefighter safety practices, including training programs and activities for wildland fire suppression, prescribed burning, and wildland fire use;

(iv) progress made in implementing recommendations from the Inspector General, the Government Accountability Office, the Occupational Safety and Health Administration, or an agency report relating to a wildland firefighting fatality issued during the preceding 10 years; and

(v) a description of—

(I) the provisions relating to wildland firefighter safety practices in any Federal contract or other agreement governing the provision of wildland firefighters by a non-Federal entity;

(II) a summary of any actions taken by the Secretaries to ensure that the provisions relating to safety practices, including training, are complied with by the non-Federal entity; and

(III) the results of those actions.

Subtitle C—Wyoming Range

SEC. 3201. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) WYOMING RANGE WITHDRAWAL AREA.—The term ''Wyoming Range Withdrawal Area'' means all National Forest System land and federally owned minerals located within the boundaries of the Bridger-Teton National Forest identified on the map entitled ''Wyoming Range Withdrawal Area'' and dated October 17, 2007, on file with the Office of the Chief of the Forest Service and the Office of the Supervisor of the Bridger-Teton National Forest.

SEC. 3202. WITHDRAWAL OF CERTAIN LAND IN THE WYOMING RANGE.

(a) WITHDRAWAL.—Except as provided in subsection (f), subject to valid existing rights as of the date of enactment of this Act and the provisions of this subtitle, land in the Wyoming Range Withdrawal Area is withdrawn from—

(1) all forms of appropriation or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under laws relating to mineral and geothermal leasing.

(b) EXISTING RIGHTS.—If any right referred to in subsection (a) is relinquished or otherwise acquired by the United States (including through donation under section 323) after the date of enactment of this Act, the land subject to that right shall be withdrawn in accordance with this section.

(c) BUFFERS.—Nothing in this section requires—

(1) the creation of a protective perimeter or buffer area outside the boundaries of the Wyoming Range Withdrawal Area; or

(2) any prohibition on activities outside of the boundaries of the Wyoming Range Withdrawal Area that can be seen or heard from within the boundaries of the Wyoming Range Withdrawal Area.

(d) LAND AND RESOURCE MANAGEMENT PLAN.—

(1) IN GENERAL.—Subject to paragraph (2), the Bridger-Teton National Land and Resource Management Plan (including any revisions to the Plan) shall apply to any land within the Wyoming Range Withdrawal Area.

(2) CONFLICTS.—If there is a conflict between this subtitle and the Bridger-Teton National Land and Resource Management Plan, this subtitle shall apply.

(e) PRIOR LEASE SALES.—Nothing in this section prohibits the Secretary from taking any action necessary to issue, deny, remove the suspension of, or cancel a lease, or any sold lease parcel that has not been issued,

pursuant to any lease sale conducted prior to the date of enactment of this Act, including the completion of any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) EXCEPTION.—Notwithstanding the withdrawal in subsection (a), the Secretary may lease oil and gas resources in the Wyoming Range Withdrawal Area that are within 1 mile of the boundary of the Wyoming Range Withdrawal Area in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and subject to the following conditions:

(1) The lease may only be accessed by directional drilling from a lease held by production on the date of enactment of this Act on National Forest System land that is adjacent to, and outside of, the Wyoming Range Withdrawal Area.

(2) The lease shall prohibit, without exception or waiver, surface occupancy and surface disturbance for any activities, including activities related to exploration, development, or production.

(3) The directional drilling may extend no further than 1 mile inside the boundary of the Wyoming Range Withdrawal Area.

SEC. 3203. ACCEPTANCE OF THE DONATION OF VALID EXISTING MINING OR LEASING RIGHTS IN THE WYOMING RANGE.

(a) NOTIFICATION OF LEASEHOLDERS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall provide notice to holders of valid existing mining or leasing rights within the Wyoming Range Withdrawal Area of the potential opportunity for repurchase of those rights and retirement under this section.

(b) REQUEST FOR LEASE RETIREMENT.—

(1) IN GENERAL.—A holder of a valid existing mining or leasing right within the Wyoming Range Withdrawal Area may submit a written notice to the Secretary of the interest of the holder in the retirement and repurchase of that right.

(2) LIST OF INTERESTED HOLDERS.—The Secretary shall prepare a list of interested holders and make the list available to any non-Federal entity or person interested in acquiring that right for retirement by the Secretary.

(c) PROHIBITION.—The Secretary may not use any Federal funds to purchase any right referred to in subsection (a).

(d) DONATION AUTHORITY.—The Secretary shall—

(1) accept the donation of any valid existing mining or leasing right in the Wyoming Range Withdrawal Area from the holder of that right or from any non-Federal entity or person that acquires that right; and

(2) on acceptance, cancel that right.

(e) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this subtitle affects any authority the Secretary may otherwise have to modify, suspend, or terminate a lease without compensation, or to recognize the transfer of a valid existing mining or leasing right, if otherwise authorized by law.

Subtitle D—Land Conveyances and Exchanges

SEC. 3301. LAND CONVEYANCE TO CITY OF COFFMAN COVE, ALASKA.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means the city of Coffman Cove, Alaska.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) CONVEYANCE.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall convey to the City, without consideration and by quitclaim deed all right, title, and interest of the United States, except as provided in paragraphs (3) and (4), in and to the parcel of National Forest System land described in paragraph (2).

(2) DESCRIPTION OF LAND.—

(A) IN GENERAL.—The parcel of National Forest System land referred to in paragraph (1) is the approximately 12 acres of land identified in U.S. Survey 10099, as depicted on the plat entitled ''Subdivision of U.S. Survey No. 10099'' and recorded as Plat 2003–1 on January 21, 2003, Petersburg Recording District, Alaska.

(B) EXCLUDED LAND.—The parcel of National Forest System land conveyed under paragraph (1) does not include the portion of U.S. Survey 10099 that is north of the right-of-way for Forest Development Road 3030–295 and southeast of Tract CC–8.

(3) RIGHT-OF-WAY.—The United States may reserve a right-of-way to provide access to the National Forest System land excluded from the conveyance to the City under paragraph (2)(B).

(4) REVERSION.—If any portion of the land conveyed under paragraph (1) (other than a portion of land sold under paragraph (5)) ceases to be used for public purposes, the land shall, at the option of the Secretary, revert to the United States.

(5) CONDITIONS ON SUBSEQUENT CONVEYANCES.—If the City sells any portion of the land conveyed to the City under paragraph (1)—

(A) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(B) the City shall pay to the Secretary an amount equal to the gross proceeds of the sale, which shall be available, without further appropriation, for the Tongass National Forest.

SEC. 3302. BEAVERHEAD-DEERLODGE NATIONAL FOREST LAND CONVEYANCE, MONTANA.

(a) DEFINITIONS.—In this section:

(1) COUNTY.—The term ''County'' means Jefferson County, Montana.

(2) MAP.—The term ''map'' means the map that is—

(A) entitled ''Elkhorn Cemetery'';

(B) dated May 9, 2005; and

(C) on file in the office of the Beaverhead-Deerlodge National Forest Supervisor.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) CONVEYANCE TO JEFFERSON COUNTY, MONTANA.—

(1) CONVEYANCE.—Not later than 180 days after the date of enactment of this Act and subject to valid existing rights, the Secretary (acting through the Regional Forester, Northern Region, Missoula, Montana) shall convey by quitclaim deed to the County for no consideration, all right, title, and interest of the United States, except as provided in paragraph (5), in and to the parcel of land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The parcel of land referred to in paragraph (1) is the parcel of approximately 9.67 acres of National Forest System land (including any improvements to the land) in the County that is known as the ''Elkhorn Cemetery'', as generally depicted on the map.

(3) USE OF LAND.—As a condition of the conveyance under paragraph (1), the County shall—

(A) use the land described in paragraph (2) as a County cemetery; and

(B) agree to manage the cemetery with due consideration and protection for the historic and cultural values of the cemetery, under such terms and conditions as are agreed to by the Secretary and the County.

(4) EASEMENT.—In conveying the land to the County under paragraph (1), the Secretary, in accordance with applicable law, shall grant to the County an easement across certain National Forest System land, as generally depicted on the map, to provide access to the land conveyed under that paragraph.

(5) REVERSION.—In the quitclaim deed to the County, the Secretary shall provide that the land conveyed to the County under paragraph (1) shall revert to the Secretary, at the election of the Secretary, if the land is—

(A) used for a purpose other than the purposes described in paragraph (3)(A); or

(B) managed by the County in a manner that is inconsistent with paragraph (3)(B).

SEC. 3303. SANTA FE NATIONAL FOREST; PECOS NATIONAL HISTORICAL PARK LAND EXCHANGE.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term ''Federal land'' means the approximately 160 acres of Federal land within the Santa Fe National Forest in the State, as depicted on the map.

(2) LANDOWNER.—The term ''landowner'' means the 1 or more owners of the non-Federal land.

(3) MAP.—The term ''map'' means the map entitled ''Proposed Land Exchange for Pecos National Historical Park'', numbered 430/80,054, dated November 19, 1999, and revised September 18, 2000.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means the approximately 154 acres of non-Federal land in the Park, as depicted on the map.

(5) PARK.—The term ''Park'' means the Pecos National Historical Park in the State.

(6) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(7) STATE.—The term ''State'' means the State of New Mexico.

(b) LAND EXCHANGE.—

(1) IN GENERAL.—If the Secretary of the Interior accepts the non-Federal land, title to which is acceptable to the Secretary of the Interior, the Secretary of Agriculture shall, subject to the conditions of this section and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), convey to the landowner the Federal land.

(2) EASEMENT.—

(A) IN GENERAL.—As a condition of the conveyance of the non-Federal land, the landowner may reserve an easement (including an easement for service access) for water pipelines to 2 well sites located in the Park, as generally depicted on the map.

(B) ROUTE.—The Secretary of the Interior and the landowner shall determine the appropriate route of the easement through the non-Federal land.

(C) TERMS AND CONDITIONS.—The easement shall include such terms and conditions relating to the use of, and access to, the well sites and pipeline, as the Secretary of the Interior and the landowner determine to be appropriate.

(D) APPLICABLE LAW.—The easement shall be established, operated, and maintained in compliance with applicable Federal, State, and local laws.

(3) VALUATION, APPRAISALS, AND EQUALIZATION.—

(A) IN GENERAL.—The value of the Federal land and non-Federal land—

(i) shall be equal, as determined by appraisals conducted in accordance with subparagraph (B); or

(ii) if the value is not equal, shall be equalized in accordance with subparagraph (C).

(B) APPRAISALS.—

(i) IN GENERAL.—The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretaries.

(ii) REQUIREMENTS.—An appraisal conducted under clause (i) shall be conducted in accordance with—

(I) the Uniform Appraisal Standards for Federal Land Acquisition; and

(II) the Uniform Standards of Professional Appraisal Practice.

(iii) APPROVAL.—The appraisals conducted under this subparagraph shall be submitted to the Secretaries for approval.

(C) EQUALIZATION OF VALUES.—

(i) IN GENERAL.—If the values of the non-Federal land and the Federal land are not equal, the values may be equalized in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(ii) CASH EQUALIZATION PAYMENTS.—Any amounts received by the Secretary of Agriculture as a cash equalization payment under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) shall—

(I) be deposited in the fund established by Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a); and

(II) be available for expenditure, without further appropriation, for the acquisition of land and interests in land in the State.

(4) COSTS.—Before the completion of the exchange under this subsection, the Secretaries and the landowner shall enter into an agreement that allocates the costs of the exchange among the Secretaries and the landowner.

(5) APPLICABLE LAW.—Except as otherwise provided in this section, the exchange of land and interests in land under this section shall be in accordance with—

(A) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

(B) other applicable Federal, State, and local laws.

(6) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries may require, in addition to any requirements under this section, such terms and conditions relating to the exchange of Federal land and non-Federal land and the granting of easements under this section as the Secretaries determine to be appropriate to protect the interests of the United States.

(7) COMPLETION OF THE EXCHANGE.—

(A) IN GENERAL.—The exchange of Federal land and non-Federal land shall be completed not later than 180 days after the later of—

(i) the date on which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met;

(ii) the date on which the Secretary of the Interior approves the appraisals under paragraph (3)(B)(iii); or

(iii) the date on which the Secretaries and the landowner agree on the costs of the exchange and any other terms and conditions of the exchange under this subsection.

(B) NOTICE.—The Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives notice of the completion of the exchange of Federal land and non-Federal land under this subsection.

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of the Interior shall administer the non-Federal land acquired under this section in accordance with the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the ''National Park Service Organic Act'') (16 U.S.C. 1 et seq.).

(2) MAPS.—

(A) IN GENERAL.—The map shall be on file and available for public inspection in the appropriate offices of the Secretaries.

(B) TRANSMITTAL OF REVISED MAP TO CONGRESS.—Not later than 180 days after completion of the exchange, the Secretaries shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a revised map that depicts—

(i) the Federal land and non-Federal land exchanged under this section; and

(ii) the easement described in subsection (b)(2).

SEC. 3304. SANTA FE NATIONAL FOREST LAND CONVEYANCE, NEW MEXICO.

(a) DEFINITIONS.—In this section:

(1) CLAIM.—The term ''Claim'' means a claim of the Claimants to any right, title, or interest in any land located in lot 10, sec. 22, T. 18 N., R. 12 E., New Mexico Principal Meridian, San Miguel County, New Mexico, except as provided in subsection (b)(1).

(2) CLAIMANTS.—The term ''Claimants'' means Ramona Lawson and Boyd Lawson.

(3) FEDERAL LAND.—The term ''Federal land'' means a parcel of National Forest System land in the Santa Fe National Forest, New Mexico, that is—

(A) comprised of approximately 6.20 acres of land; and

(B) described and delineated in the survey.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Forest Service Regional Forester, Southwestern Region.

(5) SURVEY.—The term ''survey'' means the survey plat entitled ''Boundary Survey and Conservation Easement Plat'', prepared by Chris A. Chavez, Land Surveyor, Forest Service, NMPLS#12793, and recorded on February 27, 2007, at book 55, page 93, of the land records of San Miguel County, New Mexico.

(b) SANTA FE NATIONAL FOREST LAND CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall, except as provided in subparagraph (A) and subject to valid existing rights, convey and quitclaim to the Claimants all right, title, and interest of the United States in and to the Federal land in exchange for—

(A) the grant by the Claimants to the United States of a scenic easement to the Federal land that—

(i) protects the purposes for which the Federal land was designated under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); and

(ii) is determined to be acceptable by the Secretary; and

(B) a release of the United States by the Claimants of—

(i) the Claim; and

(ii) any additional related claims of the Claimants against the United States.

(2) SURVEY.—The Secretary, with the approval of the Claimants, may make minor corrections to the survey and legal description of the Federal land to correct clerical, typographical, and surveying errors.

(3) SATISFACTION OF CLAIM.—The conveyance of Federal land under paragraph (1) shall constitute a full satisfaction of the Claim.

SEC. 3305. KITTITAS COUNTY, WASHINGTON, LAND CONVEYANCE.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the King and Kittitas Counties Fire District #51 of King and Kittitas Counties, Washington (in this section referred to as the ''District''), all right, title, and interest of the United States in and to a parcel of National Forest System land in Kittitas County, Washington, consisting of approximately 1.5 acres within the SW¼ of the SE¼ of section 4, township 22 north, range 11 east, Willamette meridian, for the purpose of permitting the District to use the parcel as a site for a new Snoqualmie Pass fire and rescue station.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) SURVEY.—If necessary, the exact acreage and legal description of the lands to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of a survey shall be borne by the District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 3306. MAMMOTH COMMUNITY WATER DISTRICT USE RESTRICTIONS.

Notwithstanding Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a), the approximately 36.25 acres patented to the Mammoth County Water District (now known as the ''Mammoth Community Water District'') by Patent No. 04–87–0038, on June 26, 1987, and recorded in volume 482, at page 516, of the official records of the Recorder's Office, Mono County, California, may be used for any public purpose.

SEC. 3307. LAND EXCHANGE, WASATCH-CACHE NATIONAL FOREST, UTAH.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means the City of Bountiful, Utah.

(2) FEDERAL LAND.—The term ''Federal land'' means the land under the jurisdiction of the Secretary identified on the map as ''Shooting Range Special Use Permit Area''.

(3) MAP.—The term ''map'' means the map entitled ''Bountiful City Land Consolidation Act'' and dated October 15, 2007.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means the 3 parcels of City land comprising a total of approximately 1,680 acres, as generally depicted on the map.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) EXCHANGE.—Subject to subsections (d) through (h), if the City conveys to the Secretary all right, title, and interest of the City in and to the non-Federal land, the Secretary shall convey to the City all right, title, and interest of the United States in and to the Federal land.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(d) VALUATION AND EQUALIZATION.—

(1) VALUATION.—The value of the Federal land and the non-Federal land to be conveyed under subsection (b)—

(A) shall be equal, as determined by appraisals carried out in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); or

(B) if not equal, shall be equalized in accordance with paragraph (2).

(2) EQUALIZATION.—If the value of the Federal land and the non-Federal land to be conveyed in a land exchange under this section is not equal, the value may be equalized by—

(A) making a cash equalization payment to the Secretary or to the City, as appropriate; or

(B) reducing the acreage of the Federal land or the non-Federal land to be exchanged, as appropriate.

(e) APPLICABLE LAW.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) shall apply to the land exchange authorized under subsection (b), except that the Secretary may accept a cash equalization payment in excess of 25 percent of the value of the Federal land.

(f) CONDITIONS.—

(1) LIABILITY.—

(A) IN GENERAL.—As a condition of the exchange under subsection (b), the Secretary shall—

(i) require that the City—

(I) assume all liability for the shooting range located on the Federal land, including the past, present, and future condition of the Federal land; and

(II) hold the United States harmless for any liability for the condition of the Federal land; and

(ii) comply with the hazardous substances disclosure requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(B) LIMITATION.—Clauses (ii) and (iii) of section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9620(h)(3)(A)) shall not apply to the conveyance of Federal land under subsection (b).

(2) ADDITIONAL TERMS AND CONDITIONS.—The land exchange under subsection (b) shall be subject to—

(A) valid existing rights; and

(B) such additional terms and conditions as the Secretary may require.

(g) MANAGEMENT OF ACQUIRED LAND.—The non-Federal land acquired by the Secretary under subsection (b) shall be—

(1) added to, and administered as part of, the Wasatch-Cache National Forest; and

(2) managed by the Secretary in accordance with—

(A) the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 480 et seq.); and

(B) any laws (including regulations) applicable to the National Forest System.

(h) EASEMENTS; RIGHTS-OF-WAY.—

(1) BONNEVILLE SHORELINE TRAIL EASEMENT.—In carrying out the land exchange under subsection (b), the Secretary shall ensure that an easement not less than 60 feet in width is reserved for the Bonneville Shoreline Trail.

(2) OTHER RIGHTS-OF-WAY.—The Secretary and the City may reserve any other rights-of-way for utilities, roads, and trails that—

(A) are mutually agreed to by the Secretary and the City; and

(B) the Secretary and the City consider to be in the public interest.

(i) DISPOSAL OF REMAINING FEDERAL LAND.—

(1) IN GENERAL.—The Secretary may, by sale or exchange, dispose of all, or a portion of, the parcel of National Forest System land comprising approximately 220 acres, as generally depicted on the map that remains after the conveyance of the Federal land authorized under subsection (b), if the Secretary determines, in accordance with paragraph (2), that the land or portion of the land is in excess of the needs of the National Forest System.

(2) REQUIREMENTS.—A determination under paragraph (1) shall be made—

(A) pursuant to an amendment of the land and resource management plan for the Wasatch-Cache National Forest; and

(B) after carrying out a public process consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) CONSIDERATION.—As consideration for any conveyance of Federal land under paragraph (1), the Secretary shall require payment of an amount equal to not less than the fair market value of the conveyed National Forest System land.

(4) RELATION TO OTHER LAWS.—Any conveyance of Federal land under paragraph (1) by exchange shall be subject to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(5) DISPOSITION OF PROCEEDS.—Any amounts received by the Secretary as consideration under subsection (d) or paragraph (3) shall be—

(A) deposited in the fund established under Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a); and

(B) available to the Secretary, without further appropriation and until expended, for the acquisition of land or interests in land to be included in the Wasatch-Cache National Forest.

(6) ADDITIONAL TERMS AND CONDITIONS.—Any conveyance of Federal land under paragraph (1) shall be subject to—

(A) valid existing rights; and

(B) such additional terms and conditions as the Secretary may require.

SEC. 3308. BOUNDARY ADJUSTMENT, FRANK CHURCH RIVER OF NO RETURN WILDERNESS.

(a) PURPOSES.—The purposes of this section are—

(1) to adjust the boundaries of the wilderness area; and

(2) to authorize the Secretary to sell the land designated for removal from the wilderness area due to encroachment.

(b) DEFINITIONS.—In this section:

(1) LAND DESIGNATED FOR EXCLUSION.—The term ''land designated for exclusion'' means the parcel of land that is—

(A) comprised of approximately 10.2 acres of land;

(B) generally depicted on the survey plat entitled ''Proposed Boundary Change FCRONRW Sections 15 (unsurveyed) Township 14 North, Range 13 East, B.M., Custer County, Idaho'' and dated November 14, 2001; and

(C) more particularly described in the survey plat and legal description on file in—

(i) the office of the Chief of the Forest Service, Washington, DC; and

(ii) the office of the Intermountain Regional Forester, Ogden, Utah.

(2) LAND DESIGNATED FOR INCLUSION.—The term ''land designated for inclusion'' means the parcel of National Forest System land that is—

(A) comprised of approximately 10.2 acres of land;

(B) located in unsurveyed section 22, T. 14 N., R. 13 E., Boise Meridian, Custer County, Idaho;

(C) generally depicted on the map entitled ''Challis National Forest, T.14 N., R. 13 E., B.M., Custer County, Idaho, Proposed Boundary Change FCRONRW'' and dated September 19, 2007; and

(D) more particularly described on the map and legal description on file in—

(i) the office of the Chief of the Forest Service, Washington, DC; and

(ii) the Intermountain Regional Forester, Ogden, Utah.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(4) WILDERNESS AREA.—The term ''wilderness area'' means the Frank Church River of No Return Wilderness designated by section 3 of the Central Idaho Wilderness Act of 1980 (16 U.S.C. 1132 note; 94 Stat. 948).

(c) BOUNDARY ADJUSTMENT.—

(1) ADJUSTMENT TO WILDERNESS AREA.—

(A) INCLUSION.—The wilderness area shall include the land designated for inclusion.

(B) EXCLUSION.—The wilderness area shall not include the land designated for exclusion.

(2) CORRECTIONS TO LEGAL DESCRIPTIONS.—The Secretary may make corrections to the legal descriptions.

(d) CONVEYANCE OF LAND DESIGNATED FOR EXCLUSION.—

(1) IN GENERAL.—Subject to paragraph (2), to resolve the encroachment on the land designated for exclusion, the Secretary may sell for consideration in an amount equal to fair market value—

(A) the land designated for exclusion; and

(B) as the Secretary determines to be necessary, not more than 10 acres of land adjacent to the land designated for exclusion.

(2) CONDITIONS.—The sale of land under paragraph (1) shall be subject to the conditions that—

(A) the land to be conveyed be appraised in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions;

(B) the person buying the land shall pay—

(i) the costs associated with appraising and, if the land needs to be resurveyed, resurveying the land; and

(ii) any analyses and closing costs associated with the conveyance;

(C) for management purposes, the Secretary may reconfigure the description of the land for sale; and

(D) the owner of the adjacent private land shall have the first opportunity to buy the land.

(3) DISPOSITION OF PROCEEDS.—

(A) IN GENERAL.—The Secretary shall deposit the cash proceeds from a sale of land under paragraph (1) in the fund established under Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a).

(B) AVAILABILITY AND USE.—Amounts deposited under subparagraph (A)—

(i) shall remain available until expended for the acquisition of land for National Forest purposes in the State of Idaho; and

(ii) shall not be subject to transfer or reprogramming for—

(I) wildland fire management; or

(II) any other emergency purposes.

SEC. 3309. SANDIA PUEBLO LAND EXCHANGE TECHNICAL AMENDMENT.

Section 413(b) of the T'uf Shur Bien Preservation Trust Area Act (16 U.S.C. 539m–11) is amended—

(1) in paragraph (1), by inserting ''3,'' after ''sections''; and

(2) in the first sentence of paragraph (4), by inserting '', as a condition of the conveyance,'' before ''remain''.

Subtitle E—Colorado Northern Front Range Study

SEC. 3401. PURPOSE.

The purpose of this subtitle is to identify options that may be available to assist in maintaining the open space characteristics of land that is part of the mountain backdrop of communities in the northern section of the Front Range area of Colorado.

SEC. 3402. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) STATE.—The term ''State'' means the State of Colorado.

(3) STUDY AREA.—

(A) IN GENERAL.—The term ''study area'' means the land in southern Boulder, northern Jefferson, and northern Gilpin Counties, Colorado, that is located west of Colorado State Highway 93, south and east of Colorado State Highway 119, and north of Colorado State Highway 46, as generally depicted on the map entitled ''Colorado Northern Front Range Mountain Backdrop Protection Study Act: Study Area'' and dated August 27, 2008.

(B) EXCLUSIONS.—The term ''study area'' does not include land within the city limits of the cities of Arvada, Boulder, or Golden, Colorado.

(4) UNDEVELOPED LAND.—The term ''undeveloped land'' means land—

(A) that is located within the study area;

(B) that is free or primarily free of structures; and

(C) the development of which is likely to affect adversely the scenic, wildlife, or recreational value of the study area.

SEC. 3403. COLORADO NORTHERN FRONT RANGE MOUNTAIN BACKDROP STUDY.

(a) STUDY; REPORT.—Not later than 1 year after the date of enactment of this Act and except as provided in subsection (c), the Secretary shall—

(1) conduct a study of the land within the study area; and

(2) complete a report that—

(A) identifies the present ownership of the land within the study area;

(B) identifies any undeveloped land that may be at risk of development; and

(C) describes any actions that could be taken by the United States, the State, a political subdivision of the State, or any other parties to preserve the open and undeveloped character of the land within the study area.

(b) REQUIREMENTS.—The Secretary shall conduct the study and develop the report under subsection (a) with the support and participation of 1 or more of the following State and local entities:

(1) The Colorado Department of Natural Resources.

(2) Colorado State Forest Service.

(3) Colorado State Conservation Board.

(4) Great Outdoors Colorado.

(5) Boulder, Jefferson, and Gilpin Counties, Colorado.

(c) LIMITATION.—If the State and local entities specified in subsection (b) do not support and participate in the conduct of the study and the development of the report under this section, the Secretary may—

(1) decrease the area covered by the study area, as appropriate; or

(2)(A) opt not to conduct the study or develop the report; and

(B) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives notice of the decision not to conduct the study or develop the report.

(d) EFFECT.—Nothing in this subtitle authorizes the Secretary to take any action that would affect the use of any land not owned by the United States.

TITLE IV—FOREST LANDSCAPE RESTORATION

SEC. 4001. PURPOSE.

The purpose of this title is to encourage the collaborative, science-based ecosystem restoration of priority forest landscapes through a process that—

(1) encourages ecological, economic, and social sustainability;

(2) leverages local resources with national and private resources;

(3) facilitates the reduction of wildfire management costs, including through reestablishing natural fire regimes and reducing the risk of uncharacteristic wildfire; and

(4) demonstrates the degree to which—

(A) various ecological restoration techniques—

(i) achieve ecological and watershed health objectives; and

(ii) affect wildfire activity and management costs; and

(B) the use of forest restoration byproducts can offset treatment costs while benefitting local rural economies and improving forest health.

SEC. 4002. DEFINITIONS.

In this title:

(1) FUND.—The term ''Fund'' means the Collaborative Forest Landscape Restoration Fund established by section 4003(f).

(2) PROGRAM.—The term ''program'' means the Collaborative Forest Landscape Restoration Program established under section 4003(a).

(3) PROPOSAL.—The term ''proposal'' means a collaborative forest landscape restoration proposal described in section 4003(b).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(5) STRATEGY.—The term ''strategy'' means a landscape restoration strategy described in section 4003(b)(1).

SEC. 4003. COLLABORATIVE FOREST LANDSCAPE RESTORATION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall establish a Collaborative Forest Landscape Restoration Program to select and fund ecological restoration treatments for priority forest landscapes in accordance with—

(1) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(3) any other applicable law.

(b) ELIGIBILITY CRITERIA.—To be eligible for nomination under subsection (c), a collaborative forest landscape restoration proposal shall—

(1) be based on a landscape restoration strategy that—

(A) is complete or substantially complete;

(B) identifies and prioritizes ecological restoration treatments for a 10-year period within a landscape that is—

(i) at least 50,000 acres;

(ii) comprised primarily of forested National Forest System land, but may also include land under the jurisdiction of the Bureau of Land Management, land under the jurisdiction of the Bureau of Indian Affairs, or other Federal, State, tribal, or private land;

(iii) in need of active ecosystem restoration; and

(iv) accessible by existing or proposed wood-processing infrastructure at an appropriate scale to use woody biomass and small-diameter wood removed in ecological restoration treatments;

(C) incorporates the best available science and scientific application tools in ecological restoration strategies;

(D) fully maintains, or contributes toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health and retaining the large trees contributing to old growth structure;

(E) would carry out any forest restoration treatments that reduce hazardous fuels by—

(i) focusing on small diameter trees, thinning, strategic fuel breaks, and fire use to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(ii) maximizing the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands; and

(F)(i) does not include the establishment of permanent roads; and

(ii) would commit funding to decommission all temporary roads constructed to carry out the strategy;

(2) be developed and implemented through a collaborative process that—

(A) includes multiple interested persons representing diverse interests; and

(B)(i) is transparent and nonexclusive; or

(ii) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of Public Law 106–393 (16 U.S.C. 500 note);

(3) describe plans to—

(A) reduce the risk of uncharacteristic wildfire, including through the use of fire for ecological restoration and maintenance and reestablishing natural fire regimes, where appropriate;

(B) improve fish and wildlife habitat, including for endangered, threatened, and sensitive species;

(C) maintain or improve water quality and watershed function;

(D) prevent, remediate, or control invasions of exotic species;

(E) maintain, decommission, and rehabilitate roads and trails;

(F) use woody biomass and small-diameter trees produced from projects implementing the strategy;

(G) report annually on performance, including through performance measures from the plan entitled the ''10 Year Comprehensive Strategy Implementation Plan'' and dated December 2006; and

(H) take into account any applicable community wildfire protection plan;

(4) analyze any anticipated cost savings, including those resulting from—

(A) reduced wildfire management costs; and

(B) a decrease in the unit costs of implementing ecological restoration treatments over time;

(5) estimate—

(A) the annual Federal funding necessary to implement the proposal; and

(B) the amount of new non-Federal investment for carrying out the proposal that would be leveraged;

(6) describe the collaborative process through which the proposal was developed, including a description of—

(A) participation by or consultation with State, local, and Tribal governments; and

(B) any established record of successful collaborative planning and implementation of ecological restoration projects on National Forest System land and other land included in the proposal by the collaborators; and

(7) benefit local economies by providing local employment or training opportunities through contracts, grants, or agreements for restoration planning, design, implementation, or monitoring with—

(A) local private, nonprofit, or cooperative entities;

(B) Youth Conservation Corps crews or related partnerships, with State, local, and non-profit youth groups;

(C) existing or proposed small or micro-businesses, clusters, or incubators; or

(D) other entities that will hire or train local people to complete such contracts, grants, or agreements; and

(8) be subject to any other requirements that the Secretary, in consultation with the Secretary of the Interior, determines to be necessary for the efficient and effective administration of the program.

(c) NOMINATION PROCESS.—

(1) SUBMISSION.—A proposal shall be submitted to—

(A) the appropriate Regional Forester; and

(B) if actions under the jurisdiction of the Secretary of the Interior are proposed, the appropriate—

(i) State Director of the Bureau of Land Management;

(ii) Regional Director of the Bureau of Indian Affairs; or

(iii) other official of the Department of the Interior.

(2) NOMINATION.—

(A) IN GENERAL.—A Regional Forester may nominate for selection by the Secretary any proposals that meet the eligibility criteria established by subsection (b).

(B) CONCURRENCE.—Any proposal nominated by the Regional Forester that proposes actions under the jurisdiction of the Secretary of the Interior shall include the concurrence of the appropriate—

(i) State Director of the Bureau of Land Management;

(ii) Regional Director of the Bureau of Indian Affairs; or

(iii) other official of the Department of the Interior.

(3) DOCUMENTATION.—With respect to each proposal that is nominated under paragraph (2)—

(A) the appropriate Regional Forester shall—

(i) include a plan to use Federal funds allocated to the region to fund those costs of planning and carrying out ecological restoration treatments on National Forest System land, consistent with the strategy, that would not be covered by amounts transferred to the Secretary from the Fund; and

(ii) provide evidence that amounts proposed to be transferred to the Secretary from the Fund during the first 2 fiscal years following selection would be used to carry out ecological restoration treatments consistent with the strategy during the same fiscal year in which the funds are transferred to the Secretary;

(B) if actions under the jurisdiction of the Secretary of the Interior are proposed, the nomination shall include a plan to fund such actions, consistent with the strategy, by the appropriate—

(i) State Director of the Bureau of Land Management;

(ii) Regional Director of the Bureau of Indian Affairs; or

(iii) other official of the Department of the Interior; and

(C) if actions on land not under the jurisdiction of the Secretary or the Secretary of the Interior are proposed, the appropriate Regional Forester shall provide evidence that the landowner intends to participate in, and provide appropriate funding to carry out, the actions.

(d) SELECTION PROCESS.—

(1) IN GENERAL.—After consulting with the advisory panel established under subsection (e), the Secretary, in consultation with the Secretary of the Interior, shall, subject to paragraph (2), select the best proposals that—

(A) have been nominated under subsection (c)(2); and

(B) meet the eligibility criteria established by subsection (b).

(2) CRITERIA.—In selecting proposals under paragraph (1), the Secretary shall give special consideration to—

(A) the strength of the proposal and strategy;

(B) the strength of the ecological case of the proposal and the proposed ecological restoration strategies;

(C) the strength of the collaborative process and the likelihood of successful collaboration throughout implementation;

(D) whether the proposal is likely to achieve reductions in long-term wildfire management costs;

(E) whether the proposal would reduce the relative costs of carrying out ecological restoration treatments as a result of the use of woody biomass and small-diameter trees; and

(F) whether an appropriate level of non-Federal investment would be leveraged in carrying out the proposal.

(3) LIMITATION.—The Secretary may select not more than—

(A) 10 proposals to be funded during any fiscal year;

(B) 2 proposals in any 1 region of the National Forest System to be funded during any fiscal year; and

(C) the number of proposals that the Secretary determines are likely to receive adequate funding.

(e) ADVISORY PANEL.—

(1) IN GENERAL.—The Secretary shall establish and maintain an advisory panel comprised of not more than 15 members to evaluate, and provide recommendations on, each proposal that has been nominated under subsection (c)(2).

(2) REPRESENTATION.—The Secretary shall ensure that the membership of the advisory panel is fairly balanced in terms of the points of view represented and the functions to be performed by the advisory panel.

(3) INCLUSION.—The advisory panel shall include experts in ecological restoration, fire ecology, fire management, rural economic development, strategies for ecological adaptation to climate change, fish and wildlife ecology, and woody biomass and small-diameter tree utilization.

(f) COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Collaborative Forest Landscape Restoration Fund'', to be used to pay up to 50 percent of the cost of carrying out and monitoring ecological restoration treatments on National Forest System land for each proposal selected to be carried out under subsection (d).

(2) INCLUSION.—The cost of carrying out ecological restoration treatments as provided in paragraph (1) may, as the Secretary determines to be appropriate, include cancellation and termination costs required to be obligated for contracts to carry out ecological restoration treatments on National Forest System land for each proposal selected to be carried out under subsection (d).

(3) CONTENTS.—The Fund shall consist of such amounts as are appropriated to the Fund under paragraph (6).

(4) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—On request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are appropriate, in accordance with paragraph (1).

(B) LIMITATION.—The Secretary shall not expend money from the Fund on any 1 proposal—

(i) during a period of more than 10 fiscal years; or

(ii) in excess of $4,000,000 in any 1 fiscal year.

(5) ACCOUNTING AND REPORTING SYSTEM.—The Secretary shall establish an accounting and reporting system for the Fund.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $40,000,000 for each of fiscal years 2009 through 2019, to remain available until expended.

(g) PROGRAM IMPLEMENTATION AND MONITORING.—

(1) WORK PLAN.—Not later than 180 days after the date on which a proposal is selected to be carried out, the Secretary shall create, in collaboration with the interested persons, an implementation work plan and budget to implement the proposal that includes—

(A) a description of the manner in which the proposal would be implemented to achieve ecological and community economic benefit, including capacity building to accomplish restoration;

(B) a business plan that addresses—

(i) the anticipated unit treatment cost reductions over 10 years;

(ii) the anticipated costs for infrastructure needed for the proposal;

(iii) the projected sustainability of the supply of woody biomass and small-diameter trees removed in ecological restoration treatments; and

(iv) the projected local economic benefits of the proposal;

(C) documentation of the non-Federal investment in the priority landscape, including the sources and uses of the investments; and

(D) a plan to decommission any temporary roads established to carry out the proposal.

(2) PROJECT IMPLEMENTATION.—Amounts transferred to the Secretary from the Fund shall be used to carry out ecological restoration treatments that are—

(A) consistent with the proposal and strategy; and

(B) identified through the collaborative process described in subsection (b)(2).

(3) ANNUAL REPORT.—The Secretary, in collaboration with the Secretary of the Interior and interested persons, shall prepare an annual report on the accomplishments of each selected proposal that includes—

(A) a description of all acres (or other appropriate unit) treated and restored through projects implementing the strategy;

(B) an evaluation of progress, including performance measures and how prior year evaluations have contributed to improved project performance;

(C) a description of community benefits achieved, including any local economic benefits;

(D) the results of the multiparty monitoring, evaluation, and accountability process under paragraph (4); and

(E) a summary of the costs of—

(i) treatments; and

(ii) relevant fire management activities.

(4) MULTIPARTY MONITORING.—The Secretary shall, in collaboration with the Secretary of the Interior and interested persons, use a multiparty monitoring, evaluation, and accountability process to assess the positive or negative ecological, social, and economic effects of projects implementing a selected proposal for not less than 15 years after project implementation commences.

(h) REPORT.—Not later than 5 years after the first fiscal year in which funding is made available to carry out ecological restoration projects under the program, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall submit a report on the program, including an assessment of whether, and to what extent, the program is fulfilling the purposes of this title, to—

(1) the Committee on Energy and Natural Resources of the Senate;

(2) the Committee on Appropriations of the Senate;

(3) the Committee on Natural Resources of the House of Representatives; and

(4) the Committee on Appropriations of the House of Representatives.

SEC. 4004. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out this title.

TITLE V—RIVERS AND TRAILS

Subtitle A—Additions to the National Wild and Scenic Rivers System

SEC. 5001. FOSSIL CREEK, ARIZONA.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 1852) is amended by adding at the end the following:

''(204) FOSSIL CREEK, ARIZONA.—Approximately 16.8 miles of Fossil Creek from the confluence of Sand Rock and Calf Pen Canyons to the confluence with the Verde River, to be administered by the Secretary of Agriculture in the following classes:

''(A) The approximately 2.7-mile segment from the confluence of Sand Rock and Calf Pen Canyons to the point where the segment exits the Fossil Spring Wilderness, as a wild river.

''(B) The approximately 7.5-mile segment from where the segment exits the Fossil

Creek Wilderness to the boundary of the Mazatzal Wilderness, as a recreational river.

''(C) The 6.6-mile segment from the boundary of the Mazatzal Wilderness downstream to the confluence with the Verde River, as a wild river.''.

SEC. 5002. SNAKE RIVER HEADWATERS, WYOMING.

(a) FINDINGS; PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the headwaters of the Snake River System in northwest Wyoming feature some of the cleanest sources of freshwater, healthiest native trout fisheries, and most intact rivers and streams in the lower 48 States;

(B) the rivers and streams of the headwaters of the Snake River System—

(i) provide unparalleled fishing, hunting, boating, and other recreational activities for—

(I) local residents; and

(II) millions of visitors from around the world; and

(ii) are national treasures;

(C) each year, recreational activities on the rivers and streams of the headwaters of the Snake River System generate millions of dollars for the economies of—

(i) Teton County, Wyoming; and

(ii) Lincoln County, Wyoming;

(D) to ensure that future generations of citizens of the United States enjoy the benefits of the rivers and streams of the headwaters of the Snake River System, Congress should apply the protections provided by the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) to those rivers and streams; and

(E) the designation of the rivers and streams of the headwaters of the Snake River System under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) will signify to the citizens of the United States the importance of maintaining the outstanding and remarkable qualities of the Snake River System while—

(i) preserving public access to those rivers and streams;

(ii) respecting private property rights (including existing water rights); and

(iii) continuing to allow historic uses of the rivers and streams.

(2) PURPOSES.—The purposes of this section are—

(A) to protect for current and future generations of citizens of the United States the outstandingly remarkable scenic, natural, wildlife, fishery, recreational, scientific, historic, and ecological values of the rivers and streams of the headwaters of the Snake River System, while continuing to deliver water and operate and maintain valuable irrigation water infrastructure; and

(B) to designate approximately 387.7 miles of the rivers and streams of the headwaters of the Snake River System as additions to the National Wild and Scenic Rivers System.

(b) DEFINITIONS.—In this section:

(1) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture (acting through the Chief of the Forest Service), with respect to each river segment described in paragraph (205) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as added by subsection (c)) that is not located in—

(i) Grand Teton National Park;

(ii) Yellowstone National Park;

(iii) the John D. Rockefeller, Jr. Memorial Parkway; or

(iv) the National Elk Refuge; and

(B) the Secretary of the Interior, with respect to each river segment described in paragraph (205) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as added by subsection (c)) that is located in—

(i) Grand Teton National Park;

(ii) Yellowstone National Park;

(iii) the John D. Rockefeller, Jr. Memorial Parkway; or

(iv) the National Elk Refuge.

(2) STATE.—The term ''State'' means the State of Wyoming.

(c) WILD AND SCENIC RIVER DESIGNATIONS, SNAKE RIVER SYSTEM.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 5001) is amended by adding at the end the following:

''(205) WILD AND SCENIC RIVER DESIGNATIONS, SNAKE RIVER SYSTEM.—The following segments of the Snake River System, in the State of Wyoming:

''(A) BAILEY CREEK.—The 7-mile segment of Bailey Creek, from the divide with the Little Greys River north to its confluence with the Snake River, as a wild river.

''(B) BLACKROCK CREEK.—The 22-mile segment from its source to the Bridger-Teton National Forest boundary, as a scenic river.

''(C) BUFFALO FORK OF THE SNAKE RIVER.—The portions of the Buffalo Fork of the Snake River, consisting of—

''(i) the 55-mile segment consisting of the North Fork, the Soda Fork, and the South Fork, upstream from Turpin Meadows, as a wild river;

''(ii) the 14-mile segment from Turpin Meadows to the upstream boundary of Grand Teton National Park, as a scenic river; and

''(iii) the 7.7-mile segment from the upstream boundary of Grand Teton National Park to its confluence with the Snake River, as a scenic river.

''(D) CRYSTAL CREEK.—The portions of Crystal Creek, consisting of—

''(i) the 14-mile segment from its source to the Gros Ventre Wilderness boundary, as a wild river; and

''(ii) the 5-mile segment from the Gros Ventre Wilderness boundary to its confluence with the Gros Ventre River, as a scenic river.

''(E) GRANITE CREEK.—The portions of Granite Creek, consisting of—

''(i) the 12-mile segment from its source to the end of Granite Creek Road, as a wild river; and

''(ii) the 9.5-mile segment from Granite Hot Springs to the point 1 mile upstream from its confluence with the Hoback River, as a scenic river.

''(F) GROS VENTRE RIVER.—The portions of the Gros Ventre River, consisting of—

''(i) the 16.5-mile segment from its source to Darwin Ranch, as a wild river;

''(ii) the 39-mile segment from Darwin Ranch to the upstream boundary of Grand Teton National Park, excluding the section along Lower Slide Lake, as a scenic river; and

''(iii) the 3.3-mile segment flowing across the southern boundary of Grand Teton National Park to the Highlands Drive Loop Bridge, as a scenic river.

''(G) HOBACK RIVER.—The 10-mile segment from the point 10 miles upstream from its confluence with the Snake River to its confluence with the Snake River, as a recreational river.

''(H) LEWIS RIVER.—The portions of the Lewis River, consisting of—

''(i) the 5-mile segment from Shoshone Lake to Lewis Lake, as a wild river; and

''(ii) the 12-mile segment from the outlet of Lewis Lake to its confluence with the Snake River, as a scenic river.

''(I) PACIFIC CREEK.—The portions of Pacific Creek, consisting of—

''(i) the 22.5-mile segment from its source to the Teton Wilderness boundary, as a wild river; and

''(ii) the 11-mile segment from the Wilderness boundary to its confluence with the Snake River, as a scenic river.

''(J) SHOAL CREEK.—The 8-mile segment from its source to the point 8 miles downstream from its source, as a wild river.

''(K) SNAKE RIVER.—The portions of the Snake River, consisting of—

''(i) the 47-mile segment from its source to Jackson Lake, as a wild river;

''(ii) the 24.8-mile segment from 1 mile downstream of Jackson Lake Dam to 1 mile downstream of the Teton Park Road bridge at Moose, Wyoming, as a scenic river; and

''(iii) the 19-mile segment from the mouth of the Hoback River to the point 1 mile upstream from the Highway 89 bridge at Alpine Junction, as a recreational river, the boundary of the western edge of the corridor for the portion of the segment extending from the point 3.3 miles downstream of the mouth of the Hoback River to the point 4 miles downstream of the mouth of the Hoback River being the ordinary high water mark.

''(L) WILLOW CREEK.—The 16.2-mile segment from the point 16.2 miles upstream from its confluence with the Hoback River to its confluence with the Hoback River, as a wild river.

''(M) WOLF CREEK.—The 7-mile segment from its source to its confluence with the Snake River, as a wild river.''.

(d) MANAGEMENT.—

(1) IN GENERAL.—Each river segment described in paragraph (205) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as added by subsection (c)) shall be managed by the Secretary concerned.

(2) MANAGEMENT PLAN.—

(A) IN GENERAL.—In accordance with subparagraph (A), not later than 3 years after the date of enactment of this Act, the Secretary concerned shall develop a management plan for each river segment described in paragraph (205) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as added by subsection (c)) that is located in an area under the jurisdiction of the Secretary concerned.

(B) REQUIRED COMPONENT.—Each management plan developed by the Secretary concerned under subparagraph (A) shall contain, with respect to the river segment that is the subject of the plan, a section that contains an analysis and description of the availability and compatibility of future development with the wild and scenic character of the river segment (with particular emphasis on each river segment that contains 1 or more parcels of private land).

(3) QUANTIFICATION OF WATER RIGHTS RESERVED BY RIVER SEGMENTS.—

(A) The Secretary concerned shall apply for the quantification of the water rights reserved by each river segment designated by this section in accordance with the procedural requirements of the laws of the State of Wyoming.

(B) For the purpose of the quantification of water rights under this subsection, with respect to each Wild and Scenic River segment designated by this section—

(i) the purposes for which the segments are designated, as set forth in this section, are declared to be beneficial uses; and

(ii) the priority date of such right shall be the date of enactment of this Act.

(4) STREAM GAUGES.—Consistent with the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the Secretary may carry out activities at United States Geological Survey stream gauges that are located on the Snake River (including tributaries of the Snake River), including flow measurements and operation, maintenance, and replacement.

(5) CONSENT OF PROPERTY OWNER.—No property or interest in property located within the boundaries of any river segment described in paragraph (205) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as added by subsection (c)) may be

acquired by the Secretary without the consent of the owner of the property or interest in property.

(6) EFFECT OF DESIGNATIONS.—

(A) IN GENERAL.—Nothing in this section affects valid existing rights, including—

(i) all interstate water compacts in existence on the date of enactment of this Act (including full development of any apportionment made in accordance with the compacts);

(ii) water rights in the States of Idaho and Wyoming; and

(iii) water rights held by the United States.

(B) JACKSON LAKE; JACKSON LAKE DAM.—Nothing in this section shall affect the management and operation of Jackson Lake or Jackson Lake Dam, including the storage, management, and release of water.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 5003. TAUNTON RIVER, MASSACHUSETTS.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 5002(c)) is amended by adding at the end the following:

''(206) TAUNTON RIVER, MASSACHUSETTS.—The main stem of the Taunton River from its headwaters at the confluence of the Town and Matfield Rivers in the Town of Bridgewater downstream 40 miles to the confluence with the Quequechan River at the Route 195 Bridge in the City of Fall River, to be administered by the Secretary of the Interior in cooperation with the Taunton River Stewardship Council as follows:

''(A) The 18-mile segment from the confluence of the Town and Matfield Rivers to Route 24 in the Town of Raynham, as a scenic river.

''(B) The 5-mile segment from Route 24 to 0.5 miles below Weir Bridge in the City of Taunton, as a recreational river.

''(C) The 8-mile segment from 0.5 miles below Weir Bridge to Muddy Cove in the Town of Dighton, as a scenic river.

''(D) The 9-mile segment from Muddy Cove to the confluence with the Quequechan River at the Route 195 Bridge in the City of Fall River, as a recreational river.''.

(b) MANAGEMENT OF TAUNTON RIVER, MASSACHUSETTS.—

(1) TAUNTON RIVER STEWARDSHIP PLAN.—

(A) IN GENERAL.—Each river segment designated by section 3(a)(206) of the Wild and Scenic Rivers Act (as added by subsection (a)) shall be managed in accordance with the Taunton River Stewardship Plan, dated July 2005 (including any amendment to the Taunton River Stewardship Plan that the Secretary of the Interior (referred to in this subsection as the ''Secretary'') determines to be consistent with this section).

(B) EFFECT.—The Taunton River Stewardship Plan described in subparagraph (A) shall be considered to satisfy each requirement relating to the comprehensive management plan required under section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

(2) COOPERATIVE AGREEMENTS.—To provide for the long-term protection, preservation, and enhancement of each river segment designated by section 3(a)(206) of the Wild and Scenic Rivers Act (as added by subsection (a)), pursuant to sections 10(e) and 11(b)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e) and 1282(b)(1)), the Secretary may enter into cooperative agreements (which may include provisions for financial and other assistance) with—

(A) the Commonwealth of Massachusetts (including political subdivisions of the Commonwealth of Massachusetts);

(B) the Taunton River Stewardship Council; and

(C) any appropriate nonprofit organization, as determined by the Secretary.

(3) RELATION TO NATIONAL PARK SYSTEM.—Notwithstanding section 10(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(c)), each river segment designated by section 3(a)(206) of the Wild and Scenic Rivers Act (as added by subsection (a)) shall not be—

(A) administered as a unit of the National Park System; or

(B) subject to the laws (including regulations) that govern the administration of the National Park System.

(4) LAND MANAGEMENT.—

(A) ZONING ORDINANCES.—The zoning ordinances adopted by the Towns of Bridgewater, Halifax, Middleborough, Raynham, Berkley, Dighton, Freetown, and Somerset, and the Cities of Taunton and Fall River, Massachusetts (including any provision of the zoning ordinances relating to the conservation of floodplains, wetlands, and watercourses associated with any river segment designated by section 3(a)(206) of the Wild and Scenic Rivers Act (as added by subsection (a))), shall be considered to satisfy each standard and requirement described in section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)).

(B) VILLAGES.—For the purpose of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)), each town described in subparagraph (A) shall be considered to be a village.

(C) ACQUISITION OF LAND.—

(i) LIMITATION OF AUTHORITY OF SECRETARY.—With respect to each river segment designated by section 3(a)(206) of the Wild and Scenic Rivers Act (as added by subsection (a)), the Secretary may only acquire parcels of land—

(I) by donation; or

(II) with the consent of the owner of the parcel of land.

(ii) PROHIBITION RELATING TO ACQUISITION OF LAND BY CONDEMNATION.—In accordance with section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)), with respect to each river segment designated by section 3(a)(206) of the Wild and Scenic Rivers Act (as added by subsection (a)), the Secretary may not acquire any parcel of land by condemnation.

Subtitle B—Wild and Scenic Rivers Studies

SEC. 5101. MISSISQUOI AND TROUT RIVERS STUDY.

(a) DESIGNATION FOR STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

''(140) MISSISQUOI AND TROUT RIVERS, VERMONT.—The approximately 25-mile segment of the upper Missisquoi from its headwaters in Lowell to the Canadian border in North Troy, the approximately 25-mile segment from the Canadian border in East Richford to Enosburg Falls, and the approximately 20-mile segment of the Trout River from its headwaters to its confluence with the Missisquoi River.''.

(b) STUDY AND REPORT.—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following:

''(19) MISSISQUOI AND TROUT RIVERS, VERMONT.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary of the Interior shall—

''(A) complete the study of the Missisquoi and Trout Rivers, Vermont, described in subsection (a)(140); and

''(B) submit a report describing the results of that study to the appropriate committees of Congress.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle C—Additions to the National Trails System

SEC. 5201. ARIZONA NATIONAL SCENIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

''(27) ARIZONA NATIONAL SCENIC TRAIL.—

''(A) IN GENERAL.—The Arizona National Scenic Trail, extending approximately 807 miles across the State of Arizona from the U.S.–Mexico international border to the Arizona–Utah border, as generally depicted on the map entitled 'Arizona National Scenic Trail' and dated December 5, 2007, to be administered by the Secretary of Agriculture, in consultation with the Secretary of the Interior and appropriate State, tribal, and local governmental agencies.

''(B) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in appropriate offices of the Forest Service.''.

SEC. 5202. NEW ENGLAND NATIONAL SCENIC TRAIL.

(a) AUTHORIZATION AND ADMINISTRATION.—Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) (as amended by section 5201) is amended by adding at the end the following:

''(28) NEW ENGLAND NATIONAL SCENIC TRAIL.—The New England National Scenic Trail, a continuous trail extending approximately 220 miles from the border of New Hampshire in the town of Royalston, Massachusetts to Long Island Sound in the town of Guilford, Connecticut, as generally depicted on the map titled 'New England National Scenic Trail Proposed Route', numbered T06/80,000, and dated October 2007. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service. The Secretary of the Interior, in consultation with appropriate Federal, State, tribal, regional, and local agencies, and other organizations, shall administer the trail after considering the recommendations of the report titled the 'Metacomet Monadnock Mattabesset Trail System National Scenic Trail Feasibility Study and Environmental Assessment', prepared by the National Park Service, and dated Spring 2006. The United States shall not acquire for the trail any land or interest in land without the consent of the owner.''.

(b) MANAGEMENT.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall consider the actions outlined in the Trail Management Blueprint described in the report titled the ''Metacomet Monadnock Mattabesett Trail System National Scenic Trail Feasibility Study and Environmental Assessment'', prepared by the National Park Service, and dated Spring 2006, as the framework for management and administration of the New England National Scenic Trail. Additional or more detailed plans for administration, management, protection, access, maintenance, or development of the trail may be developed consistent with the Trail Management Blueprint, and as approved by the Secretary.

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the Commonwealth of Massachusetts (and its political subdivisions), the State of Connecticut (and its political subdivisions), and other regional, local, and private organizations deemed necessary and desirable to accomplish cooperative trail administrative, management, and protection objectives consistent with the Trail Management Blueprint. An agreement under this subsection may include provisions for limited financial assistance to encourage participation in the planning, acquisition,

protection, operation, development, or maintenance of the trail.

(d) ADDITIONAL TRAIL SEGMENTS.—Pursuant to section 6 of the National Trails System Act (16 U.S.C. 1245), the Secretary is encouraged to work with the State of New Hampshire and appropriate local and private organizations to include that portion of the Metacomet-Monadnock Trail in New Hampshire (which lies between Royalston, Massachusetts and Jaffrey, New Hampshire) as a component of the New England National Scenic Trail. Inclusion of this segment, as well as other potential side or connecting trails, is contingent upon written application to the Secretary by appropriate State and local jurisdictions and a finding by the Secretary that trail management and administration is consistent with the Trail Management Blueprint.

SEC. 5203. ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) at the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington and Oregon;

(B) geological features that have exceptional value and quality to illustrate and interpret this extraordinary natural phenomenon are present on Federal, State, tribal, county, municipal, and private land in the region; and

(C) in 2001, a joint study team headed by the National Park Service that included about 70 members from public and private entities completed a study endorsing the establishment of an Ice Age Floods National Geologic Trail—

(i) to recognize the national significance of this phenomenon; and

(ii) to coordinate public and private sector entities in the presentation of the story of the Ice Age floods.

(2) PURPOSE.—The purpose of this section is to designate the Ice Age Floods National Geologic Trail in the States of Montana, Idaho, Washington, and Oregon, enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities.

(b) DEFINITIONS.—In this section:

(1) ICE AGE FLOODS; FLOODS.—The term ''Ice Age floods'' or ''floods'' means the cataclysmic floods that occurred in what is now the northwestern United States during the last Ice Age from massive, rapid and recurring drainage of Glacial Lake Missoula.

(2) PLAN.—The term ''plan'' means the cooperative management and interpretation plan authorized under subsection (f)(5).

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

(4) TRAIL.—The term ''Trail'' means the Ice Age Floods National Geologic Trail designated by subsection (c).

(c) DESIGNATION.—In order to provide for public appreciation, understanding, and enjoyment of the nationally significant natural and cultural features of the Ice Age floods and to promote collaborative efforts for interpretation and education among public and private entities located along the pathways of the floods, there is designated the Ice Age Floods National Geologic Trail.

(d) LOCATION.—

(1) MAP.—The route of the Trail shall be as generally depicted on the map entitled ''Ice Age Floods National Geologic Trail,'' numbered P43/80,000 and dated June 2004.

(2) ROUTE.—The route shall generally follow public roads and highways.

(3) REVISION.—The Secretary may revise the map by publication in the Federal Register of a notice of availability of a new map as part of the plan.

(e) MAP AVAILABILITY.—The map referred to in subsection (d)(1) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(f) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall administer the Trail in accordance with this section.

(2) LIMITATION.—Except as provided in paragraph (6)(B), the Trail shall not be considered to be a unit of the National Park System.

(3) TRAIL MANAGEMENT OFFICE.—To improve management of the Trail and coordinate Trail activities with other public agencies and private entities, the Secretary may establish and operate a trail management office at a central location within the vicinity of the Trail.

(4) INTERPRETIVE FACILITIES.—The Secretary may plan, design, and construct interpretive facilities for sites associated with the Trail if the facilities are constructed in partnership with State, local, tribal, or nonprofit entities and are consistent with the plan.

(5) MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 3 years after funds are made available to carry out this section, the Secretary shall prepare a cooperative management and interpretation plan for the Trail.

(B) CONSULTATION.—The Secretary shall prepare the plan in consultation with—

(i) State, local, and tribal governments;

(ii) the Ice Age Floods Institute;

(iii) private property owners; and

(iv) other interested parties.

(C) CONTENTS.—The plan shall—

(i) confirm and, if appropriate, expand on the inventory of features of the floods contained in the National Park Service study entitled ''Ice Age Floods, Study of Alternatives and Environmental Assessment'' (February 2001) by—

(I) locating features more accurately;

(II) improving the description of features; and

(III) reevaluating the features in terms of their interpretive potential;

(ii) review and, if appropriate, modify the map of the Trail referred to in subsection (d)(1);

(iii) describe strategies for the coordinated development of the Trail, including an interpretive plan for facilities, waysides, roadside pullouts, exhibits, media, and programs that present the story of the floods to the public effectively; and

(iv) identify potential partnering opportunities in the development of interpretive facilities and educational programs to educate the public about the story of the floods.

(6) COOPERATIVE MANAGEMENT.—

(A) IN GENERAL.—In order to facilitate the development of coordinated interpretation, education, resource stewardship, visitor facility development and operation, and scientific research associated with the Trail and to promote more efficient administration of the sites associated with the Trail, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Montana, Idaho, Washington, and Oregon in accordance with the authority provided for units of the National Park System under section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(l)).

(B) AUTHORITY.—For purposes of this paragraph only, the Trail shall be considered a unit of the National Park System.

(7) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with public or private entities to carry out this section.

(8) EFFECT ON PRIVATE PROPERTY RIGHTS.—Nothing in this section—

(A) requires any private property owner to allow public access (including Federal, State, or local government access) to private property; or

(B) modifies any provision of Federal, State, or local law with respect to public access to or use of private land.

(9) LIABILITY.—Designation of the Trail by subsection (c) does not create any liability for, or affect any liability under any law of, any private property owner with respect to any person injured on the private property.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, of which not more than $12,000,000 may be used for development of the Trail.

SEC. 5204. WASHINGTON-ROCHAMBEAU REVOLUTIONARY ROUTE NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) (as amended by section 5202(a)) is amended by adding at the end the following:

''(29) WASHINGTON-ROCHAMBEAU REVOLUTIONARY ROUTE NATIONAL HISTORIC TRAIL.—

''(A) IN GENERAL.—The Washington-Rochambeau Revolutionary Route National Historic Trail, a corridor of approximately 600 miles following the route taken by the armies of General George Washington and Count Rochambeau between Newport, Rhode Island, and Yorktown, Virginia, in 1781 and 1782, as generally depicted on the map entitled 'WASHINGTON-ROCHAMBEAU REVOLUTIONARY ROUTE NATIONAL HISTORIC TRAIL', numbered T01/80,001, and dated June 2007.

''(B) MAP.—The map referred to in subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

''(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior, in consultation with—

''(i) other Federal, State, tribal, regional, and local agencies; and

''(ii) the private sector.

''(D) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.''.

SEC. 5205. PACIFIC NORTHWEST NATIONAL SCENIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) (as amended by section 5204) is amended by adding at the end the following:

''(30) PACIFIC NORTHWEST NATIONAL SCENIC TRAIL.—

''(A) IN GENERAL.—The Pacific Northwest National Scenic Trail, a trail of approximately 1,200 miles, extending from the Continental Divide in Glacier National Park, Montana, to the Pacific Ocean Coast in Olympic National Park, Washington, following the route depicted on the map entitled 'Pacific Northwest National Scenic Trail: Proposed Trail', numbered T12/80,000, and dated February 2008 (referred to in this paragraph as the 'map').

''(B) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Forest Service.

''(C) ADMINISTRATION.—The Pacific Northwest National Scenic Trail shall be administered by the Secretary of Agriculture.

''(D) LAND ACQUISITION.—The United States shall not acquire for the Pacific Northwest National Scenic Trail any land or interest in land outside the exterior boundary of any

federally-managed area without the consent of the owner of the land or interest in land.''.

SEC. 5206. TRAIL OF TEARS NATIONAL HISTORIC TRAIL.

Section 5(a)(16) of the National Trails System Act (16 U.S.C. 1244(a)(16)) is amended as follows:

(1) By amending subparagraph (C) to read as follows:

''(C) In addition to the areas otherwise designated under this paragraph, the following routes and land components by which the Cherokee Nation was removed to Oklahoma are components of the Trail of Tears National Historic Trail, as generally described in the environmentally preferred alternative of the November 2007 Feasibility Study Amendment and Environmental Assessment for Trail of Tears National Historic Trail:

''(i) The Benge and Bell routes.

''(ii) The land components of the designated water routes in Alabama, Arkansas, Oklahoma, and Tennessee.

''(iii) The routes from the collection forts in Alabama, Georgia, North Carolina, and Tennessee to the emigration depots.

''(iv) The related campgrounds located along the routes and land components described in clauses (i) through (iii).''.

(2) In subparagraph (D)—

(A) by striking the first sentence; and

(B) by adding at the end the following: ''No lands or interests in lands outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears National Historic Trail except with the consent of the owner thereof.''.

Subtitle D—National Trail System Amendments

SEC. 5301. NATIONAL TRAILS SYSTEM WILLING SELLER AUTHORITY.

(a) AUTHORITY TO ACQUIRE LAND FROM WILLING SELLERS FOR CERTAIN TRAILS.—

(1) OREGON NATIONAL HISTORIC TRAIL.—Section 5(a)(3) of the National Trails System Act (16 U.S.C. 1244(a)(3)) is amended by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''.

(2) MORMON PIONEER NATIONAL HISTORIC TRAIL.—Section 5(a)(4) of the National Trails System Act (16 U.S.C. 1244(a)(4)) is amended by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''.

(3) CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL.—Section 5(a)(5) of the National Trails System Act (16 U.S.C. 1244(a)(5)) is amended by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''.

(4) LEWIS AND CLARK NATIONAL HISTORIC TRAIL.—Section 5(a)(6) of the National Trails System Act (16 U.S.C. 1244(a)(6)) is amended by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''.

(5) IDITAROD NATIONAL HISTORIC TRAIL.—Section 5(a)(7) of the National Trails System Act (16 U.S.C. 1244(a)(7)) is amended by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''.

(6) NORTH COUNTRY NATIONAL SCENIC TRAIL.—Section 5(a)(8) of the National Trails System Act (16 U.S.C. 1244(a)(8)) is amended by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.''.

(7) ICE AGE NATIONAL SCENIC TRAIL.—Section 5(a)(10) of the National Trails System Act (16 U.S.C. 1244(a)(10)) is amended by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.''.

(8) POTOMAC HERITAGE NATIONAL SCENIC TRAIL.—Section 5(a)(11) of the National Trails System Act (16 U.S.C. 1244(a)(11)) is amended—

(A) by striking the fourth and fifth sentences; and

(B) by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.''.

(9) NEZ PERCE NATIONAL HISTORIC TRAIL.—Section 5(a)(14) of the National Trails System Act (16 U.S.C. 1244(a)(14)) is amended—

(A) by striking the fourth and fifth sentences; and

(B) by adding at the end the following: ''No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.''.

(b) CONFORMING AMENDMENT.—Section 10 of the National Trails System Act (16 U.S.C. 1249) is amended by striking subsection (c) and inserting the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this Act, there are authorized to be appropriated such sums as are necessary to implement the provisions of this Act relating to the trails designated by section 5(a).

''(2) NATCHEZ TRACE NATIONAL SCENIC TRAIL.—

''(A) IN GENERAL.—With respect to the Natchez Trace National Scenic Trail (referred to in this paragraph as the 'trail') designated by section 5(a)(12)—

''(i) not more than $500,000 shall be appropriated for the acquisition of land or interests in land for the trail; and

''(ii) not more than $2,000,000 shall be appropriated for the development of the trail.

''(B) PARTICIPATION BY VOLUNTEER TRAIL GROUPS.—The administering agency for the trail shall encourage volunteer trail groups to participate in the development of the trail.''.

SEC. 5302. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.

Section 5 of the National Trails System Act (16 U.S.C. 1244) is amended by adding at the end the following:

''(g) REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.—

''(1) DEFINITIONS.—In this subsection:

''(A) ROUTE.—The term 'route' includes a trail segment commonly known as a cutoff.

''(B) SHARED ROUTE.—The term 'shared route' means a route that was a segment of more than 1 historic trail, including a route shared with an existing national historic trail.

''(2) REQUIREMENTS FOR REVISION.—

''(A) IN GENERAL.—The Secretary of the Interior shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

''(B) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

''(C) COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to Congress not later than 3 complete fiscal years from the date funds are made available for the study.

''(3) OREGON NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the Oregon National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) Whitman Mission route.

''(ii) Upper Columbia River.

''(iii) Cowlitz River route.

''(iv) Meek cutoff.

''(v) Free Emigrant Road.

''(vi) North Alternate Oregon Trail.

''(vii) Goodale's cutoff.

''(viii) North Side alternate route.

''(ix) Cutoff to Barlow road.

''(x) Naches Pass Trail.

''(4) PONY EXPRESS NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the Pony Express National Historic Trail.

''(5) CALIFORNIA NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the Missouri Valley, central, and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the California National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) MISSOURI VALLEY ROUTES.—

''(I) Blue Mills-Independence Road.

''(II) Westport Landing Road.

''(III) Westport-Lawrence Road.

''(IV) Fort Leavenworth-Blue River route.

''(V) Road to Amazonia.

''(VI) Union Ferry Route.

''(VII) Old Wyoming-Nebraska City cutoff.

''(VIII) Lower Plattsmouth Route.

''(IX) Lower Bellevue Route.

''(X) Woodbury cutoff.

''(XI) Blue Ridge cutoff.

''(XII) Westport Road.

''(XIII) Gum Springs-Fort Leavenworth route.

''(XIV) Atchison/Independence Creek routes.

''(XV) Fort Leavenworth-Kansas River route.

''(XVI) Nebraska City cutoff routes.

''(XVII) Minersville-Nebraska City Road.

''(XVIII) Upper Plattsmouth route.

''(XIX) Upper Bellevue route.

''(ii) CENTRAL ROUTES.—

''(I) Cherokee Trail, including splits.

''(II) Weber Canyon route of Hastings cutoff.

''(III) Bishop Creek cutoff.

''(IV) McAuley cutoff.

''(V) Diamond Springs cutoff.

''(VI) Secret Pass.

''(VII) Greenhorn cutoff.

''(VIII) Central Overland Trail.

''(iii) WESTERN ROUTES.—

''(I) Bidwell-Bartleson route.

''(II) Georgetown/Dagget Pass Trail.

''(III) Big Trees Road.

''(IV) Grizzly Flat cutoff.

''(V) Nevada City Road.

''(VI) Yreka Trail.

''(VII) Henness Pass route.

''(VIII) Johnson cutoff.

''(IX) Luther Pass Trail.

''(X) Volcano Road.

''(XI) Sacramento-Coloma Wagon Road.

''(XII) Burnett cutoff.

''(XIII) Placer County Road to Auburn.

''(6) MORMON PIONEER NATIONAL HISTORIC TRAIL.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted in the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as components of the Mormon Pioneer National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).

''(ii) 1856–57 Handcart route (Iowa City to Council Bluffs).

''(iii) Keokuk route (Iowa).

''(iv) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.

''(v) Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).

''(vi) 1850 Golden Pass Road in Utah.

''(7) SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—

''(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of 1 or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.

''(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

''(i) St. Joe Road.

''(ii) Council Bluffs Road.

''(iii) Sublette cutoff.

''(iv) Applegate route.

''(v) Old Fort Kearny Road (Oxbow Trail).

''(vi) Childs cutoff.

''(vii) Raft River to Applegate.''.

SEC. 5303. CHISHOLM TRAIL AND GREAT WESTERN TRAILS STUDIES.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following:

''(44) CHISHOLM TRAIL.—

''(A) IN GENERAL.—The Chisholm Trail (also known as the 'Abilene Trail'), from the vicinity of San Antonio, Texas, segments from the vicinity of Cuero, Texas, to Ft. Worth, Texas, Duncan, Oklahoma, alternate segments used through Oklahoma, to Enid, Oklahoma, Caldwell, Kansas, Wichita, Kansas, Abilene, Kansas, and commonly used segments running to alternative Kansas destinations.

''(B) REQUIREMENT.—In conducting the study required under this paragraph, the Secretary of the Interior shall identify the point at which the trail originated south of San Antonio, Texas.

''(45) GREAT WESTERN TRAIL.—

''(A) IN GENERAL.—The Great Western Trail (also known as the 'Dodge City Trail'), from the vicinity of San Antonio, Texas, north-by-northwest through the vicinities of Kerrville and Menard, Texas, north-by-northeast through the vicinities of Coleman and Albany, Texas, north through the vicinity of Vernon, Texas, to Doan's Crossing, Texas, northward through or near the vicinities of Altus, Lone Wolf, Canute, Vici, and May, Oklahoma, north through Kansas to Dodge City, and north through Nebraska to Ogallala.

''(B) REQUIREMENT.—In conducting the study required under this paragraph, the Secretary of the Interior shall identify the point at which the trail originated south of San Antonio, Texas.''.

TITLE VI—DEPARTMENT OF THE INTERIOR AUTHORIZATIONS

Subtitle A—Cooperative Watershed Management Program

SEC. 6001. DEFINITIONS.

In this subtitle:

(1) AFFECTED STAKEHOLDER.—The term ''affected stakeholder'' means an entity that significantly affects, or is significantly affected by, the quality or quantity of water in a watershed, as determined by the Secretary.

(2) GRANT RECIPIENT.—The term ''grant recipient'' means a watershed group that the Secretary has selected to receive a grant under section 6002(c)(2).

(3) PROGRAM.—The term ''program'' means the Cooperative Watershed Management Program established by the Secretary under section 6002(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) WATERSHED GROUP.—The term ''watershed group'' means a self-sustaining, cooperative watershed-wide group that—

(A) is comprised of representatives of the affected stakeholders of the relevant watershed;

(B) incorporates the perspectives of a diverse array of stakeholders, including, to the maximum extent practicable—

(i) representatives of—

(I) hydroelectric production;

(II) livestock grazing;

(III) timber production;

(IV) land development;

(V) recreation or tourism;

(VI) irrigated agricultural production;

(VII) the environment;

(VIII) potable water purveyors and industrial water users; and

(IX) private property owners within the watershed;

(ii) any Federal agency that has authority with respect to the watershed;

(iii) any State agency that has authority with respect to the watershed;

(iv) any local agency that has authority with respect to the watershed; and

(v) any Indian tribe that—

(I) owns land within the watershed; or

(II) has land in the watershed that is held in trust;

(C) is a grassroots, nonregulatory entity that addresses water availability and quality issues within the relevant watershed;

(D) is capable of promoting the sustainable use of the water resources of the relevant watershed and improving the functioning condition of rivers and streams through—

(i) water conservation;

(ii) improved water quality;

(iii) ecological resiliency; and

(iv) the reduction of water conflicts; and

(E) makes decisions on a consensus basis, as defined in the bylaws of the watershed group.

(6) WATERSHED MANAGEMENT PROJECT.—The term ''watershed management project'' means any project (including a demonstration project) that—

(A) enhances water conservation, including alternative water uses;

(B) improves water quality;

(C) improves ecological resiliency of a river or stream;

(D) reduces the potential for water conflicts; or

(E) advances any other goals associated with water quality or quantity that the Secretary determines to be appropriate.

SEC. 6002. PROGRAM.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program, to be known as the ''Cooperative Watershed Management Program'', under which the Secretary shall provide grants—

(1)(A) to form a watershed group; or

(B) to enlarge a watershed group; and

(2) to conduct 1 or more projects in accordance with the goals of a watershed group.

(b) APPLICATION.—

(1) ESTABLISHMENT OF APPLICATION PROCESS; CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish—

(A) an application process for the program; and

(B) in consultation with the States, prioritization and eligibility criteria for considering applications submitted in accordance with the application process.

(c) DISTRIBUTION OF GRANT FUNDS.—

(1) IN GENERAL.—In distributing grant funds under this section, the Secretary—

(A) shall comply with paragraph (2); and

(B) may give priority to watershed groups that—

(i) represent maximum diversity of interests; or

(ii) serve subbasin-sized watersheds with an 8-digit hydrologic unit code, as defined by the United States Geological Survey.

(2) FUNDING PROCEDURE.—

(A) FIRST PHASE.—

(i) IN GENERAL.—The Secretary may provide to a grant recipient a first-phase grant in an amount not greater than $100,000 each year for a period of not more than 3 years.

(ii) MANDATORY USE OF FUNDS.—A grant recipient that receives a first-phase grant shall use the funds—

(I) to establish or enlarge a watershed group;

(II) to develop a mission statement for the watershed group;

(III) to develop project concepts; and

(IV) to develop a restoration plan.

(iii) ANNUAL DETERMINATION OF ELIGIBILITY.—

(I) DETERMINATION.—For each year of a first-phase grant, not later than 270 days after the date on which a grant recipient first receives grant funds for the year, the Secretary shall determine whether the grant recipient has made sufficient progress during the year to justify additional funding.

(II) EFFECT OF DETERMINATION.—If the Secretary determines under subclause (I) that the progress of a grant recipient during the year covered by the determination justifies additional funding, the Secretary shall provide to the grant recipient grant funds for the following year.

(iv) ADVANCEMENT CONDITIONS.—A grant recipient shall not be eligible to receive a second-phase grant under subparagraph (B) until the date on which the Secretary determines that the watershed group—

(I) has approved articles of incorporation and bylaws governing the organization; and

(II)(aa) holds regular meetings;

(bb) has completed a mission statement; and

(cc) has developed a restoration plan and project concepts for the watershed.

(v) EXCEPTION.—A watershed group that has not applied for or received first-phase grants may apply for and receive second-phase grants under subparagraph (B) if the Secretary determines that the group has satisfied the requirements of first-phase grants.

(B) SECOND PHASE.—

(i) IN GENERAL.—A watershed group may apply for and receive second-phase grants of $1,000,000 each year for a period of not more than 4 years if—

(I) the watershed group has applied for and received watershed grants under subparagraph (A); or

(II) the Secretary determines that the watershed group has satisfied the requirements of first-phase grants.

(ii) MANDATORY USE OF FUNDS.—A grant recipient that receives a second-phase grant shall use the funds to plan and carry out watershed management projects.

(iii) ANNUAL DETERMINATION OF ELIGIBILITY.—

(I) DETERMINATION.—For each year of the second-phase grant, not later than 270 days after the date on which a grant recipient first receives grant funds for the year, the Secretary shall determine whether the grant recipient has made sufficient progress during the year to justify additional funding.

(II) EFFECT OF DETERMINATION.—If the Secretary determines under subclause (I) that the progress of a grant recipient during the year justifies additional funding, the Secretary shall provide to the grant recipient grant funds for the following year.

(iv) ADVANCEMENT CONDITION.—A grant recipient shall not be eligible to receive a third-phase grant under subparagraph (C) until the date on which the Secretary determines that the grant recipient has—

(I) completed each requirement of the second-phase grant; and

(II) demonstrated that 1 or more pilot projects of the grant recipient have resulted in demonstrable improvements, as determined by the Secretary, in the functioning condition of at least 1 river or stream in the watershed.

(C) THIRD PHASE.—

(i) FUNDING LIMITATION.—

(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may provide to a grant recipient a third-phase grant in an amount not greater than $5,000,000 for a period of not more than 5 years.

(II) EXCEPTION.—The Secretary may provide to a grant recipient a third-phase grant in an amount that is greater than the amount described in subclause (I) if the Secretary determines that the grant recipient is capable of using the additional amount to further the purposes of the program in a way that could not otherwise be achieved by the grant recipient using the amount described in subclause (I).

(ii) MANDATORY USE OF FUNDS.—A grant recipient that receives a third-phase grant shall use the funds to plan and carry out at least 1 watershed management project.

(3) AUTHORIZING USE OF FUNDS FOR ADMINISTRATIVE AND OTHER COSTS.—A grant recipient that receives a grant under this section may use the funds—

(A) to pay for—

(i) administrative and coordination costs, if the costs are not greater than the lesser of—

(I) 20 percent of the total amount of the grant; or

(II) $100,000;

(ii) the salary of not more than 1 full-time employee of the watershed group; and

(iii) any legal fees arising from the establishment of the relevant watershed group; and

(B) to fund—

(i) water quality and quantity studies of the relevant watershed; and

(ii) the planning, design, and implementation of any projects relating to water quality or quantity.

(d) COST SHARE.—

(1) PLANNING.—The Federal share of the cost of an activity provided assistance through a first-phase grant shall be 100 percent.

(2) PROJECTS CARRIED OUT UNDER SECOND PHASE.—

(A) IN GENERAL.—The Federal share of the cost of any activity of a watershed management project provided assistance through a second-phase grant shall not exceed 50 percent of the total cost of the activity.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share under subparagraph (A) may be in the form of in-kind contributions.

(3) PROJECTS CARRIED OUT UNDER THIRD PHASE.—

(A) IN GENERAL.—The Federal share of the costs of any activity of a watershed group of a grant recipient relating to a watershed management project provided assistance through a third-phase grant shall not exceed 50 percent of the total costs of the watershed management project.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share under subparagraph (A) may be in the form of in-kind contributions.

(e) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date on which a grant recipient first receives funds under this section, and annually thereafter, in accordance with paragraph (2), the watershed group shall submit to the Secretary a report that describes the progress of the watershed group.

(2) REQUIRED DEGREE OF DETAIL.—The contents of an annual report required under paragraph (1) shall contain sufficient information to enable the Secretary to complete each report required under subsection (f), as determined by the Secretary.

(f) REPORT.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

(1) the ways in which the program assists the Secretary—

(A) in addressing water conflicts;

(B) in conserving water;

(C) in improving water quality; and

(D) in improving the ecological resiliency of a river or stream; and

(2) benefits that the program provides, including, to the maximum extent practicable, a quantitative analysis of economic, social, and environmental benefits.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $2,000,000 for each of fiscal years 2008 and 2009;

(2) $5,000,000 for fiscal year 2010;

(3) $10,000,000 for fiscal year 2011; and

(4) $20,000,000 for each of fiscal years 2012 through 2020.

SEC. 6003. EFFECT OF SUBTITLE.

Nothing in this subtitle affects the applicability of any Federal, State, or local law with respect to any watershed group.

Subtitle B—Competitive Status for Federal Employees in Alaska

SEC. 6101. COMPETITIVE STATUS FOR CERTAIN FEDERAL EMPLOYEES IN THE STATE OF ALASKA.

Section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198) is amended by adding at the end the following:

''(e) COMPETITIVE STATUS.—

''(1) IN GENERAL.—Nothing in subsection (a) provides that any person hired pursuant to the program established under that subsection is not eligible for competitive status in the same manner as any other employee hired as part of the competitive service.

''(2) REDESIGNATION OF CERTAIN POSITIONS.—

''(A) PERSONS SERVING IN ORIGINAL POSITIONS.—Not later than 60 days after the date of enactment of this subsection, with respect to any person hired into a permanent position pursuant to the program established under subsection (a) who is serving in that position as of the date of enactment of this subsection, the Secretary shall redesignate that position and the person serving in that position as having been part of the competitive service as of the date that the person was hired into that position.

''(B) PERSONS NO LONGER SERVING IN ORIGINAL POSITIONS.—With respect to any person who was hired pursuant to the program established under subsection (a) that is no longer serving in that position as of the date of enactment of this subsection—

''(i) the person may provide to the Secretary a request for redesignation of the service as part of the competitive service that includes evidence of the employment; and

''(ii) not later than 90 days of the submission of a request under clause (i), the Secretary shall redesignate the service of the person as being part of the competitive service.''.

Subtitle C—Management of the Baca National Wildlife Refuge

SEC. 6201. BACA NATIONAL WILDLIFE REFUGE.

Section 6 of the Great Sand Dunes National Park and Preserve Act of 2000 (16 U.S.C. 410hhh–4) is amended—

(1) in subsection (a)—

(A) by striking ''(a) ESTABLISHMENT.—(1) When'' and inserting the following:

''(a) ESTABLISHMENT AND PURPOSE.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—When'';

(B) in paragraph (2), by striking ''(2) Such establishment'' and inserting the following:

''(B) EFFECTIVE DATE.—The establishment of the refuge under subparagraph (A)''; and

(C) by adding at the end the following:

''(2) PURPOSE.—The purpose of the Baca National Wildlife Refuge shall be to restore, enhance, and maintain wetland, upland, riparian, and other habitats for native wildlife, plant, and fish species in the San Luis Valley.'';

(2) in subsection (c)—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) REQUIREMENTS.—In administering the Baca National Wildlife Refuge, the Secretary shall, to the maximum extent practicable—

''(A) emphasize migratory bird conservation; and

''(B) take into consideration the role of the Refuge in broader landscape conservation efforts.''; and

(3) in subsection (d)—

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

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) subject to any agreement in existence as of the date of enactment of this paragraph, and to the extent consistent with the purposes of the Refuge, use decreed water rights on the Refuge in approximately the same manner that the water rights have been used historically.''.

Subtitle D—Paleontological Resources Preservation

SEC. 6301. DEFINITIONS.

In this subtitle:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms ''reasonable amount'', ''common invertebrate and plant paleontological resources'' and ''negligible disturbance'' shall be determined by the Secretary.

(2) FEDERAL LAND.—The term ''Federal land'' means—

(A) land controlled or administered by the Secretary of the Interior, except Indian land; or

(B) National Forest System land controlled or administered by the Secretary of Agriculture.

(3) INDIAN LAND.—The term ''Indian Land'' means land of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(4) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to land controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System land controlled or administered by the Secretary of Agriculture.

(6) STATE.—The term ''State'' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

SEC. 6302. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal land using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this subtitle.

SEC. 6303. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 6304. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this subtitle, a paleontological resource may not be collected from Federal land without a permit issued under this subtitle by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal land controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal land and this subtitle.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal land concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this subtitle. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal land under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 6306 or is assessed a civil penalty under section 6307.

(e) AREA CLOSURES.—In order to protect paleontological or other resources or to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 6305. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 6306. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal land unless such activity is conducted in accordance with this subtitle;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if the person knew or should have known such resource to have been excavated or removed from Federal land in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this subtitle; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal land.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal land.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 2 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

(d) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of the penalty assessed under subsection (c) may be doubled.

(e) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of enactment of this Act.

SEC. 6307. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this subtitle may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this subtitle, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any 1 violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal land.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 6308.

SEC. 6308. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 6306 or 6307 or from appropriated funds—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount up to ½ of the penalties, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 6306 or 6307 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this subtitle, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this subtitle.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

SEC. 6309. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this subtitle;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 6310. REGULATIONS.

As soon as practical after the date of enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this subtitle, providing opportunities for public notice and comment.

SEC. 6311. SAVINGS PROVISIONS.

Nothing in this subtitle shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), Public Law 94–429 (commonly known as the ''Mining in the Parks Act'') (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal land;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this subtitle;

(4) affect any land other than Federal land or affect the lawful recovery, collection, or sale of paleontological resources from land other than Federal land;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal land in addition to the protection provided under this subtitle; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this subtitle.

SEC. 6312. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Subtitle E—Izembek National Wildlife Refuge Land Exchange

SEC. 6401. DEFINITIONS.

In this subtitle:

(1) CORPORATION.—The term ''Corporation'' means the King Cove Corporation.

(2) FEDERAL LAND.—The term ''Federal land'' means—

(A) the approximately 206 acres of Federal land located within the Refuge, as generally depicted on the map; and

(B) the approximately 1,600 acres of Federal land located on Sitkinak Island, as generally depicted on the map.

(3) MAP.—The term ''map'' means each of—

(A) the map entitled ''Izembek and Alaska Peninsula National Wildlife Refuges'' and dated September 2, 2008; and

(B) the map entitled ''Sitkinak Island–Alaska Maritime National Wildlife Refuge'' and dated September 2, 2008.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means—

(A) the approximately 43,093 acres of land owned by the State, as generally depicted on the map; and

(B) the approximately 13,300 acres of land owned by the Corporation (including approximately 5,430 acres of land for which the Corporation shall relinquish the selection rights of the Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) as part of the land exchange under section 6402(a)), as generally depicted on the map.

(5) REFUGE.—The term ''Refuge'' means the Izembek National Wildlife Refuge.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STATE.—The term ''State'' means the State of Alaska.

(8) TRIBE.—The term ''Tribe'' means the Agdaagux Tribe of King Cove, Alaska.

SEC. 6402. LAND EXCHANGE.

(a) IN GENERAL.—Upon receipt of notification by the State and the Corporation of the intention of the State and the Corporation to exchange the non-Federal land for the Federal land, subject to the conditions and requirements described in this subtitle, the Secretary may convey to the State all right, title, and interest of the United States in and to the Federal land. The Federal land within the Refuge shall be transferred for the purpose of constructing a single-lane gravel road between the communities of King Cove and Cold Bay, Alaska.

(b) COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 AND OTHER APPLICABLE LAWS.—

(1) IN GENERAL.—In determining whether to carry out the land exchange under subsection (a), the Secretary shall—

(A) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) except as provided in subsection (c), comply with any other applicable law (including regulations).

(2) ENVIRONMENTAL IMPACT STATEMENT.—

(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives notification under subsection (a), the Secretary shall initiate the preparation of an environmental impact statement required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) REQUIREMENTS.—The environmental impact statement prepared under subparagraph (A) shall contain—

(i) an analysis of—

(I) the proposed land exchange; and

(II) the potential construction and operation of a road between the communities of King Cove and Cold Bay, Alaska; and

(ii) an evaluation of a specific road corridor through the Refuge that is identified in consultation with the State, the City of King Cove, Alaska, and the Tribe.

(3) COOPERATING AGENCIES.—

(A) IN GENERAL.—During the preparation of the environmental impact statement under paragraph (2), each entity described in subparagraph (B) may participate as a cooperating agency.

(B) AUTHORIZED ENTITIES.—An authorized entity may include—

(i) any Federal agency that has permitting jurisdiction over the road described in paragraph (2)(B)(i)(II);

(ii) the State;

(iii) the Aleutians East Borough of the State;

(iv) the City of King Cove, Alaska;

(v) the Tribe; and

(vi) the Alaska Migratory Bird Co-Management Council.

(c) VALUATION.—The conveyance of the Federal land and non-Federal land under this section shall not be subject to any requirement under any Federal law (including regulations) relating to the valuation, appraisal, or equalization of land.

(d) PUBLIC INTEREST DETERMINATION.—

(1) CONDITIONS FOR LAND EXCHANGE.—Subject to paragraph (2), to carry out the land exchange under subsection (a), the Secretary shall determine that the land exchange (including the construction of a road between the City of King Cove, Alaska, and the Cold Bay Airport) is in the public interest.

(2) LIMITATION OF AUTHORITY OF SECRETARY.—The Secretary may not, as a condition for a finding that the land exchange is in the public interest—

(A) require the State or the Corporation to convey additional land to the United States; or

(B) impose any restriction on the subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3113)) of waterfowl by rural residents of the State.

(e) KINZAROFF LAGOON.—The land exchange under subsection (a) shall not be carried out before the date on which the parcel of land owned by the State that is located in the Kinzaroff Lagoon has been designated by the State as a State refuge, in accordance with the applicable laws (including regulations) of the State.

(f) DESIGNATION OF ROAD CORRIDOR.—In designating the road corridor described in subsection (b)(2)(B)(ii), the Secretary shall—

(1) minimize the adverse impact of the road corridor on the Refuge;

(2) transfer the minimum acreage of Federal land that is required for the construction of the road corridor; and

(3) to the maximum extent practicable, incorporate into the road corridor roads that are in existence as of the date of enactment of this Act.

(g) ADDITIONAL TERMS AND CONDITIONS.—The land exchange under subsection (a) shall be subject to any other term or condition that the Secretary determines to be necessary.

SEC. 6403. KING COVE ROAD.

(a) REQUIREMENTS RELATING TO USE, BARRIER CABLES, AND DIMENSIONS.—

(1) LIMITATIONS ON USE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any portion of the road constructed on the Federal land conveyed pursuant to this subtitle shall be used only for noncommercial purposes.

(B) EXCEPTIONS.—Notwithstanding subparagraph (A), the use of taxis, commercial vans for public transportation, and shared rides (other than organized transportation of employees to a business or other commercial facility) shall be allowed on the road described in subparagraph (A).

(C) REQUIREMENT OF AGREEMENT.—The limitations of the use of the road described in this paragraph shall be enforced in accordance with an agreement entered into between the Secretary and the State.

(2) REQUIREMENT OF BARRIER CABLE.—The road described in paragraph (1)(A) shall be constructed to include a cable barrier on each side of the road, as described in the record of decision entitled ''Mitigation Measure MM-11, King Cove Access Project Final Environmental Impact Statement Record of Decision'' and dated January 22, 2004.

(3) REQUIRED DIMENSIONS.—The road described in paragraph (1)(A) shall—

(A) have a width of not greater than a single lane, in accordance with the applicable road standards of the State;

(B) be constructed with gravel; and

(C) if determined to be necessary, be constructed to include appropriate safety pullouts.

(b) SUPPORT FACILITIES.—Support facilities for the road described in subsection (a)(1)(A) shall not be located within the Refuge.

(c) FEDERAL PERMITS.—It is the intent of Congress that any Federal permit required for construction of the road be issued or denied not later than 1 year after the date of application for the permit.

(d) APPLICABLE LAW.—Nothing in this section amends, or modifies the application of, section 1110 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3170).

(e) MITIGATION PLAN.—

(1) IN GENERAL.—Based on the evaluation of impacts determined through the completion of the environmental impact statement under section 6402(b)(2), the Secretary, in consultation with the entities described in section 6402(b)(3)(B), shall develop an enforceable mitigation plan.

(2) CORRECTIVE MODIFICATIONS.—The Secretary may make corrective modifications to the mitigation plan developed under paragraph (1) if—

(A) the mitigation standards required under the mitigation plan are maintained; and

(B) the Secretary provides an opportunity for public comment with respect to any proposed corrective modification.

SEC. 6404. ADMINISTRATION OF CONVEYED LANDS.

(1) FEDERAL LAND.—Upon completion of the land exchange under section 6402(a)—

(A) the boundary of the land designated as wilderness within the Refuge shall be modified to exclude the Federal land conveyed to the State under the land exchange; and

(B) the Federal land located on Sitkinak Island that is withdrawn for use by the Coast Guard shall, at the request of the State, be transferred by the Secretary to the State upon the relinquishment or termination of the withdrawal.

(2) NON-FEDERAL LAND.—Upon completion of the land exchange under section 6402(a), the non-Federal land conveyed to the United States under this subtitle shall be—

(A) added to the Refuge or the Alaska Peninsula National Wildlife Refuge, as appropriate, as generally depicted on the map; and

(B) administered in accordance with the laws generally applicable to units of the National Wildlife Refuge System.

(3) WILDERNESS ADDITIONS.—

(A) IN GENERAL.—Upon completion of the land exchange under section 6402(a), approximately 43,093 acres of land as generally depicted on the map shall be added to—

(i) the Izembek National Wildlife Refuge Wilderness; or

(ii) the Alaska Peninsula National Wildlife Refuge Wilderness.

(B) ADMINISTRATION.—The land added as wilderness under subparagraph (A) shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and other applicable laws (including regulations).

SEC. 6405. FAILURE TO BEGIN ROAD CONSTRUCTION.

(a) NOTIFICATION TO VOID LAND EXCHANGE.—If the Secretary, the State, and the Corporation enter into the land exchange authorized under section 6402(a), the State or the Corporation may notify the Secretary in writing of the intention of the State or Corporation to void the exchange if construction of the road through the Refuge has not begun.

(b) DISPOSITION OF LAND EXCHANGE.—Upon the latter of the date on which the Secretary receives a request under subsection (a), and the date on which the Secretary determines that the Federal land conveyed under the land exchange under section 6402(a) has not been adversely impacted (other than any nominal impact associated with the preparation of an environmental impact statement under section 6402(b)(2)), the land exchange shall be null and void.

(c) RETURN OF PRIOR OWNERSHIP STATUS OF FEDERAL AND NON-FEDERAL LAND.—If the land exchange is voided under subsection (b)—

(1) the Federal land and non-Federal land shall be returned to the respective ownership status of each land prior to the land exchange;

(2) the parcel of the Federal land that is located in the Refuge shall be managed as part of the Izembek National Wildlife Refuge Wilderness; and

(3) each selection of the Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that was relinquished under this subtitle shall be reinstated.

Subtitle F—Wolf Livestock Loss Demonstration Project

SEC. 6501. DEFINITIONS.

In this subtitle:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) LIVESTOCK.—The term ''livestock'' means cattle, swine, horses, mules, sheep, goats, livestock guard animals, and other domestic animals, as determined by the Secretary.

(3) PROGRAM.—The term ''program'' means the demonstration program established under section 6502(a).

(4) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

SEC. 6502. WOLF COMPENSATION AND PREVENTION PROGRAM.

(a) IN GENERAL.—The Secretaries shall establish a 5-year demonstration program to provide grants to States and Indian tribes—

(1) to assist livestock producers in undertaking proactive, non-lethal activities to reduce the risk of livestock loss due to predation by wolves; and

(2) to compensate livestock producers for livestock losses due to such predation.

(b) CRITERIA AND REQUIREMENTS.—The Secretaries shall—

(1) establish criteria and requirements to implement the program; and

(2) when promulgating regulations to implement the program under paragraph (1), consult with States that have implemented State programs that provide assistance to—

(A) livestock producers to undertake proactive activities to reduce the risk of livestock loss due to predation by wolves; or

(B) provide compensation to livestock producers for livestock losses due to such predation.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State or Indian tribe shall—

(1) designate an appropriate agency of the State or Indian tribe to administer the 1 or more programs funded by the grant;

(2) establish 1 or more accounts to receive grant funds;

(3) maintain files of all claims received under programs funded by the grant, including supporting documentation;

(4) submit to the Secretary—

(A) annual reports that include—

(i) a summary of claims and expenditures under the program during the year; and

(ii) a description of any action taken on the claims; and

(B) such other reports as the Secretary may require to assist the Secretary in determining the effectiveness of activities provided assistance under this section; and

(5) promulgate rules for reimbursing livestock producers under the program.

(d) ALLOCATION OF FUNDING.—The Secretaries shall allocate funding made available to carry out this subtitle—

(1) equally between the uses identified in paragraphs (1) and (2) of subsection (a); and

(2) among States and Indian tribes based on—

(A) the level of livestock predation in the State or on the land owned by, or held in trust for the benefit of, the Indian tribe;

(B) whether the State or Indian tribe is located in a geographical area that is at high risk for livestock predation; or

(C) any other factors that the Secretaries determine are appropriate.

(e) ELIGIBLE LAND.—Activities and losses described in subsection (a) may occur on Federal, State, or private land, or land owned by, or held in trust for the benefit of, an Indian tribe.

(f) FEDERAL COST SHARE.—The Federal share of the cost of any activity provided assistance made available under this subtitle shall not exceed 50 percent of the total cost of the activity.

SEC. 6503. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $1,000,000 for fiscal year 2009 and each fiscal year thereafter.

TITLE VII—NATIONAL PARK SERVICE AUTHORIZATIONS

Subtitle A—Additions to the National Park System

SEC. 7001. PATERSON GREAT FALLS NATIONAL HISTORICAL PARK, NEW JERSEY.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means the City of Paterson, New Jersey.

(2) COMMISSION.—The term ''Commission'' means the Paterson Great Falls National Historical Park Advisory Commission established by subsection (e)(1).

(3) HISTORIC DISTRICT.—The term ''Historic District'' means the Great Falls Historic District in the State.

(4) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Park developed under subsection (d).

(5) MAP.—The term ''Map'' means the map entitled ''Paterson Great Falls National Historical Park–Proposed Boundary'', numbered T03/80,001, and dated May 2008.

(6) PARK.—The term ''Park'' means the Paterson Great Falls National Historical Park established by subsection (b)(1)(A).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) STATE.—The term ''State'' means the State of New Jersey.

(b) PATERSON GREAT FALLS NATIONAL HISTORICAL PARK.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), there is established in the State a unit of the National Park System to be known as the ''Paterson Great Falls National Historical Park''.

(B) CONDITIONS FOR ESTABLISHMENT.—The Park shall not be established until the date on which the Secretary determines that—

(i)(I) the Secretary has acquired sufficient land or an interest in land within the boundary of the Park to constitute a manageable unit; or

(II) the State or City, as appropriate, has entered into a written agreement with the Secretary to donate—

(aa) the Great Falls State Park, including facilities for Park administration and visitor services; or

(bb) any portion of the Great Falls State Park agreed to between the Secretary and the State or City; and

(ii) the Secretary has entered into a written agreement with the State, City, or other public entity, as appropriate, providing that—

(I) land owned by the State, City, or other public entity within the Historic District will be managed consistent with this section; and

(II) future uses of land within the Historic District will be compatible with the designation of the Park.

(2) PURPOSE.—The purpose of the Park is to preserve and interpret for the benefit of present and future generations certain historical, cultural, and natural resources associated with the Historic District.

(3) BOUNDARIES.—The Park shall include the following sites, as generally depicted on the Map:

(A) The upper, middle, and lower raceways.

(B) Mary Ellen Kramer (Great Falls) Park and adjacent land owned by the City.

(C) A portion of Upper Raceway Park, including the Ivanhoe Wheelhouse and the Society for Establishing Useful Manufactures Gatehouse.

(D) Overlook Park and adjacent land, including the Society for Establishing Useful Manufactures Hydroelectric Plant and Administration Building.

(E) The Allied Textile Printing site, including the Colt Gun Mill ruins, Mallory Mill ruins, Waverly Mill ruins, and Todd Mill ruins.

(F) The Rogers Locomotive Company Erecting Shop, including the Paterson Museum.

(G) The Great Falls Visitor Center.

(4) AVAILABILITY OF MAP.—The Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(5) PUBLICATION OF NOTICE.—Not later than 60 days after the date on which the conditions in clauses (i) and (ii) of paragraph (1)(B) are satisfied, the Secretary shall publish in the Federal Register notice of the establishment of the Park, including an official boundary map for the Park.

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer the Park in accordance with—

(A) this section; and

(B) the laws generally applicable to units of the National Park System, including—

(i) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and

(ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(2) STATE AND LOCAL JURISDICTION.—Nothing in this section enlarges, diminishes, or modifies any authority of the State, or any political subdivision of the State (including the City)—

(A) to exercise civil and criminal jurisdiction; or

(B) to carry out State laws (including regulations) and rules on non-Federal land located within the boundary of the Park.

(3) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—As the Secretary determines to be appropriate to carry out this section, the Secretary may enter into cooperative agreements with the owner of the Great Falls Visitor Center or any nationally significant properties within the boundary of the Park under which the Secretary may identify, interpret, restore, and provide technical assistance for the preservation of the properties.

(B) RIGHT OF ACCESS.—A cooperative agreement entered into under subparagraph (A) shall provide that the Secretary, acting through the Director of the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by the agreement for the purposes of—

(i) conducting visitors through the properties; and

(ii) interpreting the properties for the public.

(C) CHANGES OR ALTERATIONS.—No changes or alterations shall be made to any properties covered by a cooperative agreement entered into under subparagraph (A) unless the Secretary and the other party to the agreement agree to the changes or alterations.

(D) CONVERSION, USE, OR DISPOSAL.—Any payment made by the Secretary under this paragraph shall be subject to an agreement that the conversion, use, or disposal of a project for purposes contrary to the purposes of this section, as determined by the Secretary, shall entitle the United States to reimbursement in amount equal to the greater of—

(i) the amounts made available to the project by the United States; or

(ii) the portion of the increased value of the project attributable to the amounts made available under this paragraph, as determined at the time of the conversion, use, or, disposal.

(E) MATCHING FUNDS.—

(i) IN GENERAL.—As a condition of the receipt of funds under this paragraph, the Secretary shall require that any Federal funds made available under a cooperative agreement shall be matched on a 1-to-1 basis by non-Federal funds.

(ii) FORM.—With the approval of the Secretary, the non-Federal share required under clause (i) may be in the form of donated property, goods, or services from a non-Federal source.

(4) ACQUISITION OF LAND.—

(A) IN GENERAL.—The Secretary may acquire land or interests in land within the boundary of the Park by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(B) DONATION OF STATE OWNED LAND.—Land or interests in land owned by the State or any political subdivision of the State may only be acquired by donation.

(5) TECHNICAL ASSISTANCE AND PUBLIC INTERPRETATION.—The Secretary may provide technical assistance and public interpretation of related historic and cultural resources within the boundary of the Historic District.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 fiscal years after the date on which funds are made available to carry out this subsection, the Secretary, in consultation with the Commission, shall complete a management plan for the Park in accordance with—

(A) section 12(b) of Public Law 91–383 (commonly known as the ''National Park Service General Authorities Act'') (16 U.S.C. 1a–7(b)); and

(B) other applicable laws.

(2) COST SHARE.—The management plan shall include provisions that identify costs to be shared by the Federal Government, the State, and the City, and other public or private entities or individuals for necessary capital improvements to, and maintenance and operations of, the Park.

(3) SUBMISSION TO CONGRESS.—On completion of the management plan, the Secretary shall submit the management plan to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(e) PATERSON GREAT FALLS NATIONAL HISTORICAL PARK ADVISORY COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the ''Paterson Great Falls National Historical Park Advisory Commission''.

(2) DUTIES.—The duties of the Commission shall be to advise the Secretary in the development and implementation of the management plan.

(3) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 9 members, to be appointed by the Secretary, of whom—

(i) 4 members shall be appointed after consideration of recommendations submitted by the Governor of the State;

(ii) 2 members shall be appointed after consideration of recommendations submitted by the City Council of Paterson, New Jersey;

(iii) 1 member shall be appointed after consideration of recommendations submitted by the Board of Chosen Freeholders of Passaic County, New Jersey; and

(iv) 2 members shall have experience with national parks and historic preservation.

(B) INITIAL APPOINTMENTS.—The Secretary shall appoint the initial members of the Commission not later than the earlier of—

(i) the date that is 30 days after the date on which the Secretary has received all of the recommendations for appointments under subparagraph (A); or

(ii) the date that is 30 days after the Park is established in accordance with subsection (b).

(4) TERM; VACANCIES.—

(A) TERM.—

(i) IN GENERAL.—A member shall be appointed for a term of 3 years.

(ii) REAPPOINTMENT.—A member may be reappointed for not more than 1 additional term.

(B) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment was made.

(5) MEETINGS.—The Commission shall meet at the call of—

(A) the Chairperson; or

(B) a majority of the members of the Commission.

(6) QUORUM.—A majority of the Commission shall constitute a quorum.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) IN GENERAL.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(B) VICE CHAIRPERSON.—The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(C) TERM.—A member may serve as Chairperson or Vice Chairman for not more than 1 year in each office.

(8) COMMISSION PERSONNEL MATTERS.—

(A) COMPENSATION OF MEMBERS.—

(i) IN GENERAL.—Members of the Commission shall serve without compensation.

(ii) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) STAFF.—

(i) IN GENERAL.—The Secretary shall provide the Commission with any staff members and technical assistance that the Secretary, after consultation with the Commission, determines to be appropriate to enable the Commission to carry out the duties of the Commission.

(ii) DETAIL OF EMPLOYEES.—The Secretary may accept the services of personnel detailed from—

(I) the State;

(II) any political subdivision of the State; or

(III) any entity represented on the Commission.

(9) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(10) TERMINATION.—The Commission shall terminate 10 years after the date of enactment of this Act.

(f) STUDY OF HINCHLIFFE STADIUM.—

(1) IN GENERAL.—Not later than 3 fiscal years after the date on which funds are made available to carry out this section, the Secretary shall complete a study regarding the preservation and interpretation of Hinchliffe Stadium, which is listed on the National Register of Historic Places.

(2) INCLUSIONS.—The study shall include an assessment of—

(A) the potential for listing the stadium as a National Historic Landmark; and

(B) options for maintaining the historic integrity of Hinchliffe Stadium.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 7002. WILLIAM JEFFERSON CLINTON BIRTHPLACE HOME NATIONAL HISTORIC SITE.

(a) ACQUISITION OF PROPERTY; ESTABLISHMENT OF HISTORIC SITE.—Should the Secretary of the Interior acquire, by donation only from the Clinton Birthplace Foundation, Inc., fee simple, unencumbered title to the William Jefferson Clinton Birthplace Home site located at 117 South Hervey Street, Hope, Arkansas, 71801, and to any personal property related to that site, the Secretary shall designate the William Jefferson Clinton Birthplace Home site as a National Historic Site and unit of the National Park System, to be known as the ''President William Jefferson Clinton Birthplace Home National Historic Site''.

(b) APPLICABILITY OF OTHER LAWS.—The Secretary shall administer the President William Jefferson Clinton Birthplace Home National Historic Site in accordance with the laws generally applicable to national historic sites, including the Act entitled ''An Act to establish a National Park Service, and for other purposes'', approved August 25, 1916 (16 U.S.C. 1–4), and the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 7003. RIVER RAISIN NATIONAL BATTLEFIELD PARK.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—If Monroe County or Wayne County, Michigan, or other willing landowners in either County offer to donate to the United States land relating to the Battles of the River Raisin on January 18 and 22, 1813, or the aftermath of the battles, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall accept the donated land.

(2) DESIGNATION OF PARK.—On the acquisition of land under paragraph (1) that is of sufficient acreage to permit efficient administration, the Secretary shall designate the acquired land as a unit of the National Park System, to be known as the ''River Raisin National Battlefield Park'' (referred to in this section as the ''Park'').

(3) LEGAL DESCRIPTION.—

(A) IN GENERAL.—The Secretary shall prepare a legal description of the land and interests in land designated as the Park by paragraph (2).

(B) AVAILABILITY OF MAP AND LEGAL DESCRIPTION.—A map with the legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall manage the Park for the purpose of preserving and interpreting the Battles of the River Raisin in accordance with the National Park Service Organic Act (16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(2) GENERAL MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 3 years after the date on which funds are made available, the Secretary shall complete a general management plan for the Park that, among other things, defines the role and responsibility of the Secretary with regard to the interpretation and the preservation of the site.

(B) CONSULTATION.—The Secretary shall consult with and solicit advice and recommendations from State, county, local, and civic organizations and leaders, and other interested parties in the preparation of the management plan.

(C) INCLUSIONS.—The plan shall include—

(i) consideration of opportunities for involvement by and support for the Park by State, county, and local governmental entities and nonprofit organizations and other interested parties; and

(ii) steps for the preservation of the resources of the site and the costs associated with these efforts.

(D) SUBMISSION TO CONGRESS.—On the completion of the general management plan, the Secretary shall submit a copy of the plan to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(3) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with State, county, local, and civic organizations to carry out this section.

(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of

the House a report describing the progress made with respect to acquiring real property under this section and designating the River Raisin National Battlefield Park.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Amendments to Existing Units of the National Park System

SEC. 7101. FUNDING FOR KEWEENAW NATIONAL HISTORICAL PARK.

(a) ACQUISITION OF PROPERTY.—Section 4 of Public Law 102–543 (16 U.S.C. 410yy–3) is amended by striking subsection (d).

(b) MATCHING FUNDS.—Section 8(b) of Public Law 102–543 (16 U.S.C. 410yy–7(b)) is amended by striking ''$4'' and inserting ''$1''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of Public Law 102–543 (16 U.S.C. 410yy–9) is amended—

(1) in subsection (a)—

(A) by striking ''$25,000,000'' and inserting ''$50,000,000''; and

(B) by striking ''$3,000,000'' and inserting ''$25,000,000''; and

(2) in subsection (b), by striking ''$100,000'' and all that follows through ''those duties'' and inserting ''$250,000''.

SEC. 7102. LOCATION OF VISITOR AND ADMINISTRATIVE FACILITIES FOR WEIR FARM NATIONAL HISTORIC SITE.

Section 4(d) of the Weir Farm National Historic Site Establishment Act of 1990 (16 U.S.C. 461 note) is amended—

(1) in paragraph (1)(B), by striking ''contiguous to'' and all that follows and inserting ''within Fairfield County.'';

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

''(2) DEVELOPMENT.—

''(A) MAINTAINING NATURAL CHARACTER.—The Secretary shall keep development of the property acquired under paragraph (1) to a minimum so that the character of the acquired property will be similar to the natural and undeveloped landscape of the property described in subsection (b).

''(B) TREATMENT OF PREVIOUSLY DEVELOPED PROPERTY.—Nothing in subparagraph (A) shall either prevent the Secretary from acquiring property under paragraph (1) that, prior to the Secretary's acquisition, was developed in a manner inconsistent with subparagraph (A), or require the Secretary to remediate such previously developed property to reflect the natural character described in subparagraph (A).''; and

(3) in paragraph (3), in the matter preceding subparagraph (A), by striking ''the appropriate zoning authority'' and all that follows through ''Wilton, Connecticut,'' and inserting ''the local governmental entity that, in accordance with applicable State law, has jurisdiction over any property acquired under paragraph (1)(A)''.

SEC. 7103. LITTLE RIVER CANYON NATIONAL PRESERVE BOUNDARY EXPANSION.

Section 2 of the Little River Canyon National Preserve Act of 1992 (16 U.S.C. 698q) is amended—

(1) in subsection (b)—

(A) by striking ''The Preserve'' and inserting the following:

''(1) IN GENERAL.—The Preserve''; and

(B) by adding at the end the following:

''(2) BOUNDARY EXPANSION.—The boundary of the Preserve is modified to include the land depicted on the map entitled 'Little River Canyon National Preserve Proposed Boundary', numbered 152/80,004, and dated December 2007.''; and

(2) in subsection (c), by striking ''map'' and inserting ''maps''.

SEC. 7104. HOPEWELL CULTURE NATIONAL HISTORICAL PARK BOUNDARY EXPANSION.

Section 2 of the Act entitled ''An Act to rename and expand the boundaries of the Mound City Group National Monument in Ohio'', approved May 27, 1992 (106 Stat. 185), is amended—

(1) by striking ''and'' at the end of subsection (a)(3);

(2) by striking the period at the end of subsection (a)(4) and inserting ''; and'';

(3) by adding after subsection (a)(4) the following new paragraph:

''(5) the map entitled 'Hopewell Culture National Historical Park, Ohio Proposed Boundary Adjustment' numbered 353/80,049 and dated June, 2006.''; and

(4) by adding after subsection (d)(2) the following new paragraph:

''(3) The Secretary may acquire lands added by subsection (a)(5) only from willing sellers.''.

SEC. 7105. JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Section 901 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230) is amended in the second sentence by striking ''of approximately twenty thousand acres generally depicted on the map entitled 'Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve' numbered 90,000B and dated April 1978,'' and inserting ''generally depicted on the map entitled 'Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve', numbered 467/80100A, and dated December 2007,''.

(b) ACQUISITION OF LAND.—Section 902 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230a) is amended—

(1) in subsection (a)—

(A) by striking ''(a) Within the'' and all that follows through the first sentence and inserting the following:

''(a) IN GENERAL.—

''(1) BARATARIA PRESERVE UNIT.—

''(A) IN GENERAL.—The Secretary may acquire any land, water, and interests in land and water within the Barataria Preserve Unit by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

''(B) LIMITATIONS.—

''(i) IN GENERAL.—Any non-Federal land depicted on the map described in section 901 as 'Lands Proposed for Addition' may be acquired by the Secretary only with the consent of the owner of the land.

''(ii) BOUNDARY ADJUSTMENT.—On the date on which the Secretary acquires a parcel of land described in clause (i), the boundary of the Barataria Preserve Unit shall be adjusted to reflect the acquisition.

''(iii) EASEMENTS.—To ensure adequate hurricane protection of the communities located in the area, any land identified on the map described in section 901 that is acquired or transferred shall be subject to any easements that have been agreed to by the Secretary and the Secretary of the Army.

''(C) TRANSFER OF ADMINISTRATION JURISDICTION.—Effective on the date of enactment of the Omnibus Public Land Management Act of 2008, administrative jurisdiction over any Federal land within the areas depicted on the map described in section 901 as 'Lands Proposed for Addition' is transferred, without consideration, to the administrative jurisdiction of the National Park Service, to be administered as part of the Barataria Preserve Unit.'';

(B) in the second sentence, by striking ''The Secretary may also acquire by any of the foregoing methods'' and inserting the following:

''(2) FRENCH QUARTER.—The Secretary may acquire by any of the methods referred to in paragraph (1)(A)'';

(C) in the third sentence, by striking ''Lands, waters, and interests therein'' and inserting the following:

''(3) ACQUISITION OF STATE LAND.—Land, water, and interests in land and water''; and

(D) in the fourth sentence, by striking ''In acquiring'' and inserting the following:

''(4) ACQUISITION OF OIL AND GAS RIGHTS.—In acquiring'';

(2) by striking subsections (b) through (f) and inserting the following:

''(b) RESOURCE PROTECTION.—With respect to the land, water, and interests in land and water of the Barataria Preserve Unit, the Secretary shall preserve and protect—

''(1) fresh water drainage patterns;

''(2) vegetative cover;

''(3) the integrity of ecological and biological systems; and

''(4) water and air quality.

''(c) ADJACENT LAND.—With the consent of the owner and the parish governing authority, the Secretary may—

''(1) acquire land, water, and interests in land and water, by any of the methods referred to in subsection (a)(1)(A) (including use of appropriations from the Land and Water Conservation Fund); and

''(2) revise the boundaries of the Barataria Preserve Unit to include adjacent land and water.''; and

(3) by redesignating subsection (g) as subsection (d).

(c) DEFINITION OF IMPROVED PROPERTY.—Section 903 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230b) is amended in the fifth sentence by inserting ''(or January 1, 2007, for areas added to the park after that date)'' after ''January 1, 1977''.

(d) HUNTING, FISHING, AND TRAPPING.—Section 905 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230d) is amended in the first sentence by striking '', except that within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he'' and inserting ''on land, and interests in land and water managed by the Secretary, except that the Secretary''.

(e) ADMINISTRATION.—Section 906 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230e) is amended—

(1) by striking the first sentence; and

(2) in the second sentence, by striking ''Pending such establishment and thereafter the'' and inserting ''The''.

(f) REFERENCES IN LAW.—

(1) IN GENERAL.—Any reference in a law (including regulations), map, document, paper, or other record of the United States—

(A) to the Barataria Marsh Unit shall be considered to be a reference to the Barataria Preserve Unit; or

(B) to the Jean Lafitte National Historical Park shall be considered to be a reference to the Jean Lafitte National Historical Park and Preserve.

(2) CONFORMING AMENDMENTS.—Title IX of the National Parks and Recreation Act of 1978 (16 U.S.C. 230 et seq.) is amended—

(A) by striking ''Barataria Marsh Unit'' each place it appears and inserting ''Barataria Preserve Unit''; and

(B) by striking ''Jean Lafitte National Historical Park'' each place it appears and inserting ''Jean Lafitte National Historical Park and Preserve''.

SEC. 7106. MINUTE MAN NATIONAL HISTORICAL PARK.

(a) DEFINITIONS.—In this section:

(1) MAP.—The term ''map'' means the map entitled ''Minute Man National Historical Park Proposed Boundary'', numbered 406/81001, and dated July 2007.

(2) PARK.—The term ''Park'' means the Minute Man National Historical Park in the State of Massachusetts.

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

(b) MINUTE MAN NATIONAL HISTORICAL PARK.—

(1) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—The boundary of the Park is modified to include the area generally depicted on the map.

(B) AVAILABILITY OF MAP.—The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(2) ACQUISITION OF LAND.—The Secretary may acquire the land or an interest in the land described in paragraph (1)(A) by—

(A) purchase from willing sellers with donated or appropriated funds;

(B) donation; or

(C) exchange.

(3) ADMINISTRATION OF LAND.—The Secretary shall administer the land added to the Park under paragraph (1)(A) in accordance with applicable laws (including regulations).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 7107. EVERGLADES NATIONAL PARK.

(a) INCLUSION OF TARPON BASIN PROPERTY.—

(1) DEFINITIONS.—In this subsection:

(A) HURRICANE HOLE.—The term ''Hurricane Hole'' means the natural salt-water body of water within the Duesenbury Tracts of the eastern parcel of the Tarpon Basin boundary adjustment and accessed by Duesenbury Creek.

(B) MAP.—The term ''map'' means the map entitled ''Proposed Tarpon Basin Boundary Revision'', numbered 160/80,012, and dated May 2008.

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(D) TARPON BASIN PROPERTY.—The term ''Tarpon Basin property'' means land that—

(i) is comprised of approximately 600 acres of land and water surrounding Hurricane Hole, as generally depicted on the map; and

(ii) is located in South Key Largo.

(2) BOUNDARY REVISION.—

(A) IN GENERAL.—The boundary of the Everglades National Park is adjusted to include the Tarpon Basin property.

(B) ACQUISITION AUTHORITY.—The Secretary may acquire from willing sellers by donation, purchase with donated or appropriated funds, or exchange, land, water, or interests in land and water, within the area depicted on the map, to be added to Everglades National Park.

(C) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(D) ADMINISTRATION.—Land added to Everglades National Park by this section shall be administered as part of Everglades National Park in accordance with applicable laws (including regulations).

(3) HURRICANE HOLE.—The Secretary may allow use of Hurricane Hole by sailing vessels during emergencies, subject to such terms and conditions as the Secretary determines to be necessary.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) LAND EXCHANGES.—

(1) DEFINITIONS.—In this subsection:

(A) COMPANY.—The term ''Company'' means Florida Power & Light Company.

(B) FEDERAL LAND.—The term ''Federal Land'' means the parcels of land that are—

(i) owned by the United States;

(ii) administered by the Secretary;

(iii) located within the National Park; and

(iv) generally depicted on the map as—

(I) Tract A, which is adjacent to the Tamiami Trail, U.S. Rt. 41; and

(II) Tract B, which is located on the eastern boundary of the National Park.

(C) MAP.—The term ''map'' means the map prepared by the National Park Service, entitled ''Proposed Land Exchanges, Everglades National Park'', numbered 160/60411, and dated September 2008.

(D) NATIONAL PARK.—The term ''National Park'' means the Everglades National Park located in the State.

(E) NON-FEDERAL LAND.—The term ''non-Federal land'' means the land in the State that—

(i) is owned by the State, the specific area and location of which shall be determined by the State; or

(ii)(I) is owned by the Company;

(II) comprises approximately 320 acres; and

(III) is located within the East Everglades Acquisition Area, as generally depicted on the map as ''Tract D''.

(F) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(G) STATE.—The term ''State'' means the State of Florida and political subdivisions of the State, including the South Florida Water Management District.

(2) LAND EXCHANGE WITH STATE.—

(A) IN GENERAL.—Subject to the provisions of this paragraph, if the State offers to convey to the Secretary all right, title, and interest of the State in and to specific parcels of non-Federal land, and the offer is acceptable to the Secretary, the Secretary may, subject to valid existing rights, accept the offer and convey to the State all right, title, and interest of the United States in and to the Federal land generally depicted on the map as ''Tract A''.

(B) CONDITIONS.—The land exchange under subparagraph (A) shall be subject to such terms and conditions as the Secretary may require.

(C) VALUATION.—

(i) IN GENERAL.—The values of the land involved in the land exchange under subparagraph (A) shall be equal.

(ii) EQUALIZATION.—If the values of the land are not equal, the values may be equalized by donation, payment using donated or appropriated funds, or the conveyance of additional parcels of land.

(D) APPRAISALS.—Before the exchange of land under subparagraph (A), appraisals for the Federal and non-Federal land shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(E) TECHNICAL CORRECTIONS.—Subject to the agreement of the State, the Secretary may make minor corrections to correct technical and clerical errors in the legal descriptions of the Federal and non-Federal land and minor adjustments to the boundaries of the Federal and non-Federal land.

(F) ADMINISTRATION OF LAND ACQUIRED BY SECRETARY.—Land acquired by the Secretary under subparagraph (A) shall—

(i) become part of the National Park; and

(ii) be administered in accordance with the laws applicable to the National Park System.

(3) LAND EXCHANGE WITH COMPANY.—

(A) IN GENERAL.—Subject to the provisions of this paragraph, if the Company offers to convey to the Secretary all right, title, and interest of the Company in and to the non-Federal land generally depicted on the map as ''Tract D'', and the offer is acceptable to the Secretary, the Secretary may, subject to valid existing rights, accept the offer and convey to the Company all right, title, and interest of the United States in and to the Federal land generally depicted on the map as ''Tract B''.

(B) CONDITIONS.—The land exchange under subparagraph (A) shall be subject to such terms and conditions as the Secretary may require.

(C) VALUATION.—

(i) IN GENERAL.—The values of the land involved in the land exchange under subparagraph (A) shall be equal unless the non-Federal land is of higher value than the Federal land.

(ii) EQUALIZATION.—If the values of the land are not equal, the values may be equalized by donation, payment using donated or appropriated funds, or the conveyance of additional parcels of land.

(D) APPRAISAL.—Before the exchange of land under subparagraph (A), appraisals for the Federal and non-Federal land shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(E) TECHNICAL CORRECTIONS.—Subject to the agreement of the Company, the Secretary may make minor corrections to correct technical and clerical errors in the legal descriptions of the Federal and non-Federal land and minor adjustments to the boundaries of the Federal and non-Federal land.

(F) ADMINISTRATION OF LAND ACQUIRED BY SECRETARY.—Land acquired by the Secretary under subparagraph (A) shall—

(i) become part of the National Park; and

(ii) be administered in accordance with the laws applicable to the National Park System.

(4) MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(5) BOUNDARY REVISION.—On completion of the land exchanges authorized by this subsection, the Secretary shall adjust the boundary of the National Park accordingly, including removing the land conveyed out of Federal ownership.

SEC. 7108. KALAUPAPA NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—The Secretary of the Interior shall authorize Ka ʻOhana O Kalaupapa, a non-profit organization consisting of patient residents at Kalaupapa National Historical Park, and their family members and friends, to establish a memorial at a suitable location or locations approved by the Secretary at Kalawao or Kalaupapa within the boundaries of Kalaupapa National Historical Park located on the island of Molokai, in the State of Hawaii, to honor and perpetuate the memory of those individuals who were forcibly relocated to Kalaupapa Peninsula from 1866 to 1969.

(b) DESIGN.—

(1) IN GENERAL.—The memorial authorized by subsection (a) shall—

(A) display in an appropriate manner the names of the first 5,000 individuals sent to the Kalaupapa Peninsula between 1866 and 1896, most of whom lived at Kalawao; and

(B) display in an appropriate manner the names of the approximately 3,000 individuals who arrived at Kalaupapa in the second part of its history, when most of the community was concentrated on the Kalaupapa side of the peninsula.

(2) APPROVAL.—The location, size, design, and inscriptions of the memorial authorized by subsection (a) shall be subject to the approval of the Secretary of the Interior.

(c) FUNDING.—Ka ʻOhana O Kalaupapa, a nonprofit organization, shall be solely responsible for acceptance of contributions for and payment of the expenses associated with the establishment of the memorial.

SEC. 7109. BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.

(a) COOPERATIVE AGREEMENTS.—Section 1029(d) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 460kkk(d)) is amended by striking paragraph (3) and inserting the following:

''(3) AGREEMENTS.—

''(A) DEFINITION OF ELIGIBLE ENTITY.—In this paragraph, the term 'eligible entity' means—

''(i) the Commonwealth of Massachusetts;

''(ii) a political subdivision of the Commonwealth of Massachusetts; or

''(iii) any other entity that is a member of the Boston Harbor Islands Partnership described in subsection (e)(2).

''(B) AUTHORITY OF SECRETARY.—Subject to subparagraph (C), the Secretary may consult with an eligible entity on, and enter into with the eligible entity—

''(i) a cooperative management agreement to acquire from, and provide to, the eligible entity goods and services for the cooperative management of land within the recreation area; and

''(ii) notwithstanding section 6305 of title 31, United States Code, a cooperative agreement for the construction of recreation area facilities on land owned by an eligible entity for purposes consistent with the management plan under subsection (f).

''(C) CONDITIONS.—The Secretary may enter into an agreement with an eligible entity under subparagraph (B) only if the Secretary determines that—

''(i) appropriations for carrying out the purposes of the agreement are available; and

''(ii) the agreement is in the best interests of the United States.''.

(b) TECHNICAL AMENDMENTS.—

(1) MEMBERSHIP.—Section 1029(e)(2)(B) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 460kkk(e)(2)(B)) is amended by striking ''Coast Guard'' and inserting ''Coast Guard.''.

(2) DONATIONS.—Section 1029(e)(11) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 460kkk(e)(11)) is amended by striking ''Nothwithstanding'' and inserting ''Notwithstanding''.

SEC. 7110. THOMAS EDISON NATIONAL HISTORICAL PARK, NEW JERSEY.

(a) PURPOSES.—The purposes of this section are—

(1) to recognize and pay tribute to Thomas Alva Edison and his innovations; and

(2) to preserve, protect, restore, and enhance the Edison National Historic Site to ensure public use and enjoyment of the Site as an educational, scientific, and cultural center.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Thomas Edison National Historical Park as a unit of the National Park System (referred to in this section as the ''Historical Park'').

(2) BOUNDARIES.—The Historical Park shall be comprised of all property owned by the United States in the Edison National Historic Site as well as all property authorized to be acquired by the Secretary of the Interior (referred to in this section as the ''Secretary'') for inclusion in the Edison National Historic Site before the date of the enactment of this Act, as generally depicted on the map entitled the ''Thomas Edison National Historical Park'', numbered 403/80,000, and dated April 2008.

(3) MAP.—The map of the Historical Park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer the Historical Park in accordance with this section and with the provisions of law generally applicable to units of the National Park System, including the Acts entitled ''An Act to establish a National Park Service, and for other purposes,'' approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes,'' approved August 21, 1935 (16 U.S.C. 461 et seq.).

(2) ACQUISITION OF PROPERTY.—

(A) REAL PROPERTY.—The Secretary may acquire land or interests in land within the boundaries of the Historical Park, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange.

(B) PERSONAL PROPERTY.—The Secretary may acquire personal property associated with, and appropriate for, interpretation of the Historical Park.

(3) COOPERATIVE AGREEMENTS.—The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the Historical Park.

(4) REPEAL OF SUPERSEDED LAW.—Public Law 87–628 (76 Stat. 428), regarding the establishment and administration of the Edison National Historic Site, is repealed.

(5) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the ''Edison National Historic Site'' shall be deemed to be a reference to the ''Thomas Edison National Historical Park''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 7111. WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.

(a) VOTES FOR WOMEN TRAIL.—Title XVI of Public Law 96–607 (16 U.S.C. 410*ll*) is amended by adding at the end the following:

''SEC. 1602. VOTES FOR WOMEN TRAIL.

''(a) DEFINITIONS.—In this section:

''(1) PARK.—The term 'Park' means the Women's Rights National Historical Park established by section 1601.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior, acting through the Director of the National Park Service.

''(3) STATE.—The term 'State' means the State of New York.

''(4) TRAIL.—The term 'Trail' means the Votes for Women History Trail Route designated under subsection (b).

''(b) ESTABLISHMENT OF TRAIL ROUTE.—The Secretary, with concurrence of the agency having jurisdiction over the relevant roads, may designate a vehicular tour route, to be known as the 'Votes for Women History Trail Route', to link properties in the State that are historically and thematically associated with the struggle for women's suffrage in the United States.

''(c) ADMINISTRATION.—The Trail shall be administered by the National Park Service through the Park.

''(d) ACTIVITIES.—To facilitate the establishment of the Trail and the dissemination of information regarding the Trail, the Secretary shall—

''(1) produce and disseminate appropriate educational materials regarding the Trail, such as handbooks, maps, exhibits, signs, interpretive guides, and electronic information;

''(2) coordinate the management, planning, and standards of the Trail in partnership with participating properties, other Federal agencies, and State and local governments;

''(3) create and adopt an official, uniform symbol or device to mark the Trail; and

''(4) issue guidelines for the use of the symbol or device adopted under paragraph (3).

''(e) ELEMENTS OF TRAIL ROUTE.—Subject to the consent of the owner of the property, the Secretary may designate as an official stop on the Trail—

''(1) all units and programs of the Park relating to the struggle for women's suffrage;

''(2) other Federal, State, local, and privately owned properties that the Secretary determines have a verifiable connection to the struggle for women's suffrage; and

''(3) other governmental and nongovernmental facilities and programs of an educational, commemorative, research, or interpretive nature that the Secretary determines to be directly related to the struggle for women's suffrage.

''(f) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTANDING.—

''(1) IN GENERAL.—To facilitate the establishment of the Trail and to ensure effective coordination of the Federal and non-Federal properties designated as stops along the Trail, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical and financial assistance to, other Federal agencies, the State, localities, regional governmental bodies, and private entities.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the period of fiscal years 2009 through 2013 to provide financial assistance to cooperating entities pursuant to agreements or memoranda entered into under paragraph (1).''.

(b) NATIONAL WOMEN'S RIGHTS HISTORY PROJECT NATIONAL REGISTRY.—

(1) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') may make annual grants to State historic preservation offices for not more than 5 years to assist the State historic preservation offices in surveying, evaluating, and nominating to the National Register of Historic Places women's rights history properties.

(2) ELIGIBILITY.—In making grants under paragraph (1), the Secretary shall give priority to grants relating to properties associated with the multiple facets of the women's rights movement, such as politics, economics, education, religion, and social and family rights.

(3) UPDATES.—The Secretary shall ensure that the National Register travel itinerary website entitled ''Places Where Women Made History'' is updated to contain—

(A) the results of the inventory conducted under paragraph (1); and

(B) any links to websites related to places on the inventory.

(4) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using any assistance made available under this subsection shall be 50 percent.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2013.

(c) NATIONAL WOMEN'S RIGHTS HISTORY PROJECT PARTNERSHIPS NETWORK.—

(1) GRANTS.—The Secretary may make matching grants and give technical assistance for development of a network of governmental and nongovernmental entities (referred to in this subsection as the ''network''), the purpose of which is to provide interpretive and educational program development of national women's rights history, including historic preservation.

(2) MANAGEMENT OF NETWORK.—

(A) IN GENERAL.—The Secretary shall, through a competitive process, designate a nongovernmental managing network to manage the network.

(B) COORDINATION.—The nongovernmental managing entity designated under subparagraph (A) shall work in partnership with the Director of the National Park Service and State historic preservation offices to coordinate operation of the network.

(3) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the cost of any activity carried out using any assistance made available under this subsection shall be 50 percent.

(B) STATE HISTORIC PRESERVATION OFFICES.—Matching grants for historic preservation specific to the network may be made available through State historic preservation offices.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2013.

SEC. 7112. MARTIN VAN BUREN NATIONAL HISTORIC SITE.

(a) DEFINITIONS.—In this section:

(1) HISTORIC SITE.—The term ''historic site'' means the Martin Van Buren National Historic Site in the State of New York established by Public Law 93–486 (16 U.S.C. 461 note) on October 26, 1974.

(2) MAP.—The term ''map'' means the map entitled ''Boundary Map, Martin Van Buren National Historic Site'', numbered ''460/80801'', and dated January 2005.

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

(b) BOUNDARY ADJUSTMENTS TO THE HISTORIC SITE.—

(1) BOUNDARY ADJUSTMENT.—The boundary of the historic site is adjusted to include approximately 261 acres of land identified as the ''PROPOSED PARK BOUNDARY'', as generally depicted on the map.

(2) ACQUISITION AUTHORITY.—The Secretary may acquire the land and any interests in the land described in paragraph (1) from willing sellers by donation, purchase with donated or appropriated funds, or exchange.

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(4) ADMINISTRATION.—Land acquired for the historic site under this section shall be administered as part of the historic site in accordance with applicable law (including regulations).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 7113. PALO ALTO BATTLEFIELD NATIONAL HISTORICAL PARK.

(a) DESIGNATION OF PALO ALTO BATTLEFIELD NATIONAL HISTORICAL PARK.—

(1) IN GENERAL.—The Palo Alto Battlefield National Historic Site shall be known and designated as the ''Palo Alto Battlefield National Historical Park''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the historic site referred to in subsection (a) shall be deemed to be a reference to the Palo Alto Battlefield National Historical Park.

(3) CONFORMING AMENDMENTS.—The Palo Alto Battlefield National Historic Site Act of 1991 (16 U.S.C. 461 note; Public Law 102–304) is amended—

(A) by striking ''National Historic Site'' each place it appears and inserting ''National Historical Park'';

(B) in the heading for section 3, by striking ''**NATIONAL HISTORICAL SITE**'' and inserting ''**NATIONAL HISTORICAL PARK**''; and

(C) by striking ''historic site'' each place it appears and inserting ''historical park''.

(b) BOUNDARY EXPANSION, PALO ALTO BATTLEFIELD NATIONAL HISTORICAL PARK, TEXAS.—Section 3(b) of the Palo Alto Battlefield National Historic Site Act of 1991 (16 U.S.C. 461 note; Public Law 102–304) (as amended by subsection (a)) is amended—

(1) in paragraph (1), by striking ''(1) The historical park'' and inserting the following:

''(1) IN GENERAL.—The historical park'';

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

''(2) ADDITIONAL LAND.—

''(A) IN GENERAL.—In addition to the land described in paragraph (1), the historical park shall consist of approximately 34 acres of land, as generally depicted on the map entitled 'Palo Alto Battlefield NHS Proposed Boundary Expansion', numbered 469/80,012, and dated May 21, 2008.

''(B) AVAILABILITY OF MAP.—The map described in subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the National Park Service.''; and

(4) in paragraph (3) (as redesignated by paragraph (2))—

(A) by striking ''(3) Within'' and inserting the following:

''(3) LEGAL DESCRIPTION.—Not later than''; and

(B) in the second sentence, by striking ''map referred to in paragraph (1)'' and inserting ''maps referred to in paragraphs (1) and (2)''.

SEC. 7114. ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORICAL PARK.

(a) DESIGNATION.—The Abraham Lincoln Birthplace National Historic Site in the State of Kentucky shall be known and designated as the ''Abraham Lincoln Birthplace National Historical Park''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Abraham Lincoln Birthplace National Historic Site shall be deemed to be a reference to the ''Abraham Lincoln Birthplace National Historical Park''.

SEC. 7115. NEW RIVER GORGE NATIONAL RIVER.

Section 1106 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–20) is amended in the first sentence by striking ''may'' and inserting ''shall''.

SEC. 7116. TECHNICAL CORRECTIONS.

(a) GAYLORD NELSON WILDERNESS.—

(1) REDESIGNATION.—Section 140 of division E of the Consolidated Appropriations Act, 2005 (16 U.S.C. 1132 note; Public Law 108–447), is amended—

(A) in subsection (a), by striking ''Gaylord A. Nelson'' and inserting ''Gaylord Nelson''; and

(B) in subsection (c)(4), by striking ''Gaylord A. Nelson Wilderness'' and inserting ''Gaylord Nelson Wilderness''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the ''Gaylord A. Nelson Wilderness'' shall be deemed to be a reference to the ''Gaylord Nelson Wilderness''.

(b) ARLINGTON HOUSE LAND TRANSFER.—Section 2863(h)(1) of Public Law 107–107 (115 Stat. 1333) is amended by striking ''the George Washington Memorial Parkway'' and inserting ''Arlington House, The Robert E. Lee Memorial,''.

(c) CUMBERLAND ISLAND WILDERNESS.—Section 2(a)(1) of Public Law 97–250 (16 U.S.C. 1132 note; 96 Stat. 709) is amended by striking ''numbered 640/20,038I, and dated September 2004'' and inserting ''numbered 640/20,038K, and dated September 2005''.

(d) PETRIFIED FOREST BOUNDARY.—Section 2(1) of the Petrified Forest National Park Expansion Act of 2004 (16 U.S.C. 119 note; Public Law 108–430) is amended by striking ''numbered 110/80,044, and dated July 2004'' and inserting ''numbered 110/80,045, and dated January 2005''.

(e) COMMEMORATIVE WORKS ACT.—Chapter 89 of title 40, United States Code, is amended—

(1) in section 8903(d), by inserting ''Natural'' before ''Resources'';

(2) in section 8904(b), by inserting ''Advisory'' before ''Commission''; and

(3) in section 8908(b)(1)—

(A) in the first sentence, by inserting ''Advisory'' before ''Commission''; and

(B) in the second sentence, by striking ''House Administration'' and inserting ''Natural Resources''.

(f) CAPTAIN JOHN SMITH CHESAPEAKE NATIONAL HISTORIC TRAIL.—Section 5(a)(25)(A) of the National Trails System Act (16 U.S.C. 1244(a)(25)(A)) is amended by striking ''The John Smith'' and inserting ''The Captain John Smith''.

(g) DELAWARE NATIONAL COASTAL SPECIAL RESOURCE STUDY.—Section 604 of the Delaware National Coastal Special Resources Study Act (Public Law 109–338; 120 Stat. 1856) is amended by striking ''under section 605''.

(h) USE OF RECREATION FEES.—Section 808(a)(1)(F) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6807(a)(1)(F)) is amended by striking ''section 6(a)'' and inserting ''section 806(a)''.

(i) CROSSROADS OF THE AMERICAN REVOLUTION NATIONAL HERITAGE AREA.—Section 297F(b)(2)(A) of the Crossroads of the American Revolution National Heritage Area Act of 2006 (Public Law 109–338; 120 Stat. 1844) is amended by inserting ''duties'' before ''of the''.

(j) CUYAHOGA VALLEY NATIONAL PARK.—Section 474(12) of the Consolidated Natural Resources Act of 2008 (Public Law 1110–229; 122 Stat. 827) is amended by striking ''Cayohoga'' each place it appears and inserting ''Cuyahoga''.

(k) PENNSYLVANIA AVENUE NATIONAL HISTORIC SITE.—

(1) NAME ON MAP.—Section 313(d)(1)(B) of the Department of the Interior and Related Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–199; 40 U.S.C. 872 note) is amended by striking ''map entitled 'Pennsylvania Avenue National Historic Park', dated June 1, 1995, and numbered 840-82441'' and inserting ''map entitled 'Pennsylvania Avenue National Historic Site', dated August 25, 2008, and numbered 840–82441B''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Pennsylvania Avenue National Historic Park shall be deemed to be a reference to the ''Pennsylvania Avenue National Historic Site''.

SEC. 7117. WRIGHT BROTHERS-DUNBAR NATIONAL HISTORICAL PARK, OHIO.

(a) ADDITIONAL AREAS INCLUDED IN PARK.—Section 101 of the Dayton Aviation Heritage Preservation Act of 1992 (16 U.S.C. 410ww, et seq.) is amended by adding at the end the following:

''(c) ADDITIONAL SITES.—In addition to the sites described in subsection (b), the park shall consist of the following sites, as generally depicted on a map titled 'Dayton Aviation Heritage National Historical Park', numbered 362/80,013 and dated May 2008:

''(1) Hawthorn Hill, Oakwood, Ohio.

''(2) The Wright Company factory and associated land and buildings, Dayton, Ohio.''.

(b) PROTECTION OF HISTORIC PROPERTIES.—Section 102 of the Dayton Aviation Heritage Preservation Act of 1992 (16 U.S.C. 410ww-1) is amended—

(1) in subsection (a), by inserting ''Hawthorn Hill, the Wright Company factory,'' after '', acquire'';

(2) in subsection (b), by striking ''Such agreements'' and inserting:

''(d) CONDITIONS.—Cooperative agreements under this section'';

(3) by inserting before subsection (d) (as added by paragraph 2) the following:

''(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into a cooperative agreement with a partner or partners, including the Wright Family Foundation, to operate and provide programming for Hawthorn Hill and charge reasonable fees notwithstanding any other provision of law, which may be used to defray the costs of park operation and programming.''; and

(4) by striking ''Commission'' and inserting ''Aviation Heritage Foundation''.

(c) REDESIGNATION OF DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK.—

(1) REDESIGNATION.—The Dayton Aviation Heritage Preservation Act of 1992, is amended—

(A) by striking ''Dayton Aviation Heritage National Historical Park'' each place it appears and inserting ''Wright Brothers-Dunbar National Historical Park'';

(B) by redesignating subsection (b) of section 108 as subsection (c); and

(C) by inserting after subsection (a) of section 108 the following new subsection:

''(b) GRANT ASSISTANCE.—The Secretary is authorized to make grants to the parks' partners, including the Aviation Trail, Inc., the Ohio Historical Society, and Dayton History, for projects not requiring Federal involvement other than providing financial assistance, subject to the availability of appropriations in advance identifying the specific partner grantee and the specific project. Projects funded through these grants shall be limited to construction and development on non-Federal property within the boundaries of the park. Any project funded by such a grant shall support the purposes of the park, shall be consistent with the park's general management plan, and shall enhance public use and enjoyment of the park.''.

(2) REFERENCES.—Any reference in any law (other than this title), map, regulation, document, record, or other official paper of the United States to the ''Dayton Aviation Heritage National Historical Park'' shall be considered to be a reference to the ''Wright Brothers-Dunbar National Historical Park''.

(d) NATIONAL AVIATION HERITAGE AREA.—Title V of division J of the Consolidated Appropriations Act, 2005 (16 U.S.C. 461 note; Public Law 108–447), is amended—

(1) in section 503(3), by striking ''104'' and inserting ''504'';

(2) in section 503(4), by striking ''106'' and inserting ''506'';

(3) in section 504, by striking subsection (b)(2) and by redesignating subsection (b)(3) as subsection (b)(2); and

(4) in section 505(b)(1), by striking ''106'' and inserting ''506''.

SEC. 7118. FORT DAVIS NATIONAL HISTORIC SITE.

Public Law 87–213 (16 U.S.C. 461 note) is amended as follows:

(1) In the first section—

(A) by striking ''the Secretary of the Interior'' and inserting ''(a) The Secretary of the Interior'';

(B) by striking ''476 acres'' and inserting ''646 acres''; and

(C) by adding at the end the following:

''(b) The Secretary may acquire from willing sellers land comprising approximately 55 acres, as depicted on the map titled 'Fort Davis Proposed Boundary Expansion', numbered 418/80,045, and dated April 2008. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service. Upon acquisition of the land, the land shall be incorporated into the Fort Davis National Historic Site.''.

(2) By repealing section 3.

Subtitle C—Special Resource Studies

SEC. 7201. WALNUT CANYON STUDY.

(a) DEFINITIONS.—In this section:

(1) MAP.—The term ''map'' means the map entitled ''Walnut Canyon Proposed Study Area'' and dated July 17, 2007.

(2) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(3) STUDY AREA.—The term ''study area'' means the area identified on the map as the ''Walnut Canyon Proposed Study Area''.

(b) STUDY.—

(1) IN GENERAL.—The Secretaries shall conduct a study of the study area to assess—

(A) the suitability and feasibility of designating all or part of the study area as an addition to Walnut Canyon National Monument, in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c));

(B) continued management of the study area by the Forest Service; or

(C) any other designation or management option that would provide for—

(i) protection of resources within the study area; and

(ii) continued access to, and use of, the study area by the public.

(2) CONSULTATION.—The Secretaries shall provide for public comment in the preparation of the study, including consultation with appropriate Federal, State, and local governmental entities.

(3) REPORT.—Not later than 18 months after the date on which funds are made available to carry out this section, the Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

(A) the results of the study; and

(B) any recommendations of the Secretaries.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 7202. TULE LAKE SEGREGATION CENTER, CALIFORNIA.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a special resource study of the Tule Lake Segregation Center to determine the national significance of the site and the suitability and feasibility of including the site in the National Park System.

(2) STUDY GUIDELINES.—The study shall be conducted in accordance with the criteria for the study of areas for potential inclusion in the National Park System under section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(3) CONSULTATION.—In conducting the study, the Secretary shall consult with—

(A) Modoc County;

(B) the State of California;

(C) appropriate Federal agencies;

(D) tribal and local government entities;

(E) private and nonprofit organizations; and

(F) private landowners.

(4) SCOPE OF STUDY.—The study shall include an evaluation of—

(A) the significance of the site as a part of the history of World War II;

(B) the significance of the site as the site relates to other war relocation centers;.

(C) the historical resources of the site, including the stockade, that are intact and in place;

(D) the contributions made by the local agricultural community to the World War II effort; and

(E) the potential impact of designation of the site as a unit of the National Park System on private landowners.

(b) REPORT.—Not later than 3 years after the date on which funds are made available to conduct the study required under this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings, conclusions, and recommendations of the study.

SEC. 7203. ESTATE GRANGE, ST. CROIX.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary''), in consultation with the Governor of the Virgin Islands, shall conduct a special resource study of Estate Grange and other sites and resources associated with Alexander Hamilton's life on St. Croix in the United States Virgin Islands.

(2) CONTENTS.—In conducting the study under paragraph (1), the Secretary shall evaluate—

(A) the national significance of the sites and resources; and

(B) the suitability and feasibility of designating the sites and resources as a unit of the National Park System.

(3) CRITERIA.—The criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a–5) shall apply to the study under paragraph (1).

(4) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under paragraph (1), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(A) the results of the study; and

(B) any findings, conclusions, and recommendations of the Secretary.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 7204. HARRIET BEECHER STOWE HOUSE, MAINE.

(a) STUDY.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall complete a special resource study of the Harriet Beecher Stowe House in Brunswick, Maine, to evaluate—

(A) the national significance of the Harriet Beecher Stowe House and surrounding land; and

(B) the suitability and feasibility of designating the Harriet Beecher Stowe House and surrounding land as a unit of the National Park System.

(2) STUDY GUIDELINES.—In conducting the study authorized under paragraph (1), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(b) REPORT.—On completion of the study required under subsection (a), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report containing the findings, conclusions, and recommendations of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 7205. SHEPHERDSTOWN BATTLEFIELD, WEST VIRGINIA.

(a) SPECIAL RESOURCES STUDY.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a special resource study relating to the Battle of

Shepherdstown in Shepherdstown, West Virginia, to evaluate—

(1) the national significance of the Shepherdstown battlefield and sites relating to the Shepherdstown battlefield; and

(2) the suitability and feasibility of adding the Shepherdstown battlefield and sites relating to the Shepherdstown battlefield as part of—

(A) Harpers Ferry National Historical Park; or

(B) Antietam National Battlefield.

(b) CRITERIA.—In conducting the study authorized under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report containing the findings, conclusions, and recommendations of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 7206. GREEN MCADOO SCHOOL, TENNESSEE.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a special resource study of the site of Green McAdoo School in Clinton, Tennessee, (referred to in this section as the ''site'') to evaluate—

(1) the national significance of the site; and

(2) the suitability and feasibility of designating the site as a unit of the National Park System.

(b) CRITERIA.—In conducting the study under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System under section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(c) CONTENTS.—The study authorized by this section shall—

(1) determine the suitability and feasibility of designating the site as a unit of the National Park System;

(2) include cost estimates for any necessary acquisition, development, operation, and maintenance of the site; and

(3) identify alternatives for the management, administration, and protection of the site.

(d) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings and conclusions of the study; and

(2) any recommendations of the Secretary.

SEC. 7207. HARRY S TRUMAN BIRTHPLACE, MISSOURI.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a special resource study of the Harry S Truman Birthplace State Historic Site (referred to in this section as the ''birthplace site'') in Lamar, Missouri, to determine—

(1) the suitability and feasibility of—

(A) adding the birthplace site to the Harry S Truman National Historic Site; or

(B) designating the birthplace site as a separate unit of the National Park System; and

(2) the methods and means for the protection and interpretation of the birthplace site by the National Park Service, other Federal, State, or local government entities, or private or nonprofit organizations.

(b) STUDY REQUIREMENTS.—The Secretary shall conduct the study required under subsection (a) in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations of the Secretary with respect to the birthplace site.

SEC. 7208. BATTLE OF MATEWAN SPECIAL RESOURCE STUDY.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a special resource study of the sites and resources at Matewan, West Virginia, associated with the Battle of Matewan (also known as the ''Matewan Massacre'') of May 19, 1920, to determine—

(1) the suitability and feasibility of designating certain historic areas of Matewan, West Virginia, as a unit of the National Park System; and

(2) the methods and means for the protection and interpretation of the historic areas by the National Park Service, other Federal, State, or local government entities, or private or nonprofit organizations.

(b) STUDY REQUIREMENTS.—The Secretary shall conduct the study required under subsection (a) in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations of the Secretary with respect to the historic areas.

SEC. 7209. BUTTERFIELD OVERLAND TRAIL.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a special resource study along the route known as the ''Ox-Bow Route'' of the Butterfield Overland Trail (referred to in this section as the ''route'') in the States of Missouri, Tennessee, Arkansas, Oklahoma, Texas, New Mexico, Arizona, and California to evaluate—

(1) a range of alternatives for protecting and interpreting the resources of the route, including alternatives for potential addition of the Trail to the National Trails System; and

(2) the methods and means for the protection and interpretation of the route by the National Park Service, other Federal, State, or local government entities, or private or nonprofit organizations.

(b) STUDY REQUIREMENTS.—The Secretary shall conduct the study required under subsection (a) in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) or section 5(b) of the National Trails System Act (16 U.S.C. 1244(b)), as appropriate.

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations of the Secretary with respect to the route.

SEC. 7210. COLD WAR SITES THEME STUDY.

(a) DEFINITIONS.—

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Cold War Advisory Committee established under subsection (c).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) THEME STUDY.—The term ''theme study'' means the national historic landmark theme study conducted under subsection (b)(1).

(b) COLD WAR THEME STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a national historic landmark theme study to identify sites and resources in the United States that are significant to the Cold War.

(2) RESOURCES.—In conducting the theme study, the Secretary shall consider—

(A) the inventory of sites and resources associated with the Cold War completed by the Secretary of Defense under section 8120(b)(9) of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1906); and

(B) historical studies and research of Cold War sites and resources, including—

(i) intercontinental ballistic missiles;

(ii) flight training centers;

(iii) manufacturing facilities;

(iv) communications and command centers (such as Cheyenne Mountain, Colorado);

(v) defensive radar networks (such as the Distant Early Warning Line);

(vi) nuclear weapons test sites (such as the Nevada test site); and

(vii) strategic and tactical aircraft.

(3) CONTENTS.—The theme study shall include—

(A) recommendations for commemorating and interpreting sites and resources identified by the theme study, including—

(i) sites for which studies for potential inclusion in the National Park System should be authorized;

(ii) sites for which new national historic landmarks should be nominated; and

(iii) other appropriate designations;

(B) recommendations for cooperative agreements with—

(i) State and local governments;

(ii) local historical organizations; and

(iii) other appropriate entities; and

(C) an estimate of the amount required to carry out the recommendations under subparagraphs (A) and (B).

(4) CONSULTATION.—In conducting the theme study, the Secretary shall consult with—

(A) the Secretary of the Air Force;

(B) State and local officials;

(C) State historic preservation offices; and

(D) other interested organizations and individuals.

(5) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the findings, conclusions, and recommendations of the theme study.

(c) COLD WAR ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—As soon as practicable after funds are made available to carry out this section, the Secretary shall establish an advisory committee, to be known as the ''Cold War Advisory Committee'', to assist the Secretary in carrying out this section.

(2) COMPOSITION.—The Advisory Committee shall be composed of 9 members, to be appointed by the Secretary, of whom—

(A) 3 shall have expertise in Cold War history;

(B) 2 shall have expertise in historic preservation;

(C) 1 shall have expertise in the history of the United States; and

(D) 3 shall represent the general public.

(3) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among the members of the Advisory Committee.

(4) COMPENSATION.—A member of the Advisory Committee shall serve without compensation but may be reimbursed by the Secretary for expenses reasonably incurred in the performance of the duties of the Advisory Committee.

(5) MEETINGS.—On at least 3 occasions, the Secretary (or a designee) shall meet and consult with the Advisory Committee on matters relating to the theme study.

(d) INTERPRETIVE HANDBOOK ON THE COLD WAR.—Not later than 4 years after the date on which funds are made available to carry out this section, the Secretary shall—

(1) prepare and publish an interpretive handbook on the Cold War; and

(2) disseminate information in the theme study by other appropriate means.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000.

SEC. 7211. BATTLE OF CAMDEN, SOUTH CAROLINA.

(a) IN GENERAL.—The Secretary shall complete a special resource study of the site of the Battle of Camden fought in South Carolina on August 16, 1780, and the site of Historic Camden, which is a National Park System Affiliated Area, to determine—

(1) the suitability and feasibility of designating the sites as a unit or units of the National Park System; and

(2) the methods and means for the protection and interpretation of these sites by the National Park Service, other Federal, State, or local government entities or private or non-profit organizations.

(b) STUDY REQUIREMENTS.—The Secretary shall conduct the study in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any recommendations of the Secretary.

SEC. 7212. FORT SAN GERÓNIMO, PUERTO RICO.

(a) DEFINITIONS.—In this section:

(1) FORT SAN GERÓNIMO.—The term ''Fort San Gerónimo'' (also known as ''Fortín de San Gerónimo del Boquerón'') means the fort and grounds listed on the National Register of Historic Places and located near Old San Juan, Puerto Rico.

(2) RELATED RESOURCES.—The term ''related resources'' means other parts of the fortification system of old San Juan that are not included within the boundary of San Juan National Historic Site, such as sections of the City Wall or other fortifications.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall complete a special resource study of Fort San Gerónimo and other related resources, to determine—

(A) the suitability and feasibility of including Fort San Gerónimo and other related resources in the Commonwealth of Puerto Rico as part of San Juan National Historic Site; and

(B) the methods and means for the protection and interpretation of Fort San Gerónimo and other related resources by the National Park Service, other Federal, State, or local government entities or private or non-profit organizations.

(2) STUDY REQUIREMENTS.—The Secretary shall conduct the study in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any recommendations of the Secretary.

Subtitle D—Program Authorizations

SEC. 7301. AMERICAN BATTLEFIELD PROTECTION PROGRAM.

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

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

(2) by striking subsection (e).

SEC. 7302. PRESERVE AMERICA PROGRAM.

(a) PURPOSE.—The purpose of this section is to authorize the Preserve America Program, including—

(1) the Preserve America grant program within the Department of the Interior;

(2) the recognition programs administered by the Advisory Council on Historic Preservation; and

(3) the related efforts of Federal agencies, working in partnership with State, tribal, and local governments and the private sector, to support and promote the preservation of historic resources.

(b) DEFINITIONS.—In this section:

(1) COUNCIL.—The term ''Council'' means the Advisory Council on Historic Preservation.

(2) HERITAGE TOURISM.—The term ''heritage tourism'' means the conduct of activities to attract and accommodate visitors to a site or area based on the unique or special aspects of the history, landscape (including trail systems), and culture of the site or area.

(3) PROGRAM.—The term ''program'' means the Preserve America Program established under subsection (c)(1).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Department of the Interior the Preserve America Program, under which the Secretary, in partnership with the Council, may provide competitive grants to States, local governments (including local governments in the process of applying for designation as Preserve America Communities under subsection (d)), Indian tribes, communities designated as Preserve America Communities under subsection (d), State historic preservation offices, and tribal historic preservation offices to support preservation efforts through heritage tourism, education, and historic preservation planning activities.

(2) ELIGIBLE PROJECTS.—

(A) IN GENERAL.—The following projects shall be eligible for a grant under this section:

(i) A project for the conduct of—

(I) research on, and documentation of, the history of a community; and

(II) surveys of the historic resources of a community.

(ii) An education and interpretation project that conveys the history of a community or site.

(iii) A planning project (other than building rehabilitation) that advances economic development using heritage tourism and historic preservation.

(iv) A training project that provides opportunities for professional development in areas that would aid a community in using and promoting its historic resources.

(v) A project to support heritage tourism in a Preserve America Community designated under subsection (d).

(vi) Other nonconstruction projects that identify or promote historic properties or provide for the education of the public about historic properties that are consistent with the purposes of this section.

(B) LIMITATION.—In providing grants under this section, the Secretary shall only provide 1 grant to each eligible project selected for a grant.

(3) PREFERENCE.—In providing grants under this section, the Secretary may give preference to projects that carry out the purposes of both the program and the Save America's Treasures Program.

(4) CONSULTATION AND NOTIFICATION.—

(A) CONSULTATION.—The Secretary shall consult with the Council in preparing the list of projects to be provided grants for a fiscal year under the program.

(B) NOTIFICATION.—Not later than 30 days before the date on which the Secretary provides grants for a fiscal year under the program, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Appropriations of the House of Representatives a list of any eligible projects that are to be provided grants under the program for the fiscal year.

(5) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The non-Federal share of the cost of carrying out a project provided a grant under this section shall be not less than 50 percent of the total cost of the project.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share required under subparagraph (A) shall be in the form of—

(i) cash; or

(ii) donated supplies and related services, the value of which shall be determined by the Secretary.

(C) REQUIREMENT.—The Secretary shall ensure that each applicant for a grant has the capacity to secure, and a feasible plan for securing, the non-Federal share for an eligible project required under subparagraph (A) before a grant is provided to the eligible project under the program.

(d) DESIGNATION OF PRESERVE AMERICA COMMUNITIES.—

(1) APPLICATION.—To be considered for designation as a Preserve America Community, a community, tribal area, or neighborhood shall submit to the Council an application containing such information as the Council may require.

(2) CRITERIA.—To be designated as a Preserve America Community under the program, a community, tribal area, or neighborhood that submits an application under paragraph (1) shall, as determined by the Council, in consultation with the Secretary, meet criteria required by the Council and, in addition, consider—

(A) protection and celebration of the heritage of the community, tribal area, or neighborhood;

(B) use of the historic assets of the community, tribal area, or neighborhood for economic development and community revitalization; and

(C) encouragement of people to experience and appreciate local historic resources through education and heritage tourism programs.

(3) LOCAL GOVERNMENTS PREVIOUSLY CERTIFIED FOR HISTORIC PRESERVATION ACTIVITIES.—The Council shall establish an expedited process for Preserve America Community designation for local governments previously certified for historic preservation activities under section 101(c)(1) of the National Historic Preservation Act (16 U.S.C. 470a(c)(1)).

(4) GUIDELINES.—The Council, in consultation with the Secretary, shall establish any guidelines that are necessary to carry out this subsection.

(e) REGULATIONS.—The Secretary shall develop any guidelines and issue any regulations that the Secretary determines to be necessary to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each fiscal year, to remain available until expended.

SEC. 7303. SAVE AMERICA'S TREASURES PROGRAM.

(a) PURPOSE.—The purpose of this section is to authorize within the Department of the Interior the Save America's Treasures Program, to be carried out by the Director of the National Park Service, in partnership with—

(1) the National Endowment for the Arts;

(2) the National Endowment for the Humanities;

(3) the Institute of Museum and Library Services;

(4) the National Trust for Historic Preservation;

(5) the National Conference of State Historic Preservation Officers;

(6) the National Association of Tribal Historic Preservation Officers; and

(7) the President's Committee on the Arts and the Humanities.

(b) DEFINITIONS.—In this section:

(1) COLLECTION.—The term ''collection'' means a collection of intellectual and cultural artifacts, including documents, sculpture, and works of art.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means a Federal entity, State, local, or tribal government, educational institution, or nonprofit organization.

(3) HISTORIC PROPERTY.—The term ''historic property'' has the meaning given the term in section 301 of the National Historic Preservation Act (16 U.S.C. 470w).

(4) NATIONALLY SIGNIFICANT.—The term ''nationally significant'' means a collection or historic property that meets the applicable criteria for national significance, in accordance with regulations promulgated by the Secretary pursuant to section 101(a)(2) of the National Historic Preservation Act (16 U.S.C. 470a(a)(2)).

(5) PROGRAM.—The term ''program'' means the Save America's Treasures Program established under subsection (c)(1).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Department of the Interior the Save America's Treasures program, under which the amounts made available to the Secretary under subsection (e) shall be used by the Secretary, in consultation with the organizations described in subsection (a), subject to paragraph (6)(A)(ii), to provide grants to eligible entities for projects to preserve nationally significant collections and historic properties.

(2) DETERMINATION OF GRANTS.—Of the amounts made available for grants under subsection (e), not less than 50 percent shall be made available for grants for projects to preserve collections and historic properties, to be distributed through a competitive grant process administered by the Secretary, subject to the eligibility criteria established under paragraph (5).

(3) APPLICATIONS FOR GRANTS.—To be considered for a competitive grant under the program an eligible entity shall submit to the Secretary an application containing such information as the Secretary may require.

(4) COLLECTIONS AND HISTORIC PROPERTIES ELIGIBLE FOR COMPETITIVE GRANTS.—

(A) IN GENERAL.—A collection or historic property shall be provided a competitive grant under the program only if the Secretary determines that the collection or historic property is—

(i) nationally significant; and

(ii) threatened or endangered.

(B) ELIGIBLE COLLECTIONS.—A determination by the Secretary regarding the national significance of collections under subparagraph (A)(i) shall be made in consultation with the organizations described in subsection (a), as appropriate.

(C) ELIGIBLE HISTORIC PROPERTIES.—To be eligible for a competitive grant under the program, a historic property shall, as of the date of the grant application—

(i) be listed in the National Register of Historic Places at the national level of significance; or

(ii) be designated as a National Historic Landmark.

(5) SELECTION CRITERIA FOR GRANTS.—

(A) IN GENERAL.—The Secretary shall not provide a grant under this section to a project for an eligible collection or historic property unless the project—

(i) eliminates or substantially mitigates the threat of destruction or deterioration of the eligible collection or historic property;

(ii) has a clear public benefit; and

(iii) is able to be completed on schedule and within the budget described in the grant application.

(B) PREFERENCE.—In providing grants under this section, the Secretary may give preference to projects that carry out the purposes of both the program and the Preserve America Program.

(C) LIMITATION.—In providing grants under this section, the Secretary shall only provide 1 grant to each eligible project selected for a grant.

(6) CONSULTATION AND NOTIFICATION BY SECRETARY.—

(A) CONSULTATION.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall consult with the organizations described in subsection (a) in preparing the list of projects to be provided grants for a fiscal year by the Secretary under the program.

(ii) LIMITATION.—If an entity described in clause (i) has submitted an application for a grant under the program, the entity shall be recused by the Secretary from the consultation requirements under that clause and paragraph (1).

(B) NOTIFICATION.—Not later than 30 days before the date on which the Secretary provides grants for a fiscal year under the program, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Appropriations of the House of Representatives a list of any eligible projects that are to be provided grants under the program for the fiscal year.

(7) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The non-Federal share of the cost of carrying out a project provided a grant under this section shall be not less than 50 percent of the total cost of the project.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share required under subparagraph (A) shall be in the form of—

(i) cash; or

(ii) donated supplies or related services, the value of which shall be determined by the Secretary.

(C) REQUIREMENT.—The Secretary shall ensure that each applicant for a grant has the capacity and a feasible plan for securing the non-Federal share for an eligible project required under subparagraph (A) before a grant is provided to the eligible project under the program.

(d) REGULATIONS.—The Secretary shall develop any guidelines and issue any regulations that the Secretary determines to be necessary to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each fiscal year, to remain available until expended.

SEC. 7304. ROUTE 66 CORRIDOR PRESERVATION PROGRAM.

Section 4 of Public Law 106–45 (16 U.S.C. 461 note; 113 Stat. 226) is amended by striking ''2009'' and inserting ''2019''.

SEC. 7305. NATIONAL CAVE AND KARST RESEARCH INSTITUTE.

The National Cave and Karst Research Institute Act of 1998 (16 U.S.C. 4310 note; Public Law 105–325) is amended by striking section 5 and inserting the following:

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act.''.

Subtitle E—Advisory Commissions

SEC. 7401. NA HOA PILI O KALOKO-HONOKOHAU ADVISORY COMMISSION.

Section 505(f)(7) of the National Parks and Recreation Act of 1978 (16 U.S.C. 396d(f)(7)) is amended by striking ''ten years after the date of enactment of the Na Hoa Pili O Kaloko-Honokohau Re-establishment Act of 1996'' and inserting ''on December 31, 2018''.

SEC. 7402. CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION.

Effective September 26, 2008, section 8(a) of Public Law 87–126 (16 U.S.C. 459b–7(a)) is amended in the second sentence by striking ''2008'' and inserting ''2018''.

SEC. 7403. NATIONAL PARK SYSTEM ADVISORY BOARD.

Section 3(f) of the Act of August 21, 1935 (16. U.S.C. 463(f)), is amended in the first sentence by striking ''2009'' and inserting ''2010''.

SEC. 7404. CONCESSIONS MANAGEMENT ADVISORY BOARD.

Section 409(d) of the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5958(d)) is amended in the first sentence by striking ''2008'' and inserting ''2009''.

SEC. 7405. ST. AUGUSTINE 450TH COMMEMORATION COMMISSION.

(a) DEFINITIONS.—In this section:

(1) COMMEMORATION.—The term ''commemoration'' means the commemoration of the 450th anniversary of the founding of the settlement of St. Augustine, Florida.

(2) COMMISSION.—The term ''Commission'' means the St. Augustine 450th Commemoration Commission established by subsection (b)(1).

(3) GOVERNOR.—The term ''Governor'' means the Governor of the State.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—

(A) IN GENERAL.—The term ''State'' means the State of Florida.

(B) INCLUSION.—The term ''State'' includes agencies and entities of the State of Florida.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a commission, to be known as the ''St. Augustine 450th Commemoration Commission''.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 14 members, of whom—

(i) 3 members shall be appointed by the Secretary, after considering the recommendations of the St. Augustine City Commission;

(ii) 3 members shall be appointed by the Secretary, after considering the recommendations of the Governor;

(iii) 1 member shall be an employee of the National Park Service having experience relevant to the historical resources relating to the city of St. Augustine and the commemoration, to be appointed by the Secretary;

(iv) 1 member shall be appointed by the Secretary, taking into consideration the recommendations of the Mayor of the city of St. Augustine;

(v) 1 member shall be appointed by the Secretary, after considering the recommendations of the Chancellor of the University System of Florida; and

(vi) 5 members shall be individuals who are residents of the State who have an interest in, support for, and expertise appropriate to the commemoration, to be appointed by the Secretary, taking into consideration the recommendations of Members of Congress.

(B) TIME OF APPOINTMENT.—Each appointment of an initial member of the Commission shall be made before the expiration of the 120-day period beginning on the date of enactment of this Act.

(C) TERM; VACANCIES.—

(i) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(ii) VACANCIES.—

(I) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(II) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(iii) CONTINUATION OF MEMBERSHIP.—If a member of the Commission was appointed to the Commission as Mayor of the city of St. Augustine or as an employee of the National Park Service or the State University System of Florida, and ceases to hold such position, that member may continue to serve on the Commission for not longer than the 30-day period beginning on the date on which that member ceases to hold the position.

(3) DUTIES.—The Commission shall—

(A) plan, develop, and carry out programs and activities appropriate for the commemoration;

(B) facilitate activities relating to the commemoration throughout the United States;

(C) encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand understanding and appreciation of the significance of the founding and continuing history of St. Augustine;

(D) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration;

(E) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, St. Augustine;

(F) ensure that the commemoration provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs; and

(G) help ensure that the observances of the foundation of St. Augustine are inclusive and appropriately recognize the experiences and heritage of all individuals present when St. Augustine was founded.

(c) COMMISSION MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(2) MEETINGS.—The Commission shall meet—

(A) at least 3 times each year; or

(B) at the call of the Chairperson or the majority of the members of the Commission.

(3) QUORUM.—A majority of the voting members shall constitute a quorum, but a lesser number may hold meetings.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) ELECTION.—The Commission shall elect the Chairperson and the Vice Chairperson of the Commission on an annual basis.

(B) ABSENCE OF THE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(5) VOTING.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

(d) COMMISSION POWERS.—

(1) GIFTS.—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money or other property for aiding or facilitating the work of the Commission.

(2) APPOINTMENT OF ADVISORY COMMITTEES.—The Commission may appoint such advisory committees as the Commission determines to be necessary to carry out this section.

(3) AUTHORIZATION OF ACTION.—The Commission may authorize any member or employee of the Commission to take any action that the Commission is authorized to take under this section.

(4) PROCUREMENT.—

(A) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this section (except that a contract, lease, or other legal agreement made or entered into by the Commission shall not extend beyond the date of termination of the Commission).

(B) LIMITATION.—The Commission may not purchase real property.

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

(6) GRANTS AND TECHNICAL ASSISTANCE.—The Commission may—

(A) provide grants in amounts not to exceed $20,000 per grant to communities and nonprofit organizations for use in developing programs to assist in the commemoration;

(B) provide grants to research and scholarly organizations to research, publish, or distribute information relating to the early history of St. Augustine; and

(C) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

(e) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) IN GENERAL.—Except as provided in paragraph (2), a member of the Commission shall serve without compensation.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation other than the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) DIRECTOR AND STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), nominate an executive director to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(4) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) DETAIL OF GOVERNMENT EMPLOYEES.—

(A) FEDERAL EMPLOYEES.—

(i) DETAIL.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

(B) STATE EMPLOYEES.—The Commission may—

(i) accept the services of personnel detailed from the State; and

(ii) reimburse the State for services of detailed personnel.

(6) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with 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 such title.

(7) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use such voluntary and uncompensated services as the Commission determines to be necessary.

(8) SUPPORT SERVICES.—

(A) IN GENERAL.—The Secretary shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(B) REIMBURSEMENT.—Any reimbursement under this paragraph shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

(9) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(10) NO EFFECT ON AUTHORITY.—Nothing in this subsection supersedes the authority of the State, the National Park Service, the city of St. Augustine, or any designee of those entities, with respect to the commemoration.

(f) PLANS; REPORTS.—

(1) STRATEGIC PLAN.—The Commission shall prepare a strategic plan for the activities of the Commission carried out under this section.

(2) FINAL REPORT.—Not later than September 30, 2015, the Commission shall complete and submit to Congress a final report that contains—

(A) a summary of the activities of the Commission;

(B) a final accounting of funds received and expended by the Commission; and

(C) the findings and recommendations of the Commission.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Commission to carry out this section $500,000 for each of fiscal years 2009 through 2015.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until December 31, 2015.

(h) TERMINATION OF COMMISSION.—

(1) DATE OF TERMINATION.—The Commission shall terminate on December 31, 2015.

(2) TRANSFER OF DOCUMENTS AND MATERIALS.—Before the date of termination specified in paragraph (1), the Commission shall transfer all documents and materials of the Commission to the National Archives or another appropriate Federal entity.

Subtitle F—Memorials

SEC. 7501. REAUTHORIZATION OF MEMORIAL TO MARTIN LUTHER KING, JR.

Section 508(b)(2) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 8903 note; 110 Stat. 4157, 114 Stat. 26, 117 Stat. 1347, 119 Stat. 527) is amended by striking ''November 12, 2008'' and inserting ''November 12, 2009''.

TITLE VIII—NATIONAL HERITAGE AREAS

Subtitle A—Designation of National Heritage Areas

SEC. 8001. SANGRE DE CRISTO NATIONAL HERITAGE AREA, COLORADO.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Sangre de Cristo National Heritage Area established by subsection (b)(1).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by subsection (b)(4).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under subsection (d).

(4) MAP.—The term ''map'' means the map entitled ''Proposed Sangre De Cristo National Heritage Area'' and dated November 2005.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Colorado.

(b) SANGRE DE CRISTO NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established in the State the Sangre de Cristo National Heritage Area.

(2) BOUNDARIES.—The Heritage Area shall consist of—

(A) the counties of Alamosa, Conejos, and Costilla; and

(B) the Monte Vista National Wildlife Refuge, the Baca National Wildlife Refuge, the Great Sand Dunes National Park and Preserve, and other areas included in the map.

(3) MAP.—A map of the Heritage Area shall be—

(A) included in the management plan; and

(B) on file and available for public inspection in the appropriate offices of the National Park Service.

(4) MANAGEMENT ENTITY.—

(A) IN GENERAL.—The management entity for the Heritage Area shall be the Sangre de Cristo National Heritage Area Board of Directors.

(B) MEMBERSHIP REQUIREMENTS.—Members of the Board shall include representatives from a broad cross-section of the individuals, agencies, organizations, and governments that were involved in the planning and development of the Heritage Area before the date of enactment of this Act.

(c) ADMINISTRATION.—

(1) AUTHORITIES.—For purposes of carrying out the management plan, the Secretary, acting through the management entity, may use amounts made available under this section to—

(A) make grants to the State or a political subdivision of the State, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the State or a political subdivision of the State, nonprofit organizations, and other interested parties;

(C) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(D) obtain money or services from any source including any that are provided under any other Federal law or program;

(E) contract for goods or services; and

(F) undertake to be a catalyst for any other activity that furthers the Heritage Area and is consistent with the approved management plan.

(2) DUTIES.—The management entity shall—

(A) in accordance with subsection (d), prepare and submit a management plan for the Heritage Area to the Secretary;

(B) assist units of local government, regional planning organizations, and nonprofit organizations in carrying out the approved management plan by—

(i) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(ii) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(iii) developing recreational and educational opportunities in the Heritage Area;

(iv) increasing public awareness of, and appreciation for, natural, historical, scenic, and cultural resources of the Heritage Area;

(v) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with Heritage Area themes;

(vi) ensuring that clear, consistent, and appropriate signs identifying points of public access, and sites of interest are posted throughout the Heritage Area; and

(vii) promoting a wide range of partnerships among governments, organizations, and individuals to further the Heritage Area;

(C) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(D) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(E) for any year that Federal funds have been received under this section—

(i) submit an annual report to the Secretary that describes the activities, expenses, and income of the management entity (including grants to any other entities during the year that the report is made);

(ii) make available to the Secretary for audit all records relating to the expenditure of the funds and any matching funds;

(iii) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the organizations receiving the funds make available to the Secretary for audit all records concerning the expenditure of the funds; and

(F) encourage by appropriate means economic viability that is consistent with the Heritage Area.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity shall not use Federal funds made available under this section to acquire real property or any interest in real property.

(4) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using any assistance made available under this section shall be 50 percent.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan shall—

(A) incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area;

(B) take into consideration State and local plans;

(C) include—

(i) an inventory of—

(I) the resources located in the core area described in subsection (b)(2); and

(II) any other property in the core area that—

(aa) is related to the themes of the Heritage Area; and

(bb) should be preserved, restored, managed, or maintained because of the significance of the property;

(ii) comprehensive policies, strategies and recommendations for conservation, funding, management, and development of the Heritage Area;

(iii) a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical and cultural resources of the Heritage Area;

(iv) a program of implementation for the management plan by the management entity that includes a description of—

(I) actions to facilitate ongoing collaboration among partners to promote plans for resource protection, restoration, and construction; and

(II) specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of operation;

(v) the identification of sources of funding for carrying out the management plan;

(vi) analysis and recommendations for means by which local, State, and Federal programs, including the role of the National Park Service in the Heritage Area, may best be coordinated to carry out this section; and

(vii) an interpretive plan for the Heritage Area; and

(D) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area.

(3) DEADLINE.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date of enactment of this Act, the management entity shall be ineligible to receive additional funding under this section until the date that the Secretary receives and approves the management plan.

(4) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan under paragraph (1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(B) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(ii) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan; and

(iii) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area.

(C) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under subparagraph (A), the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) not later than 180 days after the receipt of any proposed revision of the management plan from the management entity, approve or disapprove the proposed revision.

(D) AMENDMENTS.—

(i) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines make a substantial change to the management plan.

(ii) USE OF FUNDS.—The management entity shall not use Federal funds authorized by this section to carry out any amendments to the management plan until the Secretary has approved the amendments.

(e) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity to the maximum extent practicable.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(f) PRIVATE PROPERTY AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to the management entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(g) EVALUATION; REPORT.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(A) conduct an evaluation of the accomplishments of the Heritage Area; and

(B) prepare a report in accordance with paragraph (3).

(2) EVALUATION.—An evaluation conducted under paragraph (1)(A) shall—

(A) assess the progress of the management entity with respect to—

(i) accomplishing the purposes of this section for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(3) REPORT.—

(A) IN GENERAL.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(B) REQUIRED ANALYSIS.—If the report prepared under subparagraph (A) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(i) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(ii) the appropriate time period necessary to achieve the recommended reduction or elimination.

(C) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(i) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8002. CACHE LA POUDRE RIVER NATIONAL HERITAGE AREA, COLORADO.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Cache La Poudre River National Heritage Area established by subsection (b)(1).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Poudre Heritage Alliance, the local coordinating entity for the Heritage Area designated by subsection (b)(4).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under subsection (d)(1).

(4) MAP.—The term ''map'' means the map entitled ''Cache La Poudre River National Heritage Area'', numbered 960/80,003, and dated April, 2004.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Colorado.

(b) CACHE LA POUDRE RIVER NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established in the State the Cache La Poudre River National Heritage Area.

(2) BOUNDARIES.—The Heritage Area shall consist of the area depicted on the map.

(3) MAP.—The map shall be on file and available for public inspection in the appropriate offices of—

(A) the National Park Service; and

(B) the local coordinating entity.

(4) LOCAL COORDINATING ENTITY.—The local coordinating entity for the Heritage Area shall be the Poudre Heritage Alliance, a nonprofit organization incorporated in the State.

(c) ADMINISTRATION.—

(1) AUTHORITIES.—To carry out the management plan, the Secretary, acting through the local coordinating entity, may use amounts made available under this section—

(A) to make grants to the State (including any political subdivision of the State), nonprofit organizations, and other individuals;

(B) to enter into cooperative agreements with, or provide technical assistance to, the State (including any political subdivision of the State), nonprofit organizations, and other interested parties;

(C) to hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resource protection, and heritage programming;

(D) to obtain funds or services from any source, including funds or services that are provided under any other Federal law or program;

(E) to enter into contracts for goods or services; and

(F) to serve as a catalyst for any other activity that—

(i) furthers the purposes and goals of the Heritage Area; and

(ii) is consistent with the approved management plan.

(2) DUTIES.—The local coordinating entity shall—

(A) in accordance with subsection (d), prepare and submit to the Secretary a management plan for the Heritage Area;

(B) assist units of local government, regional planning organizations, and nonprofit organizations in carrying out the approved management plan by—

(i) carrying out programs and projects that recognize, protect, and enhance important resource values located in the Heritage Area;

(ii) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(iii) developing recreational and educational opportunities in the Heritage Area;

(iv) increasing public awareness of, and appreciation for, the natural, historical, scenic, and cultural resources of the Heritage Area;

(v) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with Heritage Area themes;

(vi) ensuring that clear, consistent, and appropriate signs identifying points of public access, and sites of interest, are posted throughout the Heritage Area; and

(vii) promoting a wide range of partnerships among governments, organizations, and individuals to further the Heritage Area;

(C) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(D) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(E) for any year for which Federal funds have been received under this section—

(i) submit an annual report to the Secretary that describes the activities, expenses, and income of the local coordinating entity (including grants to any other entities during the year that the report is made);

(ii) make available to the Secretary for audit all records relating to the expenditure of the funds and any matching funds; and

(iii) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the organizations receiving the funds make available to the Secretary for audit all records concerning the expenditure of the funds; and

(F) encourage by appropriate means economic viability that is consistent with the Heritage Area.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds made available under this section to acquire real property or any interest in real property.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan shall—

(A) incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, educational, and recreational resources of the Heritage Area;

(B) take into consideration State and local plans;

(C) include—

(i) an inventory of the resources located in the Heritage Area;

(ii) comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Area;

(iii) a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, cultural, historic, scenic, educational, and recreational resources of the Heritage Area;

(iv) a program of implementation for the management plan by the local coordinating entity that includes a description of—

(I) actions to facilitate ongoing collaboration among partners to promote plans for resource protection, restoration, and construction; and

(II) specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual for the first 5 years of operation;

(v) the identification of sources of funding for carrying out the management plan;

(vi) analysis and recommendations for means by which local, State, and Federal programs, including the role of the National Park Service in the Heritage Area, may best be coordinated to carry out this section; and

(vii) an interpretive plan for the Heritage Area; and

(D) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the natural, cultural, historic, scenic, educational, and recreational resources of the Heritage Area.

(3) DEADLINE.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date of enactment of this Act, the local coordinating entity shall be ineligible to receive additional funding under this section until the date on which the Secretary approves a management plan.

(4) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan under paragraph (1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(B) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the local coordinating entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(ii) the local coordinating entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan; and

(iii) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, cultural, historic, scenic, educational, and recreational resources of the Heritage Area.

(C) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under subparagraph (A), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) not later than 180 days after the date of receipt of any proposed revision of the management plan from the local coordinating entity, approve or disapprove the proposed revision.

(5) AMENDMENTS.—

(A) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines would make a substantial change to the management plan.

(B) USE OF FUNDS.—The local coordinating entity shall not use Federal funds authorized to be appropriated by this section to carry out any amendments to the management plan until the Secretary has approved the amendments.

(e) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law (including regulations).

(2) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any law (including any regulation) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(f) PRIVATE PROPERTY AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any public or private property owner, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner—

(A) to permit public access (including access by Federal, State, or local agencies) to the property of the property owner; or

(B) to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency;

(4) conveys any land use or other regulatory authority to the local coordinating entity;

(5) authorizes or implies the reservation or appropriation of water or water rights;

(6) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(7) creates any liability, or affects any liability under any other law (including regulations), of any private property owner with respect to any individual injured on the private property.

(g) EVALUATION; REPORT.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(A) conduct an evaluation of the accomplishments of the Heritage Area; and

(B) prepare a report in accordance with paragraph (3).

(2) EVALUATION.—An evaluation conducted under paragraph (1)(A) shall—

(A) assess the progress of the local coordinating entity with respect to—

(i) accomplishing the purposes of this section for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area to identify the critical components for sustainability of the Heritage Area.

(3) REPORT.—

(A) IN GENERAL.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(B) REQUIRED ANALYSIS.—If the report prepared under subparagraph (A) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(i) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(ii) the appropriate time period necessary to achieve the recommended reduction or elimination.

(C) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000, of which

not more than $1,000,000 may be made available for any fiscal year.

(2) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using any assistance made available under this section shall be 50 percent.

(i) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

(j) CONFORMING AMENDMENT.—The Cache La Poudre River Corridor Act (16 U.S.C. 461 note; Public Law 104–323) is repealed.

SEC. 8003. SOUTH PARK NATIONAL HERITAGE AREA, COLORADO.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the Board of Directors of the South Park National Heritage Area, comprised initially of the individuals, agencies, organizations, and governments that were involved in the planning and development of the Heritage Area before the date of enactment of this Act.

(2) HERITAGE AREA.—The term ''Heritage Area'' means the South Park National Heritage Area established by subsection (b)(1).

(3) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by subsection (b)(4)(A).

(4) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required by subsection (d).

(5) MAP.—The term ''map'' means the map entitled ''South Park National Heritage Area Map (Proposed)'', dated January 30, 2006.

(6) PARTNER.—The term ''partner'' means a Federal, State, or local governmental entity, organization, private industry, educational institution, or individual involved in the conservation, preservation, interpretation, development or promotion of heritage sites or resources of the Heritage Area.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) STATE.—The term ''State'' means the State of Colorado.

(9) TECHNICAL ASSISTANCE.—The term ''technical assistance'' means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

(b) SOUTH PARK NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established in the State the South Park National Heritage Area.

(2) BOUNDARIES.—The Heritage Area shall consist of the areas included in the map.

(3) MAP.—A map of the Heritage Area shall be—

(A) included in the management plan; and

(B) on file and available for public inspection in the appropriate offices of the National Park Service.

(4) MANAGEMENT ENTITY.—

(A) IN GENERAL.—The management entity for the Heritage Area shall be the Park County Tourism & Community Development Office, in conjunction with the South Park National Heritage Area Board of Directors.

(B) MEMBERSHIP REQUIREMENTS.—Members of the Board shall include representatives from a broad cross-section of individuals, agencies, organizations, and governments that were involved in the planning and development of the Heritage Area before the date of enactment of this Act.

(c) ADMINISTRATION.—

(1) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity shall not use Federal funds made available under this section to acquire real property or any interest in real property.

(2) AUTHORITIES.—For purposes of carrying out the management plan, the Secretary, acting through the management entity, may use amounts made available under this section to—

(A) make grants to the State or a political subdivision of the State, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the State or a political subdivision of the State, nonprofit organizations, and other interested parties;

(C) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, fundraising, heritage facility planning and development, and heritage tourism programming;

(D) obtain funds or services from any source, including funds or services that are provided under any other Federal law or program;

(E) enter into contracts for goods or services; and

(F) to facilitate the conduct of other projects and activities that further the Heritage Area and are consistent with the approved management plan.

(3) DUTIES.—The management entity shall—

(A) in accordance with subsection (d), prepare and submit a management plan for the Heritage Area to the Secretary;

(B) assist units of local government, local property owners and businesses, and nonprofit organizations in carrying out the approved management plan by—

(i) carrying out programs and projects that recognize, protect, enhance, and promote important resource values in the Heritage Area;

(ii) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(iii) developing economic, recreational and educational opportunities in the Heritage Area;

(iv) increasing public awareness of, and appreciation for, historical, cultural, scenic, recreational, agricultural, and natural resources of the Heritage Area;

(v) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with Heritage Area themes;

(vi) ensuring that clear, consistent, and appropriate signs identifying points of public access, and sites of interest are posted throughout the Heritage Area;

(vii) promoting a wide range of partnerships among governments, organizations, and individuals to further the Heritage Area; and

(viii) planning and developing new heritage attractions, products and services;

(C) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(D) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(E) for any year for which Federal funds have been received under this section—

(i) submit to the Secretary an annual report that describes the activities, expenses, and income of the management entity (including grants to any other entities during the year that the report is made);

(ii) make available to the Secretary for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(iii) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the organizations receiving the funds make available to the Secretary for audit all records concerning the expenditure of the funds; and

(F) encourage by appropriate means economic viability that is consistent with the Heritage Area.

(4) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using any assistance made available under this section shall be 50 percent.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity, with public participation, shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan shall—

(A) incorporate an integrated and cooperative approach for the protection, enhancement, interpretation, development, and promotion of the historical, cultural, scenic, recreational, agricultural, and natural resources of the Heritage Area;

(B) take into consideration State and local plans;

(C) include—

(i) an inventory of—

(I) the resources located within the areas included in the map; and

(II) any other eligible and participating property within the areas included in the map that—

(aa) is related to the themes of the Heritage Area; and

(bb) should be preserved, restored, managed, maintained, developed, or promoted because of the significance of the property;

(ii) comprehensive policies, strategies, and recommendations for conservation, funding, management, development, and promotion of the Heritage Area;

(iii) a description of actions that governments, private organizations, and individuals have agreed to take to manage protect the historical, cultural, scenic, recreational, agricultural, and natural resources of the Heritage Area;

(iv) a program of implementation for the management plan by the management entity that includes a description of—

(I) actions to facilitate ongoing and effective collaboration among partners to promote plans for resource protection, enhancement, interpretation, restoration, and construction; and

(II) specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of operation;

(v) the identification of sources of funding for carrying out the management plan;

(vi) an analysis of and recommendations for means by which Federal, State, and local programs, including the role of the National Park Service in the Heritage Area, may best be coordinated to carry out this section; and

(vii) an interpretive plan for the Heritage Area; and

(D) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the historical, cultural, scenic, recreational, agricultural, and natural resources of the Heritage Area.

(3) DEADLINE.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date of enactment of this Act, the management entity shall be ineligible to receive additional funding under this section until the date on which the Secretary receives and approves the management plan.

(4) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan under paragraph (1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(B) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historical resource protection organizations, educational institutions, local businesses and industries, community organizations, recreational organizations, and tourism organizations;

(ii) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan; and

(iii) strategies contained in the management plan, if implemented, would adequately balance the voluntary protection, development, and interpretation of the natural, historical, cultural, scenic, recreational, and agricultural resources of the Heritage Area.

(C) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under subparagraph (A), the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) not later than 180 days after the receipt of any proposed revision of the management plan from the management entity, approve or disapprove the proposed revision.

(D) AMENDMENTS.—

(i) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines makes a substantial change to the management plan.

(ii) USE OF FUNDS.—The management entity shall not use Federal funds authorized by this section to carry out any amendments to the management plan until the Secretary has approved the amendments.

(e) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity to the maximum extent practicable.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(f) PRIVATE PROPERTY AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to the management entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(g) EVALUATION; REPORT.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(A) conduct an evaluation of the accomplishments of the Heritage Area; and

(B) prepare a report in accordance with paragraph (3).

(2) EVALUATION.—An evaluation conducted under paragraph (1)(A) shall—

(A) assess the progress of the management entity with respect to—

(i) accomplishing the purposes of this section for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(3) REPORT.—

(A) IN GENERAL.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(B) REQUIRED ANALYSIS.—If the report prepared under subparagraph (A) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(i) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(ii) the appropriate time period necessary to achieve the recommended reduction or elimination.

(C) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(i) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8004. NORTHERN PLAINS NATIONAL HERITAGE AREA, NORTH DAKOTA.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Northern Plains National Heritage Area established by subsection (b)(1).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Northern Plains Heritage Foundation, the local coordinating entity for the Heritage Area designated by subsection (c)(1).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under subsection (d).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of North Dakota.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Northern Plains National Heritage Area in the State of North Dakota.

(2) BOUNDARIES.—The Heritage Area shall consist of—

(A) a core area of resources in Burleigh, McLean, Mercer, Morton, and Oliver Counties in the State; and

(B) any sites, buildings, and districts within the core area recommended by the management plan for inclusion in the Heritage Area.

(3) MAP.—A map of the Heritage Area shall be—

(A) included in the management plan; and

(B) on file and available for public inspection in the appropriate offices of the local coordinating entity and the National Park Service.

(c) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The local coordinating entity for the Heritage Area shall be the Northern Plains Heritage Foundation, a nonprofit corporation established under the laws of the State.

(2) DUTIES.—To further the purposes of the Heritage Area, the Northern Plains Heritage Foundation, as the local coordinating entity, shall—

(A) prepare a management plan for the Heritage Area, and submit the management plan to the Secretary, in accordance with this section;

(B) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this section, specifying—

(i) the specific performance goals and accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(v) grants made to any other entities during the fiscal year;

(C) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this section, all information pertaining to the expenditure of the funds and any matching funds; and

(D) encourage economic viability and sustainability that is consistent with the purposes of the Heritage Area.

(3) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the Heritage Area, the local coordinating entity may use Federal funds made available under this section to—

(A) make grants to political jurisdictions, nonprofit organizations, and other parties within the Heritage Area;

(B) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(C) hire and compensate staff, including individuals with expertise in—

(i) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(ii) economic and community development; and

(iii) heritage planning;

(D) obtain funds or services from any source, including other Federal programs;

(E) contract for goods or services; and

(F) support activities of partners and any other activities that further the purposes of the Heritage Area and are consistent with the approved management plan.

(4) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized to be appropriated under this section to acquire any interest in real property.

(5) OTHER SOURCES.—Nothing in this section precludes the local coordinating entity from using Federal funds from other sources for authorized purposes.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan for the Heritage Area shall—

(A) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the Heritage Area;

(B) include a description of actions and commitments that Federal, State, tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area;

(C) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the Heritage Area;

(D) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the national importance and themes of the Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(E) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area;

(F) describe a program for implementation for the management plan, including—

(i) performance goals;

(ii) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(iii) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, tribal, or local government agency, organization, business, or individual;

(G) include an analysis of, and recommendations for, means by which Federal, State, tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the Heritage Area) to further the purposes of this section; and

(H) include a business plan that—

(i) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities described in the management plan; and

(ii) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(3) DEADLINE.—

(A) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation of the Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(B) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with subparagraph (A), the local coordinating entity shall not qualify for any additional financial assistance under this section until such time as the management plan is submitted to and approved by the Secretary.

(4) APPROVAL OF MANAGEMENT PLAN.—

(A) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for the Heritage Area on the basis of the criteria established under subparagraph (B).

(B) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for the Heritage Area, the Secretary shall consider whether—

(i) the local coordinating entity represents the diverse interests of the Heritage Area, including Federal, State, tribal, and local governments, natural, and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(ii) the local coordinating entity—

(I) has afforded adequate opportunity for public and Federal, State, tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(II) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(iii) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(iv) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(v) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(vi) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local elements of the management plan; and

(vii) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(C) DISAPPROVAL.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(I) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(II) may make recommendations to the local coordinating entity for revisions to the management plan.

(ii) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(D) AMENDMENTS.—

(i) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(ii) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized to be appropriated by this section to implement an amendment to the management plan until the Secretary approves the amendment.

(E) AUTHORITIES.—The Secretary may—

(i) provide technical assistance under this section for the development and implementation of the management plan; and

(ii) enter into cooperative agreements with interested parties to carry out this section.

(e) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide financial assistance and, on a reimbursable or nonreimbursable basis, technical assistance to the local coordinating entity to develop and implement the management plan.

(B) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to provide technical or financial assistance under subparagraph (A).

(C) PRIORITY.—In assisting the Heritage Area, the Secretary shall give priority to actions that assist in—

(i) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(ii) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(4) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies or alters any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(f) PRIVATE PROPERTY AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to—

(A) permit public access (including access by Federal, State, or local agencies) to the property of the property owner; or

(B) modify public access to, or use of, the property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, tribal, or local agency;

(4) conveys any land use or other regulatory authority to the local coordinating entity;

(5) authorizes or implies the reservation or appropriation of water or water rights;

(6) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(7) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(g) EVALUATION; REPORT.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under subsection (i), the Secretary shall—

(A) conduct an evaluation of the accomplishments of the Heritage Area; and

(B) prepare a report in accordance with paragraph (3).

(2) EVALUATION.—An evaluation conducted under paragraph (1)(A) shall—

(A) assess the progress of the local coordinating entity with respect to—

(i) accomplishing the purposes of this section for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(3) REPORT.—

(A) IN GENERAL.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(B) REQUIRED ANALYSIS.—If the report prepared under subparagraph (A) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(i) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(ii) the appropriate time period necessary to achieve the recommended reduction or elimination.

(C) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(2) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total cost of any activity under this section shall be not more than 50 percent.

(B) FORM.—The non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

(i) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8005. BALTIMORE NATIONAL HERITAGE AREA, MARYLAND.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Baltimore National Heritage Area, established by subsection (b)(1).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by subsection (b)(4).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under subsection (c)(1)(A).

(4) MAP.—The term ''map'' means the map entitled ''Baltimore National Heritage Area'', numbered T10/80,000, and dated October 2007.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Maryland.

(b) BALTIMORE NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established the Baltimore National Heritage Area in the State.

(2) BOUNDARIES.—The Heritage Area shall be comprised of the following areas, as described on the map:

(A) The area encompassing the Baltimore City Heritage Area certified by the Maryland Heritage Areas Authority in October 2001 as part of the Baltimore City Heritage Area Management Action Plan.

(B) The Mount Auburn Cemetery.

(C) The Cylburn Arboretum.

(D) The Middle Branch of the Patapsco River and surrounding shoreline, including—

(i) the Cruise Maryland Terminal;

(ii) new marina construction;

(iii) the National Aquarium Aquatic Life Center;

(iv) the Westport Redevelopment;

(v) the Gwynns Falls Trail;

(vi) the Baltimore Rowing Club; and

(vii) the Masonville Cove Environmental Center.

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Baltimore Heritage Area Association.

(4) LOCAL COORDINATING ENTITY.—The Baltimore Heritage Area Association shall be the local coordinating entity for the Heritage Area.

(c) DUTIES AND AUTHORITIES OF LOCAL COORDINATING ENTITY.—

(1) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(A) prepare, and submit to the Secretary, in accordance with subsection (d), a management plan for the Heritage Area;

(B) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(i) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Area;

(ii) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(iii) developing recreational and educational opportunities in the Heritage Area;

(iv) increasing public awareness of, and appreciation for, natural, historic, scenic, and cultural resources of the Heritage Area;

(v) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with the themes of the Heritage Area;

(vi) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(vii) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(C) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(D) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(E) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this section specifying—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(v) grants made to any other entities during the fiscal year;

(F) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this section, all information pertaining to the expenditure of the funds and any matching funds;

(G) require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for audit all records and other information pertaining to the expenditure of the funds; and

(H) encourage, by appropriate means, economic development that is consistent with the purposes of the Heritage Area.

(2) AUTHORITIES.—The local coordinating entity may, subject to the prior approval of the Secretary, for the purposes of preparing and implementing the management plan, use Federal funds made available under this section to—

(A) make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the State, political subdivisions of the State, nonprofit organizations, Federal agencies, and other interested parties;

(C) hire and compensate staff;

(D) obtain funds or services from any source, including funds and services provided under any other Federal law or program;

(E) contract for goods or services; and

(F) support activities of partners and any other activities that further the purposes of the Heritage Area and are consistent with the approved management plan.

(3) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds received under this section to acquire any interest in real property.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to develop the management plan, the local coordinating entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan for the Heritage Area shall—

(A) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the region and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the Heritage Area;

(B) take into consideration existing State, county, and local plans in the development and implementation of the management plan;

(C) include a description of actions and commitments that governments, private organizations, and citizens plan to take to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the Heritage Area;

(D) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the Heritage Area;

(E) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the stories and themes of the region that should be protected, enhanced, managed, or developed;

(F) recommend policies and strategies for resource management including, the development of intergovernmental and interagency agreements to protect the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(G) describe a program for implementation of the management plan, including—

(i) performance goals;

(ii) plans for resource protection, enhancement, and interpretation; and

(iii) specific commitments for implementation that have been made by the local coordinating entity or any government, organization, business, or individual;

(H) include an analysis of, and recommendations for, ways in which Federal, State, tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the Heritage Area) to further the purposes of this section;

(I) include an interpretive plan for the Heritage Area; and

(J) include a business plan that—

(i) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities described in the management plan; and

(ii) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(3) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this section, the local coordinating entity shall not qualify for additional financial assistance under this section until the management plan is submitted to, and approved by, the Secretary.

(4) APPROVAL OF MANAGEMENT PLAN.—

(A) REVIEW.—Not later than 180 days after the date on which the Secretary receives the management plan, the Secretary shall approve or disapprove the management plan.

(B) CONSULTATION REQUIRED.—The Secretary shall consult with the Governor of the State and any tribal government in which the Heritage Area is located before approving the management plan.

(C) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the local coordinating entity represents the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, community residents, and recreational organizations;

(ii) the local coordinating entity has afforded adequate opportunity for public and governmental involvement (including through workshops and public meetings) in the preparation of the management plan;

(iii) the resource protection and interpretation strategies described in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area;

(iv) the management plan would not adversely affect any activities authorized on Federal or tribal land under applicable laws or land use plans;

(v) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local aspects of the management plan; and

(vi) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the management plan.

(D) ACTION FOLLOWING DISAPPROVAL.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(I) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(II) may make recommendations to the local coordinating entity for revisions to the management plan.

(ii) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(E) AMENDMENTS.—

(i) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(ii) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized to be appropriated by this section to implement an amendment to the management plan until the Secretary approves the amendment.

(e) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance, on a reimbursable or nonreimbursable basis (as determined by the Secretary), to the local coordinating entity to develop and implement the management plan.

(B) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to provide technical or financial assistance under subparagraph (A).

(C) PRIORITY.—In assisting the Heritage Area, the Secretary shall give priority to actions that assist in—

(i) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(ii) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(2) EVALUATION; REPORT.—

(A) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under subsection (i), the Secretary shall—

(i) conduct an evaluation of the accomplishments of the Heritage Area; and

(ii) prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area, in accordance with subparagraph (C).

(B) EVALUATION.—An evaluation conducted under subparagraph (A)(i) shall—

(i) assess the progress of the local coordinating entity with respect to—

(I) accomplishing the purposes of this section for the Heritage Area; and

(II) achieving the goals and objectives of the approved management plan for the Heritage Area;

(ii) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(iii) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(C) REPORT.—

(i) IN GENERAL.—Based on the evaluation conducted under subparagraph (A)(i), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(ii) REQUIRED ANALYSIS.—If the report prepared under this subparagraph recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(I) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(II) the appropriate time period necessary to achieve the recommended reduction or elimination.

(iii) SUBMISSION TO CONGRESS.—On completion of a report under this subparagraph, the Secretary shall submit the report to—

(I) the Committee on Energy and Natural Resources of the Senate; and

(II) the Committee on Natural Resources of the House of Representatives.

(f) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(g) PROPERTY OWNERS AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to—

(A) permit public access (including Federal, tribal, State, or local government access) to the property; or

(B) modify any provisions of Federal, tribal, State, or local law with regard to public access or use of private land;

(3) alters any duly adopted land use regulations, approved land use plan, or any other regulatory authority of any Federal, State, or local agency, or tribal government;

(4) conveys any land use or other regulatory authority to the local coordinating entity;

(5) authorizes or implies the reservation or appropriation of water or water rights;

(6) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(7) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(2) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total cost of any activity under this section shall be not more than 50 percent.

(B) FORM.—The non-Federal contribution—

(i) shall be from non-Federal sources; and

(ii) may be in the form of in-kind contributions of goods or services fairly valued.

(i) TERMINATION OF EFFECTIVENESS.—The authority of the Secretary to provide assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8006. FREEDOM'S WAY NATIONAL HERITAGE AREA, MASSACHUSETTS AND NEW HAMPSHIRE.

(a) PURPOSES.—The purposes of this section are—

(1) to foster a close working relationship between the Secretary and all levels of government, the private sector, and local communities in the States of Massachusetts and New Hampshire;

(2) to assist the entities described in paragraph (1) to preserve the special historic identity of the Heritage Area; and

(3) to manage, preserve, protect, and interpret the cultural, historic, and natural resources of the Heritage Area for the educational and inspirational benefit of future generations.

(b) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Freedom's Way National Heritage Area established by subsection (c)(1).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by subsection (c)(4).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under subsection (d)(1)(A).

(4) MAP.—The term ''map'' means the map entitled ''Freedom's Way National Heritage Area'', numbered T04/80,000, and dated July 2007.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Freedom's Way National Heritage Area in the States of Massachusetts and New Hampshire.

(2) BOUNDARIES.—

(A) IN GENERAL.—The boundaries of the Heritage Area shall be as generally depicted on the map.

(B) REVISION.—The boundaries of the Heritage Area may be revised if the revision is—

(i) proposed in the management plan;

(ii) approved by the Secretary in accordance with subsection (e)(4); and

(iii) placed on file in accordance with paragraph (3).

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the local coordinating entity.

(4) LOCAL COORDINATING ENTITY.—The Freedom's Way Heritage Association, Inc., shall be the local coordinating entity for the Heritage Area.

(d) DUTIES AND AUTHORITIES OF LOCAL COORDINATING ENTITY.—

(1) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(A) prepare, and submit to the Secretary, in accordance with subsection (e), a management plan for the Heritage Area;

(B) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(i) carrying out programs and projects that recognize and protect important resource values within the Heritage Area;

(ii) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(iii) developing recreational and educational opportunities in the Heritage Area;

(iv) increasing public awareness of, and appreciation for, natural, historic, and cultural resources of the Heritage Area;

(v) protecting and restoring historic buildings in the Heritage Area that are consistent with the themes of the Heritage Area; and

(vi) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area;

(C) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(D) conduct meetings open to the public at least quarterly regarding the development and implementation of the management plan;

(E) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this section specifying—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(v) grants made to any other entities during the fiscal year;

(F) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this section, all information pertaining to the expenditure of the funds and any matching funds;

(G) require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for audit all records and other information pertaining to the expenditure of the funds; and

(H) encourage, by appropriate means, economic development that is consistent with the purposes of the Heritage Area.

(2) AUTHORITIES.—The local coordinating entity may, subject to the prior approval of the Secretary, for the purposes of preparing and implementing the management plan, use Federal funds made available under this section to—

(A) make grants to the States of Massachusetts and New Hampshire, political subdivisions of the States, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the States of Massachusetts and New Hampshire, political subdivisions of the States, nonprofit organizations, Federal agencies, and other interested parties;

(C) hire and compensate staff;

(D) obtain funds or services from any source, including funds and services provided under any other Federal law or program;

(E) contract for goods or services; and

(F) support activities of partners and any other activities that further the purposes of the Heritage Area and are consistent with the approved management plan.

(3) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds received under this section to acquire any interest in real property.

(4) USE OF FUNDS FOR NON-FEDERAL PROPERTY.—The local coordinating entity may use Federal funds made available under this section to assist non-Federal property that is—

(A) described in the management plan; or

(B) listed, or eligible for listing, on the National Register of Historic Places.

(e) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to develop the management plan, the local coordinating entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan for the Heritage Area shall—

(A) describe comprehensive policies, goals, strategies, and recommendations for the conservation, funding, management, and development of the Heritage Area;

(B) take into consideration existing State, county, and local plans in the development and implementation of the management plan;

(C) provide a framework for coordination of the plans considered under subparagraph (B) to present a unified historic preservation and interpretation plan;

(D) contain the contributions of residents, public agencies, and private organizations within the Heritage Area;

(E) include a description of actions and commitments that governments, private organizations, and citizens plan to take to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the Heritage Area;

(F) specify existing and potential sources of funding or economic development strategies to conserve, manage, and develop the Heritage Area;

(G) include an inventory of the natural, historic, and recreational resources of the Heritage Area, including a list of properties that—

(i) are related to the themes of the Heritage Area; and

(ii) should be conserved, restored, managed, developed, or maintained;

(H) recommend policies and strategies for resource management that—

(i) apply appropriate land and water management techniques;

(ii) include the development of intergovernmental and interagency agreements to protect the natural, historic, and cultural resources of the Heritage Area; and

(iii) support economic revitalization efforts;

(I) describe a program for implementation of the management plan, including—

(i) restoration and construction plans or goals;

(ii) a program of public involvement;

(iii) annual work plans; and

(iv) annual reports;

(J) include an analysis of, and recommendations for, ways in which Federal, State, tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the Heritage Area) to further the purposes of this section;

(K) include an interpretive plan for the Heritage Area; and

(L) include a business plan that—

(i) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities described in the management plan; and

(ii) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(3) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this section, the local coordinating entity shall not qualify for additional financial assistance under this

section until the management plan is submitted to, and approved by, the Secretary.

(4) APPROVAL OF MANAGEMENT PLAN.—

(A) REVIEW.—Not later than 180 days after the date on which the Secretary receives the management plan, the Secretary shall approve or disapprove the management plan.

(B) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the local coordinating entity represents the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, community residents, and recreational organizations;

(ii) the local coordinating entity has afforded adequate opportunity for public and governmental involvement (including through workshops and public meetings) in the preparation of the management plan;

(iii) the resource protection and interpretation strategies described in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area;

(iv) the management plan would not adversely affect any activities authorized on Federal or tribal land under applicable laws or land use plans;

(v) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local aspects of the management plan; and

(vi) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the management plan.

(C) ACTION FOLLOWING DISAPPROVAL.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(I) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(II) may make recommendations to the local coordinating entity for revisions to the management plan.

(ii) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(D) AMENDMENTS.—

(i) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(ii) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized to be appropriated by this section to implement an amendment to the management plan until the Secretary approves the amendment.

(f) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance, on a reimbursable or nonreimbursable basis (as determined by the Secretary), to the local coordinating entity to develop and implement the management plan.

(B) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to provide technical or financial assistance under subparagraph (A).

(C) PRIORITY.—In assisting the Heritage Area, the Secretary shall give priority to actions that assist in—

(i) conserving the significant natural, historic, and cultural resources of the Heritage Area; and

(ii) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(2) EVALUATION; REPORT.—

(A) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under subsection (j), the Secretary shall—

(i) conduct an evaluation of the accomplishments of the Heritage Area; and

(ii) prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area, in accordance with subparagraph (C).

(B) EVALUATION.—An evaluation conducted under subparagraph (A)(i) shall—

(i) assess the progress of the local coordinating entity with respect to—

(I) accomplishing the purposes of this section for the Heritage Area; and

(II) achieving the goals and objectives of the approved management plan for the Heritage Area;

(ii) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(iii) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(C) REPORT.—

(i) IN GENERAL.—Based on the evaluation conducted under subparagraph (A)(i), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(ii) REQUIRED ANALYSIS.—If the report prepared under this subparagraph recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(I) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(II) the appropriate time period necessary to achieve the recommended reduction or elimination.

(iii) SUBMISSION TO CONGRESS.—On completion of a report under this subparagraph, the Secretary shall submit the report to—

(I) the Committee on Energy and Natural Resources of the Senate; and

(II) the Committee on Natural Resources of the House of Representatives.

(g) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(h) PROPERTY OWNERS AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to—

(A) permit public access (including Federal, tribal, State, or local government access) to the property; or

(B) modify any provisions of Federal, tribal, State, or local law with regard to public access or use of private land;

(3) alters any duly adopted land use regulations, approved land use plan, or any other regulatory authority of any Federal, State, or local agency, or tribal government;

(4) conveys any land use or other regulatory authority to the local coordinating entity;

(5) authorizes or implies the reservation or appropriation of water or water rights;

(6) diminishes the authority of the States of Massachusetts and New Hampshire to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(7) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

(3) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total cost of any activity under this section shall be not more than 50 percent.

(B) FORM.—The non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

(j) TERMINATION OF FINANCIAL ASSISTANCE.—The authority of the Secretary to provide financial assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8007. MISSISSIPPI HILLS NATIONAL HERITAGE AREA.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Mississippi Hills National Heritage Area established by subsection (b)(1).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for Heritage Area designated by subsection (b)(3)(A).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under subsection (c)(1)(A).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Mississippi.

(b) MISSISSIPPI HILLS NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established the Mississippi Hills National Heritage Area in the State.

(2) BOUNDARIES.—

(A) AFFECTED COUNTIES.—The Heritage Area shall consist of all, or portions of, as specified by the boundary description in subparagraph (B), Alcorn, Attala, Benton, Calhoun, Carroll, Chickasaw, Choctaw, Clay, DeSoto, Grenada, Holmes, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Montgomery, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Union, Webster, Winston, and Yalobusha Counties in the State.

(B) BOUNDARY DESCRIPTION.—The Heritage Area shall have the following boundary description:

(i) traveling counterclockwise, the Heritage Area shall be bounded to the west by U.S. Highway 51 from the Tennessee State line until it intersects Interstate 55 (at Geeslin Corner approximately ½ mile due north of Highway Interchange 208);

(ii) from this point, Interstate 55 shall be the western boundary until it intersects with Mississippi Highway 12 at Highway Interchange 156, the intersection of which shall be the southwest terminus of the Heritage Area;

(iii) from the southwest terminus, the boundary shall—

(I) extend east along Mississippi Highway 12 until it intersects U.S. Highway 51;

(II) follow Highway 51 south until it is intersected again by Highway 12;

(III) extend along Highway 12 into downtown Kosciusko where it intersects Mississippi Highway 35;

(IV) follow Highway 35 south until it is intersected by Mississippi Highway 14; and

(V) extend along Highway 14 until it reaches the Alabama State line, the intersection of which shall be the southeast terminus of the Heritage Area;

(iv) from the southeast terminus, the boundary of the Heritage Area shall follow the Mississippi-Alabama State line until it reaches the Mississippi-Tennessee State line, the intersection of which shall be the northeast terminus of the Heritage Area; and

(v) the boundary shall extend due west until it reaches U.S. Highway 51, the intersection of which shall be the northwest terminus of the Heritage Area.

(3) LOCAL COORDINATING ENTITY.—

(A) IN GENERAL.—The local coordinating entity for the Heritage Area shall be the Mississippi Hills Heritage Area Alliance, a nonprofit organization registered by the State, with the cooperation and support of the University of Mississippi.

(B) BOARD OF DIRECTORS.—

(i) IN GENERAL.—The local coordinating entity shall be governed by a Board of Directors comprised of not more than 30 members.

(ii) COMPOSITION.—Members of the Board of Directors shall consist of—

(I) not more than 1 representative from each of the counties described in paragraph (2)(A); and

(II) any ex-officio members that may be appointed by the Board of Directors, as the Board of Directors determines to be necessary.

(c) DUTIES AND AUTHORITIES OF LOCAL COORDINATING ENTITY.—

(1) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(A) prepare, and submit to the Secretary, in accordance with subsection (d), a management plan for the Heritage Area;

(B) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(i) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(ii) developing recreational opportunities in the Heritage Area;

(iii) increasing public awareness of, and appreciation for, natural, historical, cultural, archaeological, and recreational resources of the Heritage Area;

(iv) restoring historic sites and buildings in the Heritage Area that are consistent with the themes of the Heritage Area; and

(v) carrying out any other activity that the local coordinating entity determines to be consistent with this section;

(C) conduct meetings open to the public at least annually regarding the development and implementation of the management plan;

(D) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this section specifying—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(v) grants made to any other entities during the fiscal year;

(E) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this section, all information pertaining to the expenditure of the funds and any matching funds;

(F) require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for audit all records and other information pertaining to the expenditure of the funds; and

(G) ensure that each county included in the Heritage Area is appropriately represented on any oversight advisory committee established under this section to coordinate the Heritage Area.

(2) AUTHORITIES.—The local coordinating entity may, subject to the prior approval of the Secretary, for the purposes of preparing and implementing the management plan, use Federal funds made available under this section to—

(A) make grants and loans to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(C) hire and compensate staff;

(D) obtain funds or services from any source, including funds and services provided under any other Federal law or program; and

(E) contract for goods or services.

(3) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds received under this section to acquire any interest in real property.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to develop the management plan, the local coordinating entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan for the Heritage Area shall—

(A) provide recommendations for the preservation, conservation, enhancement, funding, management, interpretation, development, and promotion of the cultural, historical, archaeological, natural, and recreational resources of the Heritage Area;

(B) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the Heritage Area;

(C) include—

(i) an inventory of the natural, historical, cultural, archaeological, and recreational resources of the Heritage Area; and

(ii) an analysis of how Federal, State, tribal, and local programs may best be coordinated to promote and carry out this section;

(D) provide recommendations for educational and interpretive programs to provide information to the public on the resources of the Heritage Area; and

(E) involve residents of affected communities and tribal and local governments.

(3) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this subsection, the local coordinating entity shall not qualify for additional financial assistance under this section until the management plan is submitted to, and approved by, the Secretary.

(4) APPROVAL OF MANAGEMENT PLAN.—

(A) REVIEW.—Not later than 180 days after the date on which the Secretary receives the management plan, the Secretary shall approve or disapprove the management plan.

(B) CONSULTATION REQUIRED.—The Secretary shall consult with the Governor of the State and any tribal government in which the Heritage Area is located before approving the management plan.

(C) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the local coordinating entity represents the diverse interests of the Heritage Area, including governments, natural and historical resource protection organizations, educational institutions, businesses, community residents, and recreational organizations;

(ii) the local coordinating entity has afforded adequate opportunity for public and governmental involvement (including through workshops and public meetings) in the preparation of the management plan;

(iii) the resource protection and interpretation strategies described in the management plan, if implemented, would adequately protect the natural, historical, cultural, archaeological, and recreational resources of the Heritage Area;

(iv) the management plan would not adversely affect any activities authorized on Federal or tribal land under applicable laws or land use plans;

(v) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local aspects of the management plan; and

(vi) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the management plan.

(D) ACTION FOLLOWING DISAPPROVAL.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(I) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(II) may make recommendations to the local coordinating entity for revisions to the management plan.

(ii) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(E) REVIEW; AMENDMENTS.—

(i) IN GENERAL.—After approval by the Secretary of the management plan, the Alliance shall periodically—

(I) review the management plan; and

(II) submit to the Secretary, for review and approval by the Secretary, any recommendations for revisions to the management plan.

(ii) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(iii) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized to be appropriated by this section to implement an amendment to the management plan until the Secretary approves the amendment.

(e) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance, on a reimbursable or nonreimbursable basis (as determined by the Secretary), to the local coordinating entity to develop and implement the management plan.

(B) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to provide technical or financial assistance under subparagraph (A).

(C) PRIORITY.—In assisting the Heritage Area, the Secretary shall give priority to actions that assist in—

(i) conserving the significant natural, historical, cultural, archaeological, and recreational resources of the Heritage Area; and

(ii) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(2) EVALUATION; REPORT.—

(A) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under subsection (i), the Secretary shall—

(i) conduct an evaluation of the accomplishments of the Heritage Area; and

(ii) prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area, in accordance with subparagraph (C).

(B) EVALUATION.—An evaluation conducted under subparagraph (A)(i) shall—

(i) assess the progress of the local coordinating entity with respect to—

(I) accomplishing the purposes of this section for the Heritage Area; and

(II) achieving the goals and objectives of the approved management plan for the Heritage Area;

(ii) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(iii) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(C) REPORT.—

(i) IN GENERAL.—Based on the evaluation conducted under subparagraph (A)(i), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(ii) REQUIRED ANALYSIS.—If the report prepared under this subparagraph recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(I) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(II) the appropriate time period necessary to achieve the recommended reduction or elimination.

(iii) SUBMISSION TO CONGRESS.—On completion of a report under this subparagraph, the Secretary shall submit the report to—

(I) the Committee on Energy and Natural Resources of the Senate; and

(II) the Committee on Natural Resources of the House of Representatives.

(f) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(g) EFFECT.—

(1) PROPERTY OWNERS AND REGULATORY PROTECTIONS.—Nothing in this section—

(A) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(B) requires any property owner to—

(i) permit public access (including Federal, tribal, State, or local government access) to the property; or

(ii) modify any provisions of Federal, tribal, State, or local law with regard to public access or use of private land;

(C) alters any duly adopted land use regulations, approved land use plan, or any other regulatory authority of any Federal, State, or local agency, or tribal government;

(D) conveys any land use or other regulatory authority to the local coordinating entity;

(E) authorizes or implies the reservation or appropriation of water or water rights;

(F) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(G) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(2) NO EFFECT ON INDIAN TRIBES.—Nothing in this section—

(A) restricts an Indian tribe from protecting cultural or religious sites on tribal land; or

(B) diminishes the trust responsibilities or government-to-government obligations of the United States to any Indian tribe recognized by the Federal Government.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(3) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total cost of any activity under this section shall be not more than 50 percent.

(B) FORM.—The non-Federal contribution—

(i) shall be from non-Federal sources; and

(ii) may be in the form of in-kind contributions of goods or services fairly valued.

(i) TERMINATION OF FINANCIAL ASSISTANCE.—The authority of the Secretary to provide financial assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8008. MISSISSIPPI DELTA NATIONAL HERITAGE AREA.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the Board of Directors of the local coordinating entity.

(2) HERITAGE AREA.—The term ''Heritage Area'' means the Mississippi Delta National Heritage Area established by subsection (b)(1).

(3) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by subsection (b)(4)(A).

(4) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area developed under subsection (d).

(5) MAP.—The term ''map'' means the map entitled ''Mississippi Delta National Heritage Area'', numbered T13/80,000, and dated April 2008.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STATE.—The term ''State'' means the State of Mississippi.

(b) ESTABLISHMENT.—

(1) ESTABLISHMENT.—There is established in the State the Mississippi Delta National Heritage Area.

(2) BOUNDARIES.—The Heritage Area shall include all counties in the State that contain land located in the alluvial floodplain of the Mississippi Delta, including Bolivar, Carroll, Coahoma, Desoto, Holmes, Humphreys, Issaquena, Leflore, Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica, Warren, Washington, and Yazoo Counties in the State, as depicted on the map.

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(4) LOCAL COORDINATING ENTITY.—

(A) DESIGNATION.—The Mississippi Delta National Heritage Area Partnership shall be the local coordinating entity for the Heritage Area.

(B) BOARD OF DIRECTORS.—

(i) COMPOSITION.—

(I) IN GENERAL.—The local coordinating entity shall be governed by a Board of Directors composed of 15 members, of whom—

(aa) 1 member shall be appointed by Delta State University;

(bb) 1 member shall be appointed by Mississippi Valley State University;

(cc) 1 member shall be appointed by Alcorn State University;

(dd) 1 member shall be appointed by the Delta Foundation;

(ee) 1 member shall be appointed by the Smith Robertson Museum;

(ff) 1 member shall be appointed from the office of the Governor of the State;

(gg) 1 member shall be appointed by Delta Council;

(hh) 1 member shall be appointed from the Mississippi Arts Commission;

(ii) 1 member shall be appointed from the Mississippi Department of Archives and History;

(jj) 1 member shall be appointed from the Mississippi Humanities Council; and

(kk) up to 5 additional members shall be appointed for staggered 1- and 2-year terms by County boards in the Heritage Area.

(II) RESIDENCY REQUIREMENTS.—At least 7 members of the Board shall reside in the Heritage Area.

(ii) OFFICERS.—

(I) IN GENERAL.—At the initial meeting of the Board, the members of the Board shall appoint a Chairperson, Vice Chairperson, and Secretary/Treasurer.

(II) DUTIES.—

(aa) CHAIRPERSON.—The duties of the Chairperson shall include—

(AA) presiding over meetings of the Board;

(BB) executing documents of the Board; and

(CC) coordinating activities of the Heritage Area with Federal, State, local, and nongovernmental officials.

(bb) VICE CHAIRPERSON.—The Vice Chairperson shall act as Chairperson in the absence or disability of the Chairperson.

(iii) MANAGEMENT AUTHORITY.—

(I) IN GENERAL.—The Board shall—

(aa) exercise all corporate powers of the local coordinating entity;

(bb) manage the activities and affairs of the local coordinating entity; and

(cc) subject to any limitations in the articles and bylaws of the local coordinating entity, this section, and any other applicable Federal or State law, establish the policies of the local coordinating entity.

(II) STAFF.—The Board shall have the authority to employ any services and staff that are determined to be necessary by a majority vote of the Board.

(iv) BYLAWS.—

(I) IN GENERAL.—The Board may amend or repeal the bylaws of the local coordinating entity at any meeting of the Board by a majority vote of the Board.

(II) NOTICE.—The Board shall provide notice of any meeting of the Board at which an amendment to the bylaws is to be considered that includes the text or a summary of the proposed amendment.

(v) MINUTES.—Not later than 60 days after a meeting of the Board, the Board shall distribute the minutes of the meeting among all Board members and the county supervisors in each county within the Heritage Area.

(c) DUTIES AND AUTHORITIES OF LOCAL COORDINATING ENTITY.—

(1) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(A) prepare, and submit to the Secretary, in accordance with subsection (d), a management plan for the Heritage Area;

(B) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(i) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Area;

(ii) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(iii) developing recreational and educational opportunities in the Heritage Area;

(iv) increasing public awareness of, and appreciation for, natural, historic, scenic, and cultural resources of the Heritage Area;

(v) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with the themes of the Heritage Area;

(vi) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(vii) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(C) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(D) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(E) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this section specifying—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(v) grants made to any other entities during the fiscal year;

(F) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this section, all information pertaining to the expenditure of the funds and any matching funds;

(G) require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for audit all records and other information pertaining to the expenditure of the funds; and

(H) encourage, by appropriate means, economic development that is consistent with the purposes of the Heritage Area.

(2) AUTHORITIES.—The local coordinating entity may, subject to the prior approval of the Secretary, for the purposes of preparing and implementing the management plan, use Federal funds made available under this section to—

(A) make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the State, political subdivisions of the State, nonprofit organizations, Federal agencies, and other interested parties;

(C) hire and compensate staff;

(D) obtain funds or services from any source, including funds and services provided under any other Federal law or program;

(E) contract for goods or services; and

(F) support activities of partners and any other activities that further the purposes of the Heritage Area and are consistent with the approved management plan.

(3) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds received under this section to acquire any interest in real property.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to develop the management plan, the local coordinating entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan for the Heritage Area shall—

(A) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the region and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the Heritage Area;

(B) take into consideration existing State, county, and local plans in the development and implementation of the management plan;

(C) include a description of actions and commitments that governments, private organizations, and citizens plan to take to protect, enhance, and interpret the cultural, historical, archaeological, natural, and recreational resources of the Heritage Area;

(D) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the Heritage Area;

(E) include an inventory of the cultural, historical, archaeological, natural, and recreational resources of the Heritage Area relating to the stories and themes of the region that should be protected, enhanced, managed, or developed;

(F) recommend policies and strategies for resource management including, the development of intergovernmental and interagency agreements to protect the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(G) describe a program for implementation of the management plan, including—

(i) performance goals;

(ii) plans for resource protection, enhancement, and interpretation; and

(iii) specific commitments for implementation that have been made by the local coordinating entity or any government, organization, business, or individual;

(H) include an analysis of, and recommendations for, ways in which Federal, State, tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the Heritage Area) to further the purposes of this section;

(I) include an interpretive plan for the Heritage Area; and

(J) include a business plan that—

(i) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities described in the management plan; and

(ii) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(3) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this subsection, the local coordinating entity shall not qualify for additional financial assistance under this section until the management plan is submitted to, and approved by, the Secretary.

(4) APPROVAL OF MANAGEMENT PLAN.—

(A) REVIEW.—Not later than 180 days after the date on which the Secretary receives the management plan, the Secretary shall approve or disapprove the management plan.

(B) CONSULTATION REQUIRED.—The Secretary shall consult with the Governor of the State and any tribal government in which the Heritage Area is located before approving the management plan.

(C) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the local coordinating entity represents the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, community residents, and recreational organizations;

(ii) the local coordinating entity has afforded adequate opportunity for public and governmental involvement (including through workshops and public meetings) in the preparation of the management plan;

(iii) the resource protection and interpretation strategies described in the management plan, if implemented, would adequately protect the cultural, historical, archaeological, natural, and recreational resources of the Heritage Area;

(iv) the management plan would not adversely affect any activities authorized on Federal or tribal land under applicable laws or land use plans;

(v) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local aspects of the management plan; and

(vi) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the management plan.

(D) ACTION FOLLOWING DISAPPROVAL.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(I) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(II) may make recommendations to the local coordinating entity for revisions to the management plan.

(ii) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(E) AMENDMENTS.—

(i) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(ii) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized to be appropriated by this section to implement an amendment to the management plan until the Secretary approves the amendment.

(e) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance, on a reimbursable or nonreimbursable basis (as determined by the Secretary), to the local coordinating entity to develop and implement the management plan.

(B) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to provide technical or financial assistance under subparagraph (A).

(C) PRIORITY.—In assisting the Heritage Area, the Secretary shall give priority to actions that assist in—

(i) conserving the significant cultural, historical, archaeological, natural, and recreational resources of the Heritage Area; and

(ii) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(D) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the provision of technical or financial assistance under this subsection, require any recipient of the assistance to impose or modify any land use restriction or zoning ordinance.

(2) EVALUATION; REPORT.—

(A) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under subsection (i), the Secretary shall—

(i) conduct an evaluation of the accomplishments of the Heritage Area; and

(ii) prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area, in accordance with subparagraph (C).

(B) EVALUATION.—An evaluation conducted under subparagraph (A)(i) shall—

(i) assess the progress of the local coordinating entity with respect to—

(I) accomplishing the purposes of this section for the Heritage Area; and

(II) achieving the goals and objectives of the approved management plan for the Heritage Area;

(ii) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(iii) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(C) REPORT.—

(i) IN GENERAL.—Based on the evaluation conducted under subparagraph (A)(i), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(ii) REQUIRED ANALYSIS.—If the report prepared under this subparagraph recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(I) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(II) the appropriate time period necessary to achieve the recommended reduction or elimination.

(iii) SUBMISSION TO CONGRESS.—On completion of a report under this subparagraph, the Secretary shall submit the report to—

(I) the Committee on Energy and Natural Resources of the Senate; and

(II) the Committee on Natural Resources of the House of Representatives.

(f) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(g) PROPERTY OWNERS AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to—

(A) permit public access (including Federal, tribal, State, or local government access) to the property; or

(B) modify any provisions of Federal, tribal, State, or local law with regard to public access or use of private land;

(3) alters any duly adopted land use regulations, approved land use plan, or any other regulatory authority of any Federal, State, or local agency, or tribal government;

(4) conveys any land use or other regulatory authority to the local coordinating entity;

(5) authorizes or implies the reservation or appropriation of water or water rights;

(6) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area;

(7) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property;

(8) restricts an Indian tribe from protecting cultural or religious sites on tribal land; or

(9) diminishes the trust responsibilities of government-to-government obligations of the United States of any federally recognized Indian tribe.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(2) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total cost of any activity under this section shall be not more than 50 percent.

(B) FORM.—The non-Federal contribution—

(i) shall be from non-Federal sources; and

(ii) may be in the form of in-kind contributions of goods or services fairly valued.

(i) TERMINATION OF FINANCIAL ASSISTANCE.—The authority of the Secretary to provide financial assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8009. MUSCLE SHOALS NATIONAL HERITAGE AREA, ALABAMA.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve, support, conserve, and interpret the legacy of the region represented by the Heritage Area as described in the feasibility study prepared by the National Park Service;

(2) to promote heritage, cultural, and recreational tourism, and to develop educational and cultural programs for visitors and the general public;

(3) to recognize and interpret important events and geographic locations representing key developments in the growth of the United States, including the Native American, Colonial American, European American, and African American heritage;

(4) to recognize and interpret the manner by which the distinctive geography of the region has shaped the development of the settlement, defense, transportation, commerce, and culture of the region;

(5) to provide a cooperative management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the region to identify, preserve, interpret, and develop the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations; and

(6) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within the Heritage Area.

(b) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Muscle Shoals National Heritage Area established by subsection (c)(1).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Muscle Shoals Regional Center, the local coordinating entity for the Heritage Area designated by subsection (c)(4).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan for the Heritage Area required under subsection (d)(1)(A).

(4) MAP.—The term ''map'' means the map entitled ''Muscle Shoals National Heritage Area'', numbered T08/80,000, and dated October 2007.

(5) STATE.—The term ''State'' means the State of Alabama.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Muscle Shoals National Heritage Area in the State.

(2) BOUNDARIES.—The Heritage Area shall be comprised of the following areas, as depicted on the map:

(A) The Counties of Colbert, Franklin, Lauderdale, Lawrence, Limestone, and Morgan, Alabama.

(B) The Wilson Dam.

(C) The Handy Home.

(D) The birthplace of Helen Keller.

(3) AVAILABILITY MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the local coordinating entity.

(4) LOCAL COORDINATING ENTITY.—The Muscle Shoals Regional Center shall be the local coordinating entity for the Heritage Area.

(d) DUTIES AND AUTHORITIES OF LOCAL COORDINATING ENTITY.—

(1) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(A) prepare, and submit to the Secretary, in accordance with subsection (e), a management plan for the Heritage Area;

(B) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this section specifying—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(v) grants made to any other entities during the fiscal year;

(C) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this section, all information pertaining to the expenditure of the funds and any matching funds;

(D) encourage, by appropriate means, economic development that is consistent with the purposes of the Heritage Area; and

(E) serve as a catalyst for the implementation of projects and programs among diverse partners in the Heritage Area.

(2) AUTHORITIES.—The local coordinating entity may, subject to the prior approval of the Secretary, for the purposes of preparing and implementing the management plan, use Federal funds made available under this section to—

(A) make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(B) enter into cooperative agreements with, or provide technical assistance to, the State, political subdivisions of the State, nonprofit organizations, Federal agencies, and other interested parties;

(C) hire and compensate staff, including individuals with expertise in—

(i) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(ii) economic and community development; and

(iii) heritage planning;

(D) obtain funds or services from any source, including funds and services provided under any other Federal law or program;

(E) contract for goods or services; and

(F) support activities of partners and any other activities that further the purposes of the Heritage Area and are consistent with the approved management plan.

(3) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds received under this section to acquire any interest in real property.

(e) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to develop the management plan, the local coordinating entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(2) REQUIREMENTS.—The management plan for the Heritage Area shall—

(A) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the Heritage Area;

(B) include a description of actions and commitments that Federal, State, tribal, and local governments, private organizations, and citizens plan to take to protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(C) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the Heritage Area;

(D) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the stories and themes of the Heritage Area that should be protected, enhanced, interpreted, managed, funded, or developed;

(E) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(F) describe a program for implementation of the management plan, including—

(i) performance goals;

(ii) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(iii) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, tribal, or local government agency, organization, business, or individual;

(G) include an analysis of, and recommendations for, ways in which Federal, State, tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the Heritage Area) to further the purposes of this section; and

(H) include a business plan that—

(i) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities described in the management plan; and

(ii) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(3) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to develop the management plan, the local coordinating entity shall not qualify for additional financial assistance under this section until the management plan is submitted to, and approved by, the Secretary.

(4) APPROVAL OF MANAGEMENT PLAN.—

(A) REVIEW.—Not later than 180 days after the date on which the Secretary receives the management plan, the Secretary shall approve or disapprove the management plan.

(B) CONSULTATION REQUIRED.—The Secretary shall consult with the Governor of the State in which the Heritage Area is located before approving the management plan.

(C) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(i) the local coordinating entity represents the diverse interests of the Heritage Area, including Federal, State, tribal, and local governments, natural and historic resource protection organizations, educational institutions, businesses, community residents, recreational organizations, and private property owners;

(ii) the local coordinating entity—

(I) has afforded adequate opportunity for public and Federal, State, tribal, and local governmental involvement (including through workshops and public meetings) in the preparation of the management plan; and

(II) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(iii) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, scenic, and recreational resources of the Heritage Area;

(iv) the management plan would not adversely affect any activities authorized on Federal land under applicable laws or land use plans;

(v) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local aspects of the management plan;

(vi) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the management plan; and

(vii) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, tribal, and local governments, regional planning organizations, nonprofit organizations, and private sector parties for implementation of the management plan.

(D) DISAPPROVAL.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(I) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(II) may make recommendations to the local coordinating entity for revisions to the management plan.

(ii) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(E) AMENDMENTS.—

(i) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(ii) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this section to implement an amendment to the management plan until the Secretary approves the amendment.

(F) AUTHORITIES.—The Secretary may—

(i) provide technical assistance under the authority of this section for the development and implementation of the management plan; and

(ii) enter into cooperative agreements with interested parties to carry out this section.

(f) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance, on a reimbursable or nonreimbursable basis (as determined by the Secretary), to the local coordinating entity to develop and implement the management plan.

(B) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to provide technical or financial assistance under subparagraph (A).

(2) EVALUATION; REPORT.—

(A) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under subsection (j), the Secretary shall—

(i) conduct an evaluation of the accomplishments of the Heritage Area; and

(ii) prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area, in accordance with subparagraph (C).

(B) EVALUATION.—An evaluation conducted under subparagraph (A)(i) shall—

(i) assess the progress of the local coordinating entity with respect to—

(I) accomplishing the purposes of this section for the Heritage Area; and

(II) achieving the goals and objectives of the approved management plan for the Heritage Area;

(ii) analyze the Federal, State, tribal, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(iii) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(C) REPORT.—

(i) IN GENERAL.—Based on the evaluation conducted under subparagraph (A)(i), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(ii) REQUIRED ANALYSIS.—If the report prepared under this subparagraph recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(I) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(II) the appropriate time period necessary to achieve the recommended reduction or elimination.

(iii) SUBMISSION TO CONGRESS.—On completion of a report under this subparagraph, the Secretary shall submit the report to—

(I) the Committee on Energy and Natural Resources of the Senate; and

(II) the Committee on Natural Resources of the House of Representatives.

(g) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(2) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(h) PROPERTY OWNERS AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to—

(A) permit public access (including Federal, tribal, State, or local government access) to the property; or

(B) modify any provisions of Federal, tribal, State, or local law with regard to public access or use of private land;

(3) alters any duly adopted land use regulations, approved land use plan, or any other regulatory authority of any Federal, State, or local agency, or tribal government;

(4) conveys any land use or other regulatory authority to the local coordinating entity;

(5) authorizes or implies the reservation or appropriation of water or water rights;

(6) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(7) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

(3) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total cost of any activity under this section shall be not more than 50 percent.

(B) FORM.—The non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

(4) USE OF FEDERAL FUNDS FROM OTHER SOURCES.—Nothing in this section precludes the local coordinating entity from using Federal funds available under provisions of law other than this section for the purposes for which those funds were authorized.

(j) TERMINATION OF EFFECTIVENESS.—The authority of the Secretary to provide financial assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 8010. KENAI MOUNTAINS-TURNAGAIN ARM NATIONAL HERITAGE AREA, ALASKA.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Kenai Mountains-Turnagain Arm National Heritage Area established by subsection (b)(1).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Kenai Mountains-Turnagain Arm Corridor Communities Association.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the Heritage Area, in accordance with this section.

(4) MAP.—The term ''map'' means the map entitled ''Proposed NHA Kenai Mountains Turnagain Arm'' and dated August 7, 2007.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) DESIGNATION OF THE KENAI MOUNTAINS-TURNAGAIN ARM NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established the Kenai Mountains-Turnagain Arm National Heritage Area.

(2) BOUNDARIES.—The Heritage Area shall be comprised of the land in the Kenai Mountains and upper Turnagain Arm region, as generally depicted on the map.

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in—

(A) the appropriate offices of the Forest Service, Chugach National Forest;

(B) the Alaska Regional Office of the National Park Service; and

(C) the office of the Alaska State Historic Preservation Officer.

(c) MANAGEMENT PLAN.—

(1) LOCAL COORDINATING ENTITY.—The local coordinating entity, in partnership with other interested parties, shall develop a management plan for the Heritage Area in accordance with this section.

(2) REQUIREMENTS.—The management plan for the Heritage Area shall—

(A) describe comprehensive policies, goals, strategies, and recommendations for use in—

(i) telling the story of the heritage of the area covered by the Heritage Area; and

(ii) encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the Heritage Area;

(B) include a description of actions and commitments that the Federal Government, State, tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area;

(C) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the Heritage Area;

(D) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the national importance and themes of the Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(E) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area;

(F) describe a program for implementation for the management plan, including—

(i) performance goals;

(ii) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(iii) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, tribal, or local government agency, organization, business, or individual;

(G) include an analysis of, and recommendations for, means by which Federal, State, tribal, and local programs may best be coordinated (including the role of the National Park Service, the Forest Service, and other Federal agencies associated with the Heritage Area) to further the purposes of this section; and

(H) include a business plan that—

(i) describes the role, operation, financing, and functions of the local coordinating entity and each of the major activities contained in the management plan; and

(ii) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(3) DEADLINE.—

(A) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after the date of enactment of this Act, the local coordinating entity shall submit the management plan to the Secretary for approval.

(B) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with subparagraph (A), the local coordinating entity shall not qualify for any additional financial assistance under this section until such time as the management plan is submitted to and approved by the Secretary.

(4) APPROVAL OF MANAGEMENT PLAN.—

(A) REVIEW.—Not later than 180 days after receiving the management plan under paragraph (3), the Secretary shall review and approve or disapprove the management plan for a Heritage Area on the basis of the criteria established under subparagraph (C).

(B) CONSULTATION.—The Secretary shall consult with the Governor of the State in which the Heritage Area is located before approving a management plan for the Heritage Area.

(C) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for the Heritage Area, the Secretary shall consider whether—

(i) the local coordinating entity represents the diverse interests of the Heritage Area, including the Federal Government, State, tribal, and local governments, natural and historical resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(ii) the local coordinating entity—

(I) has afforded adequate opportunity for public and Federal, State, tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(II) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(iii) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area;

(iv) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(v) the local coordinating entity has demonstrated the financial capability, in partnership with other interested parties, to carry out the plan;

(vi) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local elements of the management plan; and

(vii) the management plan demonstrates partnerships among the local coordinating entity, Federal Government, State, tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(D) DISAPPROVAL.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(I) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(II) may make recommendations to the local coordinating entity for revisions to the management plan.

(ii) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(E) AMENDMENTS.—

(i) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(ii) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this section to implement an amendment to the management plan until the Secretary approves the amendment.

(F) AUTHORITIES.—The Secretary may—

(i) provide technical assistance under the authority of this section for the development and implementation of the management plan; and

(ii) enter into cooperative agreements with interested parties to carry out this section.

(d) EVALUATION; REPORT.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under this section, the Secretary shall—

(A) conduct an evaluation of the accomplishments of the Heritage Area; and

(B) prepare a report in accordance with paragraph (3).

(2) EVALUATION.—An evaluation conducted under paragraph (1)(A) shall—

(A) assess the progress of the local coordinating entity with respect to—

(i) accomplishing the purposes of the authorizing legislation for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, tribal, local, and private investments in the Heritage Area to determine the impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(3) REPORT.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(e) LOCAL COORDINATING ENTITY.—

(1) DUTIES.—To further the purposes of the Heritage Area, in addition to developing the management plan for the Heritage Area under subsection (c), the local coordinating entity shall—

(A) serve to facilitate and expedite the implementation of projects and programs among diverse partners in the Heritage Area;

(B) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this section, specifying—

(i) the specific performance goals and accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and sources of the leveraging; and

(v) grants made to any other entities during the fiscal year;

(C) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this section, all information pertaining to the expenditure of the funds and any matching funds; and

(D) encourage economic viability and sustainability that is consistent with the purposes of the Heritage Area.

(2) AUTHORITIES.—For the purpose of preparing and implementing the approved management plan for the Heritage Area under subsection (c), the local coordinating entity may use Federal funds made available under this section—

(A) to make grants to political jurisdictions, nonprofit organizations, and other parties within the Heritage Area;

(B) to enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(C) to hire and compensate staff, including individuals with expertise in—

(i) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(ii) economic and community development; and

(iii) heritage planning;

(D) to obtain funds or services from any source, including other Federal programs;

(E) to enter into contracts for goods or services; and

(F) to support activities of partners and any other activities that further the purposes of the Heritage Area and are consistent with the approved management plan.

(3) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this section to acquire any interest in real property.

(f) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—Nothing in this section affects the authority of a Federal agency to provide technical or financial assistance under any other provision of law.

(2) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity, to the maximum extent practicable.

(3) OTHER FEDERAL AGENCIES.—Nothing in this section—

(A) modifies, alters, or amends any law (including a regulation) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(B) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a Heritage Area; or

(C) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

(g) PRIVATE PROPERTY AND REGULATORY PROTECTIONS.—Nothing in this section—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority (such as the authority to make safety improvements or increase the capacity of existing roads or to construct new roads) of any Federal, State, tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including development and management of energy or water or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of any State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Subject to paragraph (2), there is authorized to be appropriated to carry out this section

$1,000,000 for each fiscal year, to remain available until expended.

(2) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than a total of $10,000,000 may be made available to carry out this section.

(3) COST-SHARING.—

(A) IN GENERAL.—The Federal share of the total cost of any activity carried out under this section shall not exceed 50 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of any activity carried out under this section may be provided in the form of in-kind contributions of goods or services fairly valued.

(i) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide financial assistance under this section terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle B—Studies

SEC. 8101. CHATTAHOOCHEE TRACE, ALABAMA AND GEORGIA.

(a) DEFINITIONS.—In this section:

(1) CORRIDOR.—The term ''Corridor'' means the Chattahoochee Trace National Heritage Corridor.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STUDY AREA.—The term ''study area'' means the study area described in subsection (b)(2).

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with State historic preservation officers, State historical societies, State tourism offices, and other appropriate organizations or agencies, shall conduct a study to assess the suitability and feasibility of designating the study area as the Chattahoochee Trace National Heritage Corridor.

(2) STUDY AREA.—The study area includes—

(A) the portion of the Apalachicola-Chattahoochee-Flint River Basin and surrounding areas, as generally depicted on the map entitled ''Chattahoochee Trace National Heritage Corridor, Alabama/Georgia'', numbered T05/80000, and dated July 2007; and

(B) any other areas in the State of Alabama or Georgia that—

(i) have heritage aspects that are similar to the areas depicted on the map described in subparagraph (A); and

(ii) are adjacent to, or in the vicinity of, those areas.

(3) REQUIREMENTS.—The study shall include analysis, documentation, and determinations on whether the study area—

(A) has an assemblage of natural, historic, and cultural resources that—

(i) represent distinctive aspects of the heritage of the United States;

(ii) are worthy of recognition, conservation, interpretation, and continuing use; and

(iii) would be best managed—

(I) through partnerships among public and private entities; and

(II) by linking diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the story of the United States;

(C) provides—

(i) outstanding opportunities to conserve natural, historic, cultural, or scenic features; and

(ii) outstanding recreational and educational opportunities;

(D) contains resources that—

(i) are important to any identified themes of the study area; and

(ii) retain a degree of integrity capable of supporting interpretation;

(E) includes residents, business interests, nonprofit organizations, and State and local governments that—

(i) are involved in the planning of the Corridor;

(ii) have developed a conceptual financial plan that outlines the roles of all participants in the Corridor, including the Federal Government; and

(iii) have demonstrated support for the designation of the Corridor;

(F) has a potential management entity to work in partnership with the individuals and entities described in subparagraph (E) to develop the Corridor while encouraging State and local economic activity; and

(G) has a conceptual boundary map that is supported by the public.

(c) REPORT.—Not later than the 3rd fiscal year after the date on which funds are first made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 8102. NORTHERN NECK, VIRGINIA.

(a) DEFINITIONS.—In this section:

(1) PROPOSED HERITAGE AREA.—The term ''proposed Heritage Area'' means the proposed Northern Neck National Heritage Area.

(2) STATE.—The term ''State'' means the State of Virginia.

(3) STUDY AREA.—The term ''study area'' means the area that is comprised of—

(A) the area of land located between the Potomac and Rappahannock rivers of the eastern coastal region of the State;

(B) Westmoreland, Northumberland, Richmond, King George, and Lancaster Counties of the State; and

(C) any other area that—

(i) has heritage aspects that are similar to the heritage aspects of the areas described in subparagraph (A) or (B); and

(ii) is located adjacent to, or in the vicinity of, those areas.

(b) STUDY.—

(1) IN GENERAL.—In accordance with paragraphs (2) and (3), the Secretary, in consultation with appropriate State historic preservation officers, State historical societies, and other appropriate organizations, shall conduct a study to determine the suitability and feasibility of designating the study area as the Northern Neck National Heritage Area.

(2) REQUIREMENTS.—The study shall include analysis, documentation, and determinations on whether the study area—

(A) has an assemblage of natural, historical, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities;

(G) contains resources and has traditional uses that have national importance;

(H) includes residents, business interests, nonprofit organizations, and appropriate Federal agencies and State and local governments that are involved in the planning of, and have demonstrated significant support for, the designation and management of the proposed Heritage Area;

(I) has a proposed local coordinating entity that is responsible for preparing and implementing the management plan developed for the proposed Heritage Area;

(J) with respect to the designation of the study area, has the support of the proposed local coordinating entity and appropriate Federal agencies and State and local governments, each of which has documented the commitment of the entity to work in partnership with each other entity to protect, enhance, interpret, fund, manage, and develop the resources located in the study area;

(K) through the proposed local coordinating entity, has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the proposed Heritage Area;

(L) has a proposal that is consistent with continued economic activity within the area; and

(M) has a conceptual boundary map that is supported by the public and appropriate Federal agencies.

(3) ADDITIONAL CONSULTATION REQUIREMENT.—In conducting the study under paragraph (1), the Secretary shall—

(A) consult with the managers of any Federal land located within the study area; and

(B) before making any determination with respect to the designation of the study area, secure the concurrence of each manager with respect to each finding of the study.

(c) DETERMINATION.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of the State, shall review, comment on, and determine if the study area meets each requirement described in subsection (b)(2) for designation as a national heritage area.

(2) REPORT.—

(A) IN GENERAL.—Not later than 3 fiscal years after the date on which funds are first made available to carry out the study, the Secretary shall submit a report describing the findings, conclusions, and recommendations of the study to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

(B) REQUIREMENTS.—

(i) IN GENERAL.—The report shall contain—

(I) any comments that the Secretary has received from the Governor of the State relating to the designation of the study area as a national heritage area; and

(II) a finding as to whether the study area meets each requirement described in subsection (b)(2) for designation as a national heritage area.

(ii) DISAPPROVAL.—If the Secretary determines that the study area does not meet any requirement described in subsection (b)(2) for designation as a national heritage area, the Secretary shall include in the report a description of each reason for the determination.

Subtitle C—Amendments Relating to National Heritage Corridors

SEC. 8201. QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR.

(a) TERMINATION OF AUTHORITY.—Section 106(b) of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 (16 U.S.C. 461 note; Public Law 103–449) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2015''.

(b) EVALUATION; REPORT.—Section 106 of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 (16

U.S.C. 461 note; Public Law 103–449) is amended by adding at the end the following:

''(c) EVALUATION; REPORT.—

''(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Corridor, the Secretary shall—

''(A) conduct an evaluation of the accomplishments of the Corridor; and

''(B) prepare a report in accordance with paragraph (3).

''(2) EVALUATION.—An evaluation conducted under paragraph (1)(A) shall—

''(A) assess the progress of the management entity with respect to—

''(i) accomplishing the purposes of this title for the Corridor; and

''(ii) achieving the goals and objectives of the management plan for the Corridor;

''(B) analyze the Federal, State, local, and private investments in the Corridor to determine the leverage and impact of the investments; and

''(C) review the management structure, partnership relationships, and funding of the Corridor for purposes of identifying the critical components for sustainability of the Corridor.

''(3) REPORT.—

''(A) IN GENERAL.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Corridor.

''(B) REQUIRED ANALYSIS.—If the report prepared under subparagraph (A) recommends that Federal funding for the Corridor be reauthorized, the report shall include an analysis of—

''(i) ways in which Federal funding for the Corridor may be reduced or eliminated; and

''(ii) the appropriate time period necessary to achieve the recommended reduction or elimination.

''(C) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

''(i) the Committee on Energy and Natural Resources of the Senate; and

''(ii) the Committee on Natural Resources of the House of Representatives.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 109(a) of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 (16 U.S.C. 461 note; Public Law 103–449) is amended by striking ''$10,000,000'' and inserting ''$15,000,000''.

SEC. 8202. DELAWARE AND LEHIGH NATIONAL HERITAGE CORRIDOR.

The Delaware and Lehigh National Heritage Corridor Act of 1988 (16 U.S.C. 461 note; Public Law 100–692) is amended—

(1) in section 9—

(A) by striking ''The Commission'' and inserting the following:

''(a) IN GENERAL.—The Commission''; and

(B) by adding at the end the following:

''(b) CORPORATION AS LOCAL COORDINATING ENTITY.—Beginning on the date of enactment of the Omnibus Public Land Management Act of 2008, the Corporation shall be the local coordinating entity for the Corridor.

''(c) IMPLEMENTATION OF MANAGEMENT PLAN.—The Corporation shall assume the duties of the Commission for the implementation of the Plan.

''(d) USE OF FUNDS.—The Corporation may use Federal funds made available under this Act—

''(1) to make grants to, and enter into cooperative agreements with, the Federal Government, the Commonwealth, political subdivisions of the Commonwealth, nonprofit organizations, and individuals;

''(2) to hire, train, and compensate staff; and

''(3) to enter into contracts for goods and services.

''(e) RESTRICTION ON USE OF FUNDS.—The Corporation may not use Federal funds made available under this Act to acquire land or an interest in land.'';

(2) in section 10—

(A) in the first sentence of subsection (c), by striking ''shall assist the Commission'' and inserting ''shall, on the request of the Corporation, assist'';

(B) in subsection (d)—

(i) by striking ''Commission'' each place it appears and inserting ''Corporation'';

(ii) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(iii) by adding at the end the following:

''(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the Corporation and other public or private entities for the purpose of providing technical assistance and grants under paragraph (1).

''(3) PRIORITY.—In providing assistance to the Corporation under paragraph (1), the Secretary shall give priority to activities that assist in—

''(A) conserving the significant natural, historic, cultural, and scenic resources of the Corridor; and

''(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Corridor.''; and

(C) by adding at the end the following:

''(e) TRANSITION MEMORANDUM OF UNDERSTANDING.—The Secretary shall enter into a memorandum of understanding with the Corporation to ensure—

''(1) appropriate transition of management of the Corridor from the Commission to the Corporation; and

''(2) coordination regarding the implementation of the Plan.'';

(3) in section 11, in the matter preceding paragraph (1), by striking ''directly affecting'';

(4) in section 12—

(A) in subsection (a), by striking ''Commission'' each place it appears and inserting ''Corporation'';

(B) in subsection (c)(1), by striking ''2007'' and inserting ''2012''; and

(C) by adding at the end the following:

''(d) TERMINATION OF ASSISTANCE.—The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 5 years after the date of enactment of this subsection.''; and

(5) in section 14—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

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

''(4) the term 'Corporation' means the Delaware & Lehigh National Heritage Corridor, Incorporated, an organization described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986;''.

SEC. 8203. ERIE CANALWAY NATIONAL HERITAGE CORRIDOR.

The Erie Canalway National Heritage Corridor Act (16 U.S.C. 461 note; Public Law 106–554) is amended—

(1) in section 804—

(A) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking ''27'' and inserting ''at least 21 members, but not more than 27'';

(ii) in paragraph (2), by striking ''Environment'' and inserting ''Environmental''; and

(iii) in paragraph (3)—

(I) in the matter preceding subparagraph (A), by striking ''19'';

(II) by striking subparagraph (A);

(III) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(IV) in subparagraph (B) (as redesignated by subclause (III)), by striking the second sentence; and

(V) by inserting after subparagraph (B) (as redesignated by subclause (III)) the following:

''(C) The remaining members shall be—

''(i) appointed by the Secretary, based on recommendations from each member of the House of Representatives, the district of which encompasses the Corridor; and

''(ii) persons that are residents of, or employed within, the applicable congressional districts.'';

(B) in subsection (f), by striking ''Fourteen members of the Commission'' and inserting ''A majority of the serving Commissioners'';

(C) in subsection (g), by striking ''14 of its members'' and inserting ''a majority of the serving Commissioners'';

(D) in subsection (h), by striking paragraph (4) and inserting the following:

''(4)(A) to appoint any staff that may be necessary to carry out the duties of the Commission, subject to the provisions of title 5, United States Code, relating to appointments in the competitive service; and

''(B) to fix the compensation of the staff, in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates;''; and

(E) in subsection (j), by striking ''10 years'' and inserting ''15 years'';

(2) in section 807—

(A) in subsection (e), by striking ''with regard to the preparation and approval of the Canalway Plan''; and

(B) by adding at the end the following:

''(f) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Saratoga National Historical Park may, on request, provide to public and private organizations in the Corridor (including the Commission) any operational assistance that is appropriate to assist with the implementation of the Canalway Plan.''; and

(3) in section 810(a)(1), in the first sentence, by striking ''any fiscal year'' and inserting ''any fiscal year, to remain available until expended''.

SEC. 8204. JOHN H. CHAFEE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

Section 3(b)(2) of Public Law 99–647 (16 U.S.C. 461 note; 100 Stat. 3626, 120 Stat. 1857) is amended—

(1) by striking ''shall be the the'' and inserting ''shall be the''; and

(2) by striking ''Directors from Massachusetts and Rhode Island;'' and inserting ''Directors from Massachusetts and Rhode Island, ex officio, or their delegates;''.

TITLE IX—BUREAU OF RECLAMATION AUTHORIZATIONS

Subtitle A—Feasibility Studies

SEC. 9001. SNAKE, BOISE, AND PAYETTE RIVER SYSTEMS, IDAHO.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Reclamation, may conduct feasibility studies on projects that address water shortages within the Snake, Boise, and Payette River systems in the State of Idaho, and are considered appropriate for further study by the Bureau of Reclamation Boise Payette water storage assessment report issued during 2006.

(b) BUREAU OF RECLAMATION.—A study conducted under this section shall comply with Bureau of Reclamation policy standards and guidelines for studies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the

Secretary of the Interior to carry out this section $3,000,000.

(d) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 9002. SIERRA VISTA SUBWATERSHED, ARIZONA.

(a) DEFINITIONS.—In this section:

(1) APPRAISAL REPORT.—The term ''appraisal report'' means the appraisal report concerning the augmentation alternatives for the Sierra Vista Subwatershed in the State of Arizona, dated June 2007 and prepared by the Bureau of Reclamation.

(2) PRINCIPLES AND GUIDELINES.—The term ''principles and guidelines'' means the report entitled ''Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies'' issued on March 10, 1983, by the Water Resources Council established under title I of the Water Resources Planning Act (42 U.S.C. 1962a et seq.).

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

(b) SIERRA VISTA SUBWATERSHED FEASIBILITY STUDY.—

(1) STUDY.—

(A) IN GENERAL.—In accordance with the reclamation laws and the principles and guidelines, the Secretary, acting through the Commissioner of Reclamation, may complete a feasibility study of alternatives to augment the water supplies within the Sierra Vista Subwatershed in the State of Arizona that are identified as appropriate for further study in the appraisal report.

(B) INCLUSIONS.—In evaluating the feasibility of alternatives under subparagraph (A), the Secretary shall—

(i) include—

(I) any required environmental reviews;

(II) the construction costs and projected operations, maintenance, and replacement costs for each alternative; and

(III) the economic feasibility of each alternative;

(ii) take into consideration the ability of Federal, tribal, State, and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs;

(iii) establish the basis for—

(I) any cost-sharing allocations; and

(II) anticipated repayment, if any, of Federal contributions; and

(iv) perform a cost-benefit analysis.

(2) COST SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total costs of the study under paragraph (1) shall not exceed 45 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind service that the Secretary determines would contribute substantially toward the conduct and completion of the study under paragraph (1).

(3) STATEMENT OF CONGRESSIONAL INTENT RELATING TO COMPLETION OF STUDY.—It is the intent of Congress that the Secretary complete the study under paragraph (1) by a date that is not later than 30 months after the date of enactment of this Act.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $1,260,000.

(c) WATER RIGHTS.—Nothing in this section affects—

(1) any valid or vested water right in existence on the date of enactment of this Act; or

(2) any application for water rights pending before the date of enactment of this Act.

SEC. 9003. SAN DIEGO INTERTIE, CALIFORNIA.

(a) FEASIBILITY STUDY, PROJECT DEVELOPMENT, COST SHARE.—

(1) IN GENERAL.—The Secretary of the Interior (hereinafter referred to as ''Secretary''), in consultation and cooperation with the City of San Diego and the Sweetwater Authority, is authorized to undertake a study to determine the feasibility of constructing a four reservoir intertie system to improve water storage opportunities, water supply reliability, and water yield of the existing non-Federal water storage system. The feasibility study shall document the Secretary's engineering, environmental, and economic investigation of the proposed reservoir and intertie project taking into consideration the range of potential solutions and the circumstances and needs of the area to be served by the proposed reservoir and intertie project, the potential benefits to the people of that service area, and improved operations of the proposed reservoir and intertie system. The Secretary shall indicate in the feasibility report required under paragraph (4) whether the proposed reservoir and intertie project is recommended for construction.

(2) FEDERAL COST SHARE.—The Federal share of the costs of the feasibility study shall not exceed 50 percent of the total study costs. The Secretary may accept as part of the non-Federal cost share, any contribution of such in-kind services by the City of San Diego and the Sweetwater Authority that the Secretary determines will contribute toward the conduct and completion of the study.

(3) COOPERATION.—The Secretary shall consult and cooperate with appropriate State, regional, and local authorities in implementing this subsection.

(4) FEASIBILITY REPORT.—The Secretary shall submit to Congress a feasibility report for the project the Secretary recommends, and to seek, as the Secretary deems appropriate, specific authority to develop and construct any recommended project. This report shall include—

(A) good faith letters of intent by the City of San Diego and the Sweetwater Authority and its non-Federal partners to indicate that they have committed to share the allocated costs as determined by the Secretary; and

(B) a schedule identifying the annual operation, maintenance, and replacement costs that should be allocated to the City of San Diego and the Sweetwater Authority, as well as the current and expected financial capability to pay operation, maintenance, and replacement costs.

(b) FEDERAL RECLAMATION PROJECTS.—Nothing in this section shall supersede or amend the provisions of Federal Reclamation laws or laws associated with any project or any portion of any project constructed under any authority of Federal Reclamation laws.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $3,000,000 for the Federal cost share of the study authorized in subsection (a).

(d) SUNSET.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this Act.

Subtitle B—Project Authorizations

SEC. 9101. TUMALO IRRIGATION DISTRICT WATER CONSERVATION PROJECT, OREGON.

(a) DEFINITIONS.—In this section:

(1) DISTRICT.—The term ''District'' means the Tumalo Irrigation District, Oregon.

(2) PROJECT.—The term ''Project'' means the Tumalo Irrigation District Water Conservation Project authorized under subsection (b)(1).

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

(b) AUTHORIZATION TO PLAN, DESIGN AND CONSTRUCT THE TUMALO WATER CONSERVATION PROJECT.—

(1) AUTHORIZATION.—The Secretary, in cooperation with the District—

(A) may participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon; and

(B) for purposes of planning and designing the Project, shall take into account any appropriate studies and reports prepared by the District.

(2) COST-SHARING REQUIREMENT.—

(A) FEDERAL SHARE.—The Federal share of the total cost of the Project shall be 25 percent, which shall be nonreimbursable to the United States.

(B) CREDIT TOWARD NON-FEDERAL SHARE.—The Secretary shall credit toward the non-Federal share of the Project any amounts that the District provides toward the design, planning, and construction before the date of enactment of this Act.

(3) TITLE.—The District shall hold title to any facilities constructed under this section.

(4) OPERATION AND MAINTENANCE COSTS.—The District shall pay the operation and maintenance costs of the Project.

(5) EFFECT.—Any assistance provided under this section shall not be considered to be a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the Federal share of the cost of the Project $4,000,000.

(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out this section shall expire on the date that is 10 years after the date of enactment of this Act.

SEC. 9102. MADERA WATER SUPPLY ENHANCEMENT PROJECT, CALIFORNIA.

(a) DEFINITIONS.—In this section:

(1) DISTRICT.—The term ''District'' means the Madera Irrigation District, Madera, California.

(2) PROJECT.—The term ''Project'' means the Madera Water Supply Enhancement Project, a groundwater bank on the 13,646-acre Madera Ranch in Madera, California, owned, operated, maintained, and managed by the District that will plan, design, and construct recharge, recovery, and delivery systems able to store up to 250,000 acre-feet of water and recover up to 55,000 acre-feet of water per year, as substantially described in the California Environmental Quality Act, Final Environmental Impact Report for the Madera Irrigation District Water Supply Enhancement Project, September 2005.

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

(4) TOTAL COST.—The term ''total cost'' means all reasonable costs, such as the planning, design, permitting, and construction of the Project and the acquisition costs of lands used or acquired by the District for the Project.

(b) PROJECT FEASIBILITY.—

(1) PROJECT FEASIBLE.—Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory thereof and supplemental thereto, the Project is feasible and no further studies or actions regarding feasibility are necessary.

(2) APPLICABILITY OF OTHER LAWS.—The Secretary shall implement the authority provided in this section in accordance with all applicable Federal laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (7 U.S.C. 136; 16 U.S.C. 460 et seq.).

(c) COOPERATIVE AGREEMENT.—All final planning and design and the construction of the Project authorized by this section shall

be undertaken in accordance with a cooperative agreement between the Secretary and the District for the Project. Such cooperative agreement shall set forth in a manner acceptable to the Secretary and the District the responsibilities of the District for participating, which shall include—

(1) engineering and design;

(2) construction; and

(3) the administration of contracts pertaining to any of the foregoing.

(d) AUTHORIZATION FOR THE MADERA WATER SUPPLY AND ENHANCEMENT PROJECT.—

(1) AUTHORIZATION OF CONSTRUCTION.—The Secretary, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388), and Acts amendatory thereof or supplementary thereto, is authorized to enter into a cooperative agreement through the Bureau of Reclamation with the District for the support of the final design and construction of the Project.

(2) TOTAL COST.—The total cost of the Project for the purposes of determining the Federal cost share shall not exceed $90,000,000.

(3) COST SHARE.—The Federal share of the capital costs of the Project shall be provided on a nonreimbursable basis and shall not exceed 25 percent of the total cost. Capital, planning, design, permitting, construction, and land acquisition costs incurred by the District prior to the date of the enactment of this Act shall be considered a portion of the non-Federal cost share.

(4) CREDIT FOR NON-FEDERAL WORK.—The District shall receive credit toward the non-Federal share of the cost of the Project for—

(A) in-kind services that the Secretary determines would contribute substantially toward the completion of the project;

(B) reasonable costs incurred by the District as a result of participation in the planning, design, permitting, and construction of the Project; and

(C) the acquisition costs of lands used or acquired by the District for the Project.

(5) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of the Project authorized by this subsection. The operation, ownership, and maintenance of the Project shall be the sole responsibility of the District.

(6) PLANS AND ANALYSES CONSISTENT WITH FEDERAL LAW.—Before obligating funds for design or construction under this subsection, the Secretary shall work cooperatively with the District to use, to the extent possible, plans, designs, and engineering and environmental analyses that have already been prepared by the District for the Project. The Secretary shall ensure that such information as is used is consistent with applicable Federal laws and regulations.

(7) TITLE; RESPONSIBILITY; LIABILITY.—Nothing in this subsection or the assistance provided under this subsection shall be construed to transfer title, responsibility, or liability related to the Project to the United States.

(8) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary to carry out this subsection $22,500,000 or 25 percent of the total cost of the Project, whichever is less.

(e) SUNSET.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this Act.

SEC. 9103. EASTERN NEW MEXICO RURAL WATER SYSTEM PROJECT, NEW MEXICO.

(a) DEFINITIONS.—In this section:

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

(2) ENGINEERING REPORT.—The term ''engineering report'' means the report entitled ''Eastern New Mexico Rural Water System Preliminary Engineering Report'' and dated October 2006.

(3) PLAN.—The term ''plan'' means the operation, maintenance, and replacement plan required by subsection (c)(2).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of New Mexico.

(6) SYSTEM.—

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

(B) INCLUSIONS.—The term ''System'' includes the major components and associated infrastructure identified as the ''Best Technical Alternative'' in the engineering report.

(7) UTE RESERVOIR.—The term ''Ute Reservoir'' means the impoundment of water created in 1962 by the construction of the Ute Dam on the Canadian River, located approximately 32 miles upstream of the border between New Mexico and Texas.

(b) EASTERN NEW MEXICO RURAL WATER SYSTEM.—

(1) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide financial and technical assistance to the Authority to assist in planning, designing, conducting related preconstruction activities for, and constructing the System.

(B) USE.—

(i) IN GENERAL.—Any financial assistance provided under subparagraph (A) shall be obligated and expended only in accordance with a cooperative agreement entered into under subsection (d)(1)(B).

(ii) LIMITATIONS.—Financial assistance provided under clause (i) shall not be used—

(I) for any activity that is inconsistent with constructing the System; or

(II) to plan or construct facilities used to supply irrigation water for irrigated agricultural purposes.

(2) COST-SHARING REQUIREMENT.—

(A) IN GENERAL.—The Federal share of the total cost of any activity or construction carried out using amounts made available under this section shall be not more than 75 percent of the total cost of the System.

(B) SYSTEM DEVELOPMENT COSTS.—For purposes of subparagraph (A), the total cost of the System shall include any costs incurred by the Authority or the State on or after October 1, 2003, for the development of the System.

(3) LIMITATION.—No amounts made available under this section may be used for the construction of the System until—

(A) a plan is developed under subsection (c)(2); and

(B) the Secretary and the Authority have complied with any requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to the System.

(4) TITLE TO PROJECT WORKS.—Title to the infrastructure of the System shall be held by the Authority or as may otherwise be specified under State law.

(c) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(1) IN GENERAL.—The Authority shall be responsible for the annual operation, maintenance, and replacement costs associated with the System.

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

(d) ADMINISTRATIVE PROVISIONS.—

(1) COOPERATIVE AGREEMENTS.—

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

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

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

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

(I) ensuring that the cost-share requirements established by subsection (b)(2) are met;

(II) completing the planning and final design of the System;

(III) any environmental and cultural resource compliance activities required for the System; and

(IV) the construction of the System.

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

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

(4) EFFECT.—Nothing in this section—

(A) affects or preempts—

(i) State water law; or

(ii) an interstate compact relating to the allocation of water; or

(B) confers on any non-Federal entity the ability to exercise any Federal rights to—

(i) the water of a stream; or

(ii) any groundwater resource.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In accordance with the adjustment carried out under paragraph (2), there is authorized to be appropriated to the Secretary to carry out this section an amount not greater than $327,000,000.

(2) ADJUSTMENT.—The amount made available under paragraph (1) shall be adjusted to reflect changes in construction costs occurring after January 1, 2007, as indicated by engineering cost indices applicable to the types of construction necessary to carry out this section.

(3) NONREIMBURSABLE AMOUNTS.—Amounts made available to the Authority in accordance with the cost-sharing requirement under subsection (b)(2) shall be nonreimbursable and nonreturnable to the United States.

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

SEC. 9104. RANCHO CAILFORNIA WATER DISTRICT PROJECT, CALIFORNIA.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

''SEC. 1649. RANCHO CALIFORNIA WATER DISTRICT PROJECT, CALIFORNIA.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Rancho California Water District, California, may participate in the design, planning, and construction of permanent facilities for water recycling, demineralization, and desalination, and distribution of non-potable water supplies in Southern Riverside County, California.

''(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project or $20,000,000, whichever is less.

''(c) LIMITATION.—Funds provided by the Secretary under this section shall not be used for operation or maintenance of the project described in subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of items in section 2 of Public Law 102–575 is amended by inserting after the last item the following:

''Sec. 1649. Rancho California Water District Project, California.''.

SEC. 9105. JACKSON GULCH REHABILITATION PROJECT, COLORADO.

(a) DEFINITIONS.—In this section:

(1) ASSESSMENT.—The term ''assessment'' means the engineering document that is—

(A) entitled ''Jackson Gulch Inlet Canal Project, Jackson Gulch Outlet Canal Project, Jackson Gulch Operations Facilities Project: Condition Assessment and Recommendations for Rehabilitation'';

(B) dated February 2004; and

(C) on file with the Bureau of Reclamation.

(2) DISTRICT.—The term ''District'' means the Mancos Water Conservancy District established under the Water Conservancy Act (Colo. Rev. Stat. 37–45–101 et seq.).

(3) PROJECT.—The term ''Project'' means the Jackson Gulch rehabilitation project, a program for the rehabilitation of the Jackson Gulch Canal system and other infrastructure in the State, as described in the assessment.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(5) STATE.—The term ''State'' means the State of Colorado.

(b) AUTHORIZATION OF JACKSON GULCH REHABILITATION PROJECT.—

(1) IN GENERAL.—Subject to the reimbursement requirement described in paragraph (3), the Secretary shall pay the Federal share of the total cost of carrying out the Project.

(2) USE OF EXISTING INFORMATION.—In preparing any studies relating to the Project, the Secretary shall, to the maximum extent practicable, use existing studies, including engineering and resource information provided by, or at the direction of—

(A) Federal, State, or local agencies; and

(B) the District.

(3) REIMBURSEMENT REQUIREMENT.—

(A) AMOUNT.—The Secretary shall recover from the District as reimbursable expenses the lesser of—

(i) the amount equal to 35 percent of the cost of the Project; or

(ii) $2,900,000.

(B) MANNER.—The Secretary shall recover reimbursable expenses under subparagraph (A)—

(i) in a manner agreed to by the Secretary and the District;

(ii) over a period of 15 years; and

(iii) with no interest.

(C) CREDIT.—In determining the exact amount of reimbursable expenses to be recovered from the District, the Secretary shall credit the District for any amounts it paid before the date of enactment of this Act for engineering work and improvements directly associated with the Project.

(4) PROHIBITION ON OPERATION AND MAINTENANCE COSTS.—The District shall be responsible for the operation and maintenance of any facility constructed or rehabilitated under this section.

(5) LIABILITY.—The United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this section.

(6) EFFECT.—An activity provided Federal funding under this section shall not be considered a supplemental or additional benefit under—

(A) the reclamation laws; or

(B) the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to pay the Federal share of the total cost of carrying out the Project $8,250,000.

SEC. 9106. RIO GRANDE PUEBLOS, NEW MEXICO.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) drought, population increases, and environmental needs are exacerbating water supply issues across the western United States, including the Rio Grande Basin in New Mexico;

(B) a report developed by the Bureau of Reclamation and the Bureau of Indian Affairs in 2000 identified a serious need for the rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos;

(C) inspection of existing irrigation infrastructure of the Rio Grande Pueblos shows that many key facilities, such as diversion structures and main conveyance ditches, are unsafe and barely, if at all, operable;

(D) the benefits of rehabilitating and repairing irrigation infrastructure of the Rio Grande Pueblos include—

(i) water conservation;

(ii) extending available water supplies;

(iii) increased agricultural productivity;

(iv) economic benefits;

(v) safer facilities; and

(vi) the preservation of the culture of Indian Pueblos in the State;

(E) certain Indian Pueblos in the Rio Grande Basin receive water from facilities operated or owned by the Bureau of Reclamation; and

(F) rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos would improve—

(i) overall water management by the Bureau of Reclamation; and

(ii) the ability of the Bureau of Reclamation to help address potential water supply conflicts in the Rio Grande Basin.

(2) PURPOSE.—The purpose of this section is to direct the Secretary—

(A) to assess the condition of the irrigation infrastructure of the Rio Grande Pueblos;

(B) to establish priorities for the rehabilitation of irrigation infrastructure of the Rio Grande Pueblos in accordance with specified criteria; and

(C) to implement projects to rehabilitate and improve the irrigation infrastructure of the Rio Grande Pueblos.

(b) DEFINITIONS.—In this section:

(1) 2004 AGREEMENT.—The term ''2004 Agreement'' means the agreement entitled ''Agreement By and Between the United States of America and the Middle Rio Grande Conservancy District, Providing for the Payment of Operation and Maintenance Charges on Newly Reclaimed Pueblo Indian Lands in the Middle Rio Grande Valley, New Mexico'' and executed in September 2004 (including any successor agreements and amendments to the agreement).

(2) DESIGNATED ENGINEER.—The term ''designated engineer'' means a Federal employee designated under the Act of February 14, 1927 (69 Stat. 1098, chapter 138) to represent the United States in any action involving the maintenance, rehabilitation, or preservation of the condition of any irrigation structure or facility on land located in the Six Middle Rio Grande Pueblos.

(3) DISTRICT.—The term ''District'' means the Middle Rio Grande Conservancy District, a political subdivision of the State established in 1925.

(4) PUEBLO IRRIGATION INFRASTRUCTURE.—The term ''Pueblo irrigation infrastructure'' means any diversion structure, conveyance facility, or drainage facility that is—

(A) in existence as of the date of enactment of this Act; and

(B) located on land of a Rio Grande Pueblo that is associated with—

(i) the delivery of water for the irrigation of agricultural land; or

(ii) the carriage of irrigation return flows and excess water from the land that is served.

(5) RIO GRANDE BASIN.—The term ''Rio Grande Basin'' means the headwaters of the Rio Chama and the Rio Grande Rivers (including any tributaries) from the State line between Colorado and New Mexico downstream to the elevation corresponding with the spillway crest of Elephant Butte Dam at 4,457.3 feet mean sea level.

(6) RIO GRANDE PUEBLO.—The term ''Rio Grande Pueblo'' means any of the 18 Pueblos that—

(A) occupy land in the Rio Grande Basin; and

(B) are included on the list of federally recognized Indian tribes published by the Secretary in accordance with section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) SIX MIDDLE RIO GRANDE PUEBLOS.—The term ''Six Middle Rio Grande Pueblos'' means each of the Pueblos of Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia, and Isleta.

(9) SPECIAL PROJECT.—The term ''special project'' has the meaning given the term in the 2004 Agreement.

(10) STATE.—The term ''State'' means the State of New Mexico.

(c) IRRIGATION INFRASTRUCTURE STUDY.—

(1) STUDY.—

(A) IN GENERAL.—On the date of enactment of this Act, the Secretary, in accordance with subparagraph (B), and in consultation with the Rio Grande Pueblos, shall—

(i) conduct a study of Pueblo irrigation infrastructure; and

(ii) based on the results of the study, develop a list of projects (including a cost estimate for each project), that are recommended to be implemented over a 10-year period to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure.

(B) REQUIRED CONSENT.—In carrying out subparagraph (A), the Secretary shall only include each individual Rio Grande Pueblo that notifies the Secretary that the Pueblo consents to participate in—

(i) the conduct of the study under subparagraph (A)(i); and

(ii) the development of the list of projects under subparagraph (A)(ii) with respect to the Pueblo.

(2) PRIORITY.—

(A) CONSIDERATION OF FACTORS.—

(i) IN GENERAL.—In developing the list of projects under paragraph (1)(A)(ii), the Secretary shall—

(I) consider each of the factors described in subparagraph (B); and

(II) prioritize the projects recommended for implementation based on—

(aa) a review of each of the factors; and

(bb) a consideration of the projected benefits of the project on completion of the project.

(ii) ELIGIBILITY OF PROJECTS.—A project is eligible to be considered and prioritized by the Secretary if the project addresses at least 1 factor described in subparagraph (B).

(B) FACTORS.—The factors referred to in subparagraph (A) are—

(i)(I) the extent of disrepair of the Pueblo irrigation infrastructure; and

(II) the effect of the disrepair on the ability of the applicable Rio Grande Pueblo to irrigate agricultural land using Pueblo irrigation infrastructure;

(ii) whether, and the extent that, the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would provide an opportunity to conserve water;

(iii)(I) the economic and cultural impacts that the Pueblo irrigation infrastructure that is in disrepair has on the applicable Rio Grande Pueblo; and

(II) the economic and cultural benefits that the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would have on the applicable Rio Grande Pueblo;

(iv) the opportunity to address water supply or environmental conflicts in the applicable river basin if the Pueblo irrigation infrastructure is repaired, rehabilitated, or reconstructed; and

(v) the overall benefits of the project to efficient water operations on the land of the applicable Rio Grande Pueblo.

(3) CONSULTATION.—In developing the list of projects under paragraph (1)(A)(ii), the Secretary shall consult with the Director of the Bureau of Indian Affairs (including the designated engineer with respect to each proposed project that affects the Six Middle Rio Grande Pueblos), the Chief of the Natural Resources Conservation Service, and the Chief of Engineers to evaluate the extent to which programs under the jurisdiction of the respective agencies may be used—

(A) to assist in evaluating projects to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure; and

(B) to implement—

(i) a project recommended for implementation under paragraph (1)(A)(ii); or

(ii) any other related project (including on-farm improvements) that may be appropriately coordinated with the repair, rehabilitation, or reconstruction of Pueblo irrigation infrastructure to improve the efficient use of water in the Rio Grande Basin.

(4) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that includes—

(A) the list of projects recommended for implementation under paragraph (1)(A)(ii); and

(B) any findings of the Secretary with respect to—

(i) the study conducted under paragraph (1)(A)(i);

(ii) the consideration of the factors under paragraph (2)(B); and

(iii) the consultations under paragraph (3).

(5) PERIODIC REVIEW.—Not later than 4 years after the date on which the Secretary submits the report under paragraph (4) and every 4 years thereafter, the Secretary, in consultation with each Rio Grande Pueblo, shall—

(A) review the report submitted under paragraph (4); and

(B) update the list of projects described in paragraph (4)(A) in accordance with each factor described in paragraph (2)(B), as the Secretary determines to be appropriate.

(d) IRRIGATION INFRASTRUCTURE GRANTS.—

(1) IN GENERAL.—The Secretary may provide grants to, and enter into contracts or other agreements with, the Rio Grande Pueblos to plan, design, construct, or otherwise implement projects to repair, rehabilitate, reconstruct, or replace Pueblo irrigation infrastructure that are recommended for implementation under subsection (c)(1)(A)(ii)—

(A) to increase water use efficiency and agricultural productivity for the benefit of a Rio Grande Pueblo;

(B) to conserve water; or

(C) to otherwise enhance water management or help avert water supply conflicts in the Rio Grande Basin.

(2) LIMITATION.—Assistance provided under paragraph (1) shall not be used for—

(A) the repair, rehabilitation, or reconstruction of any major impoundment structure; or

(B) any on-farm improvements.

(3) CONSULTATION.—In carrying out a project under paragraph (1), the Secretary shall—

(A) consult with, and obtain the approval of, the applicable Rio Grande Pueblo;

(B) consult with the Director of the Bureau of Indian Affairs; and

(C) as appropriate, coordinate the project with any work being conducted under the irrigation operations and maintenance program of the Bureau of Indian Affairs.

(4) COST-SHARING REQUIREMENT.—

(A) FEDERAL SHARE.—

(i) IN GENERAL.—Except as provided in clause (ii), the Federal share of the total cost of carrying out a project under paragraph (1) shall be not more than 75 percent.

(ii) EXCEPTION.—The Secretary may waive or limit the non-Federal share required under clause (i) if the Secretary determines, based on a demonstration of financial hardship by the Rio Grande Pueblo, that the Rio Grande Pueblo is unable to contribute the required non-Federal share.

(B) DISTRICT CONTRIBUTIONS.—

(i) IN GENERAL.—The Secretary may accept from the District a partial or total contribution toward the non-Federal share required for a project carried out under paragraph (1) on land located in any of the Six Middle Rio Grande Pueblos if the Secretary determines that the project is a special project.

(ii) LIMITATION.—Nothing in clause (i) requires the District to contribute to the non-Federal share of the cost of a project carried out under paragraph (1).

(C) STATE CONTRIBUTIONS.—

(i) IN GENERAL.—The Secretary may accept from the State a partial or total contribution toward the non-Federal share for a project carried out under paragraph (1).

(ii) LIMITATION.—Nothing in clause (i) requires the State to contribute to the non-Federal share of the cost of a project carried out under paragraph (1).

(D) FORM OF NON-FEDERAL SHARE.—The non-Federal share under subparagraph (A)(i) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under paragraph (1).

(5) OPERATION AND MAINTENANCE.—The Secretary may not use any amount made available under subsection (g)(2) to carry out the operation or maintenance of any project carried out under paragraph (1).

(e) EFFECT ON EXISTING AUTHORITY AND RESPONSIBILITIES.—Nothing in this section—

(1) affects any existing project-specific funding authority; or

(2) limits or absolves the United States from any responsibility to any Rio Grande Pueblo (including any responsibility arising from a trust relationship or from any Federal law (including regulations), Executive order, or agreement between the Federal Government and any Rio Grande Pueblo).

(f) EFFECT ON PUEBLO WATER RIGHTS OR STATE WATER LAW.—

(1) PUEBLO WATER RIGHTS.—Nothing in this section (including the implementation of any project carried out in accordance with this section) affects the right of any Pueblo to receive, divert, store, or claim a right to water, including the priority of right and the quantity of water associated with the water right under Federal or State law.

(2) STATE WATER LAW.—Nothing in this section preempts or affects—

(A) State water law; or

(B) an interstate compact governing water.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) STUDY.—There is authorized to be appropriated to carry out subsection (c) $4,000,000.

(2) PROJECTS.—There is authorized to be appropriated to carry out subsection (d) $6,000,000 for each of fiscal years 2010 through 2019.

SEC. 9107. UPPER COLORADO RIVER BASIN FUND.

(a) DEFINITIONS.—Section 2 of Public Law 106–392 (114 Stat. 1602) is amended—

(1) in paragraph (5), by inserting '', rehabilitation, and repair'' after ''and replacement''; and

(2) in paragraph (6), by inserting ''those for protection of critical habitat, those for preventing entrainment of fish in water diversions,'' after ''instream flows,''.

(b) AUTHORIZATION TO FUND RECOVERY PROGRAMS.—Section 3 of Public Law 106–392 (114 Stat. 1603; 120 Stat. 290) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''$61,000,000'' and inserting ''$88,000,000'';

(B) in paragraph (2), by striking ''2010'' and inserting ''2023''; and

(C) in paragraph (3), by striking ''2010'' and inserting ''2023'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''$126,000,000'' and inserting ''$209,000,000'';

(B) in paragraph (1)—

(i) by striking ''$108,000,000'' and inserting ''$179,000,000''; and

(ii) by striking ''2010'' and inserting ''2023''; and

(C) in paragraph (2)—

(i) by striking ''$18,000,000'' and inserting ''$30,000,000''; and

(ii) by striking ''2010'' and inserting ''2023''; and

(3) in subsection (c)(4), by striking ''$31,000,000'' and inserting ''$87,000,000''.

SEC. 9108. SANTA MARGARITA RIVER, CALIFORNIA.

(a) DEFINITIONS.—In this section:

(1) DISTRICT.—The term ''District'' means the Fallbrook Public Utility District, San Diego County, California.

(2) PROJECT.—The term ''Project'' means the impoundment, recharge, treatment, and other facilities the construction, operation, watershed management, and maintenance of which is authorized under subsection (b).

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

(b) AUTHORIZATION FOR CONSTRUCTION OF SANTA MARGARITA RIVER PROJECT.—

(1) AUTHORIZATION.—The Secretary, acting pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), to the extent that law is not inconsistent with this section, may construct, operate, and maintain the Project substantially in accordance with the final feasibility report and

environmental reviews for the Project and this section.

(2) CONDITIONS.—The Secretary may construct the Project only after the Secretary determines that the following conditions have occurred:

(A)(i) The District and the Secretary of the Navy have entered into contracts under subsections (c)(2) and (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) to repay to the United States equitable and appropriate portions, as determined by the Secretary, of the actual costs of constructing, operating, and maintaining the Project.

(ii) As an alternative to a repayment contract with the Secretary of the Navy described in clause (i), the Secretary may allow the Secretary of the Navy to satisfy all or a portion of the repayment obligation for construction of the Project on the payment of the share of the Secretary of the Navy prior to the initiation of construction, subject to a final cost allocation as described in subsection (c).

(B) The officer or agency of the State of California authorized by law to grant permits for the appropriation of water has granted the permits to the Bureau of Reclamation for the benefit of the Secretary of the Navy and the District as permittees for rights to the use of water for storage and diversion as provided in this section, including approval of all requisite changes in points of diversion and storage, and purposes and places of use.

(C)(i) The District has agreed—

(I) to not assert against the United States any prior appropriative right the District may have to water in excess of the quantity deliverable to the District under this section; and

(II) to share in the use of the waters impounded by the Project on the basis of equal priority and in accordance with the ratio prescribed in subsection (d)(2).

(ii) The agreement and waiver under clause (i) and the changes in points of diversion and storage under subparagraph (B)—

(I) shall become effective and binding only when the Project has been completed and put into operation; and

(II) may be varied by agreement between the District and the Secretary of the Navy.

(D) The Secretary has determined that the Project has completed applicable economic, environmental, and engineering feasibility studies.

(c) COSTS.—

(1) IN GENERAL.—As determined by a final cost allocation after completion of the construction of the Project, the Secretary of the Navy shall be responsible to pay upfront or repay to the Secretary only that portion of the construction, operation, and maintenance costs of the Project that the Secretary and the Secretary of the Navy determine reflects the extent to which the Department of the Navy benefits from the Project.

(2) OTHER CONTRACTS.—Notwithstanding paragraph (1), the Secretary may enter into a contract with the Secretary of the Navy for the impoundment, storage, treatment, and carriage of prior rights water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using Project facilities.

(d) OPERATION; YIELD ALLOTMENT; DELIVERY.—

(1) OPERATION.—The Secretary, the District, or a third party (consistent with subsection (f)) may operate the Project, subject to a memorandum of agreement between the Secretary, the Secretary of the Navy, and the District and under regulations satisfactory to the Secretary of the Navy with respect to the share of the Project of the Department of the Navy.

(2) YIELD ALLOTMENT.—Except as otherwise agreed between the parties, the Secretary of the Navy and the District shall participate in the Project yield on the basis of equal priority and in accordance with the following ratio:

(A) 60 percent of the yield of the Project is allotted to the Secretary of the Navy.

(B) 40 percent of the yield of the Project is allotted to the District.

(3) CONTRACTS FOR DELIVERY OF EXCESS WATER.—

(A) EXCESS WATER AVAILABLE TO OTHER PERSONS.—If the Secretary of the Navy certifies to the official agreed on to administer the Project that the Department of the Navy does not have immediate need for any portion of the 60 percent of the yield of the Project allotted to the Secretary of the Navy under paragraph (2), the official may enter into temporary contracts for the sale and delivery of the excess water.

(B) FIRST RIGHT FOR EXCESS WATER.—The first right to excess water made available under subparagraph (A) shall be given the District, if otherwise consistent with the laws of the State of California.

(C) CONDITION OF CONTRACTS.—Each contract entered into under subparagraph (A) for the sale and delivery of excess water shall include a condition that the Secretary of the Navy has the right to demand the water, without charge and without obligation on the part of the United States, after 30 days notice.

(D) MODIFICATION OF RIGHTS AND OBLIGATIONS.—The rights and obligations of the United States and the District regarding the ratio, amounts, definition of Project yield, and payment for excess water may be modified by an agreement between the parties.

(4) CONSIDERATION.—

(A) DEPOSIT OF FUNDS.—

(i) IN GENERAL.—Amounts paid to the United States under a contract entered into under paragraph (3) shall be—

(I) deposited in the special account established for the Department of the Navy under section 2667(e)(1) of title 10, United States Code; and

(II) shall be available for the purposes specified in section 2667(e)(1)(C) of that title.

(ii) EXCEPTION.—Section 2667(e)(1)(D) of title 10, United States Code, shall not apply to amounts deposited in the special account pursuant to this paragraph.

(B) IN-KIND CONSIDERATION.—In lieu of monetary consideration under subparagraph (A), or in addition to monetary consideration, the Secretary of the Navy may accept in-kind consideration in a form and quantity that is acceptable to the Secretary of the Navy, including—

(i) maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities of the Department of the Navy;

(ii) construction of new facilities for the Department of the Navy;

(iii) provision of facilities for use by the Department of the Navy;

(iv) facilities operation support for the Department of the Navy; and

(v) provision of such other services as the Secretary of the Navy considers appropriate.

(C) RELATION TO OTHER LAWS.—Sections 2662 and 2802 of title 10, United States Code, shall not apply to any new facilities the construction of which is accepted as in-kind consideration under this paragraph.

(D) CONGRESSIONAL NOTIFICATION.—If the in-kind consideration proposed to be provided under a contract to be entered into under paragraph (3) has a value in excess of $500,000, the contract may not be entered into until the earlier of—

(i) the end of the 30-day period beginning on the date on which the Secretary of the Navy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the contract and the form and quantity of the in-kind consideration; or

(ii) the end of the 14-day period beginning on the date on which a copy of the report referred to in clause (i) is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

(e) REPAYMENT OBLIGATION OF THE DISTRICT.—

(1) DETERMINATION.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the general repayment obligation of the District shall be determined by the Secretary consistent with subsections (c)(2) and (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) to repay to the United States equitable and appropriate portions, as determined by the Secretary, of the actual costs of constructing, operating, and maintaining the Project.

(B) GROUNDWATER.—For purposes of calculating interest and determining the time when the repayment obligation of the District to the United States commences, the pumping and treatment of groundwater from the Project shall be deemed equivalent to the first use of water from a water storage project.

(C) CONTRACTS FOR DELIVERY OF EXCESS WATER.—There shall be no repayment obligation under this subsection for water delivered to the District under a contract described in subsection (d)(3).

(2) MODIFICATION OF RIGHTS AND OBLIGATION BY AGREEMENT.—The rights and obligations of the United States and the District regarding the repayment obligation of the District may be modified by an agreement between the parties.

(f) TRANSFER OF CARE, OPERATION, AND MAINTENANCE.—

(1) IN GENERAL.—The Secretary may transfer to the District, or a mutually agreed upon third party, the care, operation, and maintenance of the Project under conditions that are—

(A) satisfactory to the Secretary and the District; and

(B) with respect to the portion of the Project that is located within the boundaries of Camp Pendleton, satisfactory to the Secretary, the District, and the Secretary of the Navy.

(2) EQUITABLE CREDIT.—

(A) IN GENERAL.—In the event of a transfer under paragraph (1), the District shall be entitled to an equitable credit for the costs associated with the proportionate share of the Secretary of the operation and maintenance of the Project.

(B) APPLICATION.—The amount of costs described in subparagraph (A) shall be applied against the indebtedness of the District to the United States.

(g) SCOPE OF SECTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, for the purpose of this section, the laws of the State of California shall apply to the rights of the United States pertaining to the use of water under this section.

(2) LIMITATIONS.—Nothing in this section—

(A) provides a grant or a relinquishment by the United States of any rights to the use of water that the United States acquired according to the laws of the State of California, either as a result of the acquisition of the land comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part of that acquisition, or through actual use or prescription or both since the date of that acquisition, if any;

(B) creates any legal obligation to store any water in the Project, to the use of which the United States has those rights;

(C) requires the division under this section of water to which the United States has those rights; or

(D) constitutes a recognition of, or an admission by the United States that, the District has any rights to the use of water in the Santa Margarita River, which rights, if any, exist only by virtue of the laws of the State of California.

(h) LIMITATIONS ON OPERATION AND ADMINISTRATION.—Unless otherwise agreed by the Secretary of the Navy, the Project—

(1) shall be operated in a manner which allows the free passage of all of the water to the use of which the United States is entitled according to the laws of the State of California either as a result of the acquisition of the land comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part of those acquisitions, or through actual use or prescription, or both, since the date of that acquisition, if any; and

(2) shall not be administered or operated in any way that will impair or deplete the quantities of water the use of which the United States would be entitled under the laws of the State of California had the Project not been built.

(i) REPORTS TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act and periodically thereafter, the Secretary and the Secretary of the Navy shall each submit to the appropriate committees of Congress reports that describe whether the conditions specified in subsection (b)(2) have been met and if so, the manner in which the conditions were met.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $60,000,000, as adjusted to reflect the engineering costs indices for the construction cost of the Project; and

(2) such sums as are necessary to operate and maintain the Project.

(k) SUNSET.—The authority of the Secretary to complete construction of the Project shall terminate on the date that is 10 years after the date of enactment of this Act.

SEC. 9109. ELSINORE VALLEY MUNICIPAL WATER DISTRICT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9104(a)) is amended by adding at the end the following:

"SEC. 1650. ELSINORE VALLEY MUNICIPAL WATER DISTRICT PROJECTS, CALIFORNIA.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Elsinore Valley Municipal Water District, California, may participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities that will be used to treat wastewater and provide recycled water in the Elsinore Valley Municipal Water District, California.

''(b) COST SHARING.—The Federal share of the cost of each project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary under this section shall not be used for operation or maintenance of the projects described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $12,500,000.''.

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of Public Law 102–575 (as amended by section 9104(b)) is amended by inserting after the item relating to section 1649 the following:

''Sec. 1650. Elsinore Valley Municipal Water District Projects, California.''.

SEC. 9110. NORTH BAY WATER REUSE AUTHORITY.

(a) PROJECT AUTHORIZATION.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9109(a)) is amended by adding at the end the following:

"SEC. 1651. NORTH BAY WATER REUSE PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a member agency of the North Bay Water Reuse Authority of the State located in the North San Pablo Bay watershed in—

''(A) Marin County;

''(B) Napa County;

''(C) Solano County; or

''(D) Sonoma County.

''(2) WATER RECLAMATION AND REUSE PROJECT.—The term 'water reclamation and reuse project' means a project carried out by the Secretary and an eligible entity in the North San Pablo Bay watershed relating to—

''(A) water quality improvement;

''(B) wastewater treatment;

''(C) water reclamation and reuse;

''(D) groundwater recharge and protection;

''(E) surface water augmentation; or

''(F) other related improvements.

''(3) STATE.—The term 'State' means the State of California.

''(b) NORTH BAY WATER REUSE PROGRAM.—

''(1) IN GENERAL.—Contingent upon a finding of feasibility, the Secretary, acting through a cooperative agreement with the State or a subdivision of the State, is authorized to enter into cooperative agreements with eligible entities for the planning, design, and construction of water reclamation and reuse facilities and recycled water conveyance and distribution systems.

''(2) COORDINATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary and the eligible entity shall, to the maximum extent practicable, use the design work and environmental evaluations initiated by—

''(A) non-Federal entities; and

''(B) the Corps of Engineers in the San Pablo Bay Watershed of the State.

''(3) PHASED PROJECT.—A cooperative agreement described in paragraph (1) shall require that the North Bay Water Reuse Program carried out under this section shall consist of 2 phases as follows:

''(A) FIRST PHASE.—During the first phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the main treatment and main conveyance systems.

''(B) SECOND PHASE.—During the second phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the sub-regional distribution systems.

''(4) COST SHARING.—

''(A) FEDERAL SHARE.—The Federal share of the cost of the first phase of the project authorized by this section shall not exceed 25 percent of the total cost of the first phase of the project.

''(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the completion of the water reclamation and reuse project, including—

''(i) reasonable costs incurred by the eligible entity relating to the planning, design, and construction of the water reclamation and reuse project; and

''(ii) the acquisition costs of land acquired for the project that is—

''(I) used for planning, design, and construction of the water reclamation and reuse project facilities; and

''(II) owned by an eligible entity and directly related to the project.

''(C) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(5) EFFECT.—Nothing in this section—

''(A) affects or preempts—

''(i) State water law; or

''(ii) an interstate compact relating to the allocation of water; or

''(B) confers on any non-Federal entity the ability to exercise any Federal right to—

''(i) the water of a stream; or

''(ii) any groundwater resource.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal share of the total cost of the first phase of the project authorized by this section $25,000,000, to remain available until expended.''.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 (as amended by section 9109(b)) is amended by inserting after the item relating to section 1650 the following:

''Sec. 1651. North Bay water reuse program.''.

SEC. 9111. PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT, CALIFORNIA.

(a) PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT.—

(1) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9110(a)) is amended by adding at the end the following:

"SEC. 1652. PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT.

''(a) IN GENERAL.—The Secretary, in cooperation with the Orange County Water District, shall participate in the planning, design, and construction of natural treatment systems and wetlands for the flows of the Santa Ana River, California, and its tributaries into the Prado Basin.

''(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of the project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

''(e) SUNSET OF AUTHORITY.—This section shall have no effect after the date that is 10 years after the date of the enactment of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 (43 U.S.C. prec. 371) (as amended by section 9110(b)) is amended by inserting after the last item the following:

''1652. Prado Basin Natural Treatment System Project.''.

(b) LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT.—

(1) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) (as amended by subsection (a)(1)) is amended by adding at the end the following:

"SEC. 1653. LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT.

''(a) IN GENERAL.—The Secretary, in cooperation with the Chino Basin

Watermaster, the Inland Empire Utilities Agency, and the Santa Ana Watershed Project Authority and acting under the Federal reclamation laws, shall participate in the design, planning, and construction of the Lower Chino Dairy Area desalination demonstration and reclamation project.

''(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed—

''(1) 25 percent of the total cost of the project; or

''(2) $26,000,000.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

''(e) SUNSET OF AUTHORITY.—This section shall have no effect after the date that is 10 years after the date of the enactment of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 (43 U.S.C. prec. 371) (as amended by subsection (a)(2)) is amended by inserting after the last item the following:

''1653. Lower Chino dairy area desalination demonstration and reclamation project.''.

(c) ORANGE COUNTY REGIONAL WATER RECLAMATION PROJECT.—Section 1624 of the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h–12j) is amended—

(1) in the section heading, by striking the words ''phase 1 of the''; and

(2) in subsection (a), by striking ''phase 1 of''.

SEC. 9112. BUNKER HILL GROUNDWATER BASIN, CALIFORNIA.

(a) DEFINITIONS.—In this section:

(1) DISTRICT.—The term ''District'' means the Western Municipal Water District, Riverside County, California.

(2) PROJECT.—

(A) IN GENERAL.—The term ''Project'' means the Riverside-Corona Feeder Project.

(B) INCLUSIONS.—The term ''Project'' includes—

(i) 20 groundwater wells;

(ii) groundwater treatment facilities;

(iii) water storage and pumping facilities; and

(iv) 28 miles of pipeline in San Bernardino and Riverside Counties in the State of California.

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) PLANNING, DESIGN, AND CONSTRUCTION OF RIVERSIDE-CORONA FEEDER.—

(1) IN GENERAL.—The Secretary, in cooperation with the District, may participate in the planning, design, and construction of the Project.

(2) AGREEMENTS AND REGULATIONS.—The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this subsection.

(3) FEDERAL SHARE.—

(A) PLANNING, DESIGN, CONSTRUCTION.—The Federal share of the cost to plan, design, and construct the Project shall not exceed the lesser of—

(i) an amount equal to 25 percent of the total cost of the Project; and

(ii) $26,000,000.

(B) STUDIES.—The Federal share of the cost to complete the necessary planning studies associated with the Project—

(i) shall not exceed an amount equal to 50 percent of the total cost of the studies; and

(ii) shall be included as part of the limitation described in subparagraph (A).

(4) IN-KIND SERVICES.—The non-Federal share of the cost of the Project may be provided in cash or in kind.

(5) LIMITATION.—Funds provided by the Secretary under this subsection shall not be used for operation or maintenance of the Project.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection the lesser of—

(A) an amount equal to 25 percent of the total cost of the Project; and

(B) $26,000,000.

SEC. 9113. GREAT PROJECT, CALIFORNIA.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102–575; 43 U.S.C. 390h et seq.) (as amended by section 9111(b)(1)) is amended by adding at the end the following:

''SEC. 1654. OXNARD, CALIFORNIA, WATER RECLAMATION, REUSE, AND TREATMENT PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Oxnard, California, may participate in the design, planning, and construction of Phase I permanent facilities for the GREAT project to reclaim, reuse, and treat impaired water in the area of Oxnard, California.

''(b) COST SHARE.—The Federal share of the costs of the project described in subsection (a) shall not exceed 25 percent of the total cost.

''(c) LIMITATION.—The Secretary shall not provide funds for the following:

''(1) The operations and maintenance of the project described in subsection (a).

''(2) The construction, operations, and maintenance of the visitor's center related to the project described in subsection (a).

''(d) SUNSET OF AUTHORITY.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (as amended by section 9111(b)(2)) is amended by inserting after the last item the following:

''Sec. 1654. Oxnard, California, water reclamation, reuse, and treatment project.''.

SEC. 9114. YUCAIPA VALLEY WATER DISTRICT, CALIFORNIA.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9113(a)) is amended by adding at the end the following:

''SEC. 1655. YUCAIPA VALLEY REGIONAL WATER SUPPLY RENEWAL PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Yucaipa Valley Water District, may participate in the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the Santa Ana Watershed as described in the report submitted under section 1606.

''(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

''SEC. 1656. CITY OF CORONA WATER UTILITY, CALIFORNIA, WATER RECYCLING AND REUSE PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Corona Water Utility, California, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the City of Corona Water Utility, California.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.''.

(b) CONFORMING AMENDMENTS.—The table of sections in section 2 of Public Law 102–575 (as amended by section 9114(b)) is amended by inserting after the last item the following:

''Sec. 1655. Yucaipa Valley Regional Water Supply Renewal Project.

''Sec. 1656. City of Corona Water Utility, California, water recycling and reuse project.''.

SEC. 9115. ARKANSAS VALLEY CONDUIT, COLORADO.

(a) COST SHARE.—The first section of Public Law 87–590 (76 Stat. 389) is amended in the second sentence of subsection (c) by inserting after ''cost thereof,'' the following: ''or in the case of the Arkansas Valley Conduit, payment in an amount equal to 35 percent of the cost of the conduit that is comprised of revenue generated by payments pursuant to a repayment contract and revenue that may be derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities,''.

(b) RATES.—Section 2(b) of Public Law 87–590 (76 Stat. 390) is amended—

(1) by striking ''(b) Rates'' and inserting the following:

''(b) RATES.—

''(1) IN GENERAL.—Rates''; and

(2) by adding at the end the following:

''(2) RUEDI DAM AND RESERVOIR, FOUNTAIN VALLEY PIPELINE, AND SOUTH OUTLET WORKS AT PUEBLO DAM AND RESERVOIR.—

''(A) IN GENERAL.—Notwithstanding the reclamation laws, until the date on which the payments for the Arkansas Valley Conduit under paragraph (3) begin, any revenue that may be derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities shall be credited towards payment of the actual cost of Ruedi Dam and Reservoir, the Fountain Valley Pipeline, and the South Outlet Works at Pueblo Dam and Reservoir plus interest in an amount determined in accordance with this section.

''(B) EFFECT.—Nothing in the Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)) prohibits the concurrent crediting of revenue (with interest as provided under this section) towards payment of the Arkansas Valley Conduit as provided under this paragraph.

''(3) ARKANSAS VALLEY CONDUIT.—

''(A) USE OF REVENUE.—Notwithstanding the reclamation laws, any revenue derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities shall be credited towards payment of the actual cost of the Arkansas Valley Conduit plus interest in an amount determined in accordance with this section.

''(B) ADJUSTMENT OF RATES.—Any rates charged under this section for water for municipal, domestic, or industrial use or for the use of facilities for the storage or delivery of water shall be adjusted to reflect the estimated revenue derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 7 of Public Law 87–590 (76 Stat. 393) is amended—

(1) by striking ''SEC. 7. There is hereby'' and inserting the following:

''SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is''; and

(2) by adding at the end the following:

''(b) ARKANSAS VALLEY CONDUIT.—

''(1) IN GENERAL.—Subject to annual appropriations and paragraph (2), there are authorized to be appropriated such sums as are necessary for the construction of the Arkansas Valley Conduit.

''(2) LIMITATION.—Amounts made available under paragraph (1) shall not be used for the operation or maintenance of the Arkansas Valley Conduit.''.

Subtitle C—Title Transfers and Clarifications

SEC. 9201. TRANSFER OF MCGEE CREEK PIPELINE AND FACILITIES.

(a) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term ''Agreement'' means the agreement numbered 06–AG–60–2115 and entitled ''Agreement Between the United States of America and McGee Creek Authority for the Purpose of Defining Responsibilities Related to and Implementing the Title Transfer of Certain Facilities at the McGee Creek Project, Oklahoma''.

(2) AUTHORITY.—The term ''Authority'' means the McGee Creek Authority located in Oklahoma City, Oklahoma.

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

(b) CONVEYANCE OF MCGEE CREEK PROJECT PIPELINE AND ASSOCIATED FACILITIES.—

(1) AUTHORITY TO CONVEY.—

(A) IN GENERAL.—In accordance with all applicable laws and consistent with any terms and conditions provided in the Agreement, the Secretary may convey to the Authority all right, title, and interest of the United States in and to the pipeline and any associated facilities described in the Agreement, including—

(i) the pumping plant;

(ii) the raw water pipeline from the McGee Creek pumping plant to the rate of flow control station at Lake Atoka;

(iii) the surge tank;

(iv) the regulating tank;

(v) the McGee Creek operation and maintenance complex, maintenance shop, and pole barn; and

(vi) any other appurtenances, easements, and fee title land associated with the facilities described in clauses (i) through (v), in accordance with the Agreement.

(B) EXCLUSION OF MINERAL ESTATE FROM CONVEYANCE.—

(i) IN GENERAL.—The mineral estate shall be excluded from the conveyance of any land or facilities under subparagraph (A).

(ii) MANAGEMENT.—Any mineral interests retained by the United States under this section shall be managed—

(I) consistent with Federal law; and

(II) in a manner that would not interfere with the purposes for which the McGee Creek Project was authorized.

(C) COMPLIANCE WITH AGREEMENT; APPLICABLE LAW.—

(i) AGREEMENT.—All parties to the conveyance under subparagraph (A) shall comply with the terms and conditions of the Agreement, to the extent consistent with this section.

(ii) APPLICABLE LAW.—Before any conveyance under subparagraph (A), the Secretary shall complete any actions required under—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(II) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(III) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(IV) any other applicable laws.

(2) OPERATION OF TRANSFERRED FACILITIES.—

(A) IN GENERAL.—On the conveyance of the land and facilities under paragraph (1)(A), the Authority shall comply with all applicable Federal, State, and local laws (including regulations) in the operation of any transferred facilities.

(B) OPERATION AND MAINTENANCE COSTS.—

(i) IN GENERAL.—After the conveyance of the land and facilities under paragraph (1)(A) and consistent with the Agreement, the Authority shall be responsible for all duties and costs associated with the operation, replacement, maintenance, enhancement, and betterment of the transferred land and facilities.

(ii) LIMITATION ON FUNDING.—The Authority shall not be eligible to receive any Federal funding to assist in the operation, replacement, maintenance, enhancement, and betterment of the transferred land and facilities, except for funding that would be available to any comparable entity that is not subject to reclamation laws.

(3) RELEASE FROM LIABILITY.—

(A) IN GENERAL.—Effective beginning on the date of the conveyance of the land and facilities under paragraph (1)(A), the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to any land or facilities conveyed, except for damages caused by acts of negligence committed by the United States (including any employee or agent of the United States) before the date of the conveyance.

(B) NO ADDITIONAL LIABILITY.—Nothing in this paragraph adds to any liability that the United States may have under chapter 171 of title 28, United States Code.

(4) CONTRACTUAL OBLIGATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any rights and obligations under the contract numbered 0–07–50–X0822 and dated October 11, 1979, between the Authority and the United States for the construction, operation, and maintenance of the McGee Creek Project, shall remain in full force and effect.

(B) AMENDMENTS.—With the consent of the Authority, the Secretary may amend the contract described in subparagraph (A) to reflect the conveyance of the land and facilities under paragraph (1)(A).

(5) APPLICABILITY OF THE RECLAMATION LAWS.—Notwithstanding the conveyance of the land and facilities under paragraph (1)(A), the reclamation laws shall continue to apply to any project water provided to the Authority.

SEC. 9202. ALBUQUERQUE BIOLOGICAL PARK, NEW MEXICO, TITLE CLARIFICATION.

(a) PURPOSE.—The purpose of this section is to direct the Secretary of the Interior to issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach, San Gabriel Park, or the BioPark Parcels to the City, thereby removing a potential cloud on the City's title to these lands.

(b) DEFINITIONS.—In this section:

(1) CITY.—The term ''City'' means the City of Albuquerque, New Mexico.

(2) BIOPARK PARCELS.—The term ''BioPark Parcels'' means a certain area of land containing 19.16 acres, more or less, situated within the Town of Albuquerque Grant, in Projected Section 13, Township 10 North, Range 2 East, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, comprised of the following platted tracts and lot, and MRGCD tracts:

(A) Tracts A and B, Albuquerque Biological Park, as the same are shown and designated on the Plat of Tracts A & B, Albuquerque Biological Park, recorded in the Office of the County Clerk of Bernalillo County, New Mexico on February 11, 1994 in Book 94C, Page 44; containing 17.9051 acres, more or less.

(B) Lot B-1, Roger Cox Addition, as the same is shown and designated on the Plat of Lots B-1 and B-2 Roger Cox Addition, recorded in the Office of the County Clerk of Bernalillo County, New Mexico on October 3, 1985 in Book C28, Page 99; containing 0.6289 acres, more or less.

(C) Tract 361 of MRGCD Map 38, bounded on the north by Tract A, Albuquerque Biological Park, on the east by the westerly right-of-way of Central Avenue, on the south by Tract 332B MRGCD Map 38, and on the west by Tract B, Albuquerque Biological Park; containing 0.30 acres, more or less.

(D) Tract 332B of MRGCD Map 38; bounded on the north by Tract 361, MRGCD Map 38, on the west by Tract 32A-1-A, MRGCD Map 38, and on the south and east by the westerly right-of-way of Central Avenue; containing 0.25 acres, more or less.

(E) Tract 331A-1A of MRGCD Map 38, bounded on the west by Tract B, Albuquerque Biological Park, on the east by Tract 332B, MRGCD Map 38, and on the south by the westerly right-of-way of Central Avenue and Tract A, Albuquerque Biological Park; containing 0.08 acres, more or less.

(3) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The terms ''Middle Rio Grande Conservancy District'' and ''MRGCD'' mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution systems for irrigation and water delivery and operations in the Middle Rio Grande Valley.

(4) MIDDLE RIO GRANDE PROJECT.—The term ''Middle Rio Grande Project'' means the works associated with water deliveries and operations in the Rio Grande basin as authorized by the Flood Control Act of 1948 (Public Law 80–858; 62 Stat. 1175) and the Flood Control Act of 1950 (Public Law 81–516; 64 Stat. 170).

(5) SAN GABRIEL PARK.—The term ''San Gabriel Park'' means the tract of land containing 40.2236 acres, more or less, situated within Section 12 and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(6) TINGLEY BEACH.—The term ''Tingley Beach'' means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, and secs. 18 and 19, T10N, R3E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(c) CLARIFICATION OF PROPERTY INTEREST.—

(1) REQUIRED ACTION.—The Secretary of the Interior shall issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach, San Gabriel Park, and the BioPark Parcels to the City.

(2) TIMING.—The Secretary shall carry out the action in paragraph (1) as soon as practicable after the date of enactment of this Act and in accordance with all applicable law.

(3) NO ADDITIONAL PAYMENT.—The City shall not be required to pay any additional costs to the United States for the value of San Gabriel Park, Tingley Beach, and the BioPark Parcels.

(d) OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.—

(1) IN GENERAL.—Except as expressly provided in subsection (c), nothing in this section shall be construed to affect any right, title, or interest in and to any land associated with the Middle Rio Grande Project.

(2) ONGOING LITIGATION.—Nothing contained in this section shall be construed or utilized to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, 99-CV-01320-JAP-RHS, entitled Rio Grande Silvery Minnow v. John W. Keys, III, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

SEC. 9203. GOLETA WATER DISTRICT WATER DISTRIBUTION SYSTEM, CALIFORNIA.

(a) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term ''Agreement'' means Agreement No. 07–LC–20–9387 between the United States and the District, entitled ''Agreement Between the United States and the Goleta Water District to Transfer Title of the Federally Owned Distribution System to the Goleta Water District''.

(2) DISTRICT.—The term ''District'' means the Goleta Water District, located in Santa Barbara County, California.

(3) GOLETA WATER DISTRIBUTION SYSTEM.—The term ''Goleta Water Distribution System'' means the facilities constructed by the United States to enable the District to convey water to its water users, and associated lands, as described in Appendix A of the Agreement.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) CONVEYANCE OF THE GOLETA WATER DISTRIBUTION SYSTEM.—The Secretary is authorized to convey to the District all right, title, and interest of the United States in and to the Goleta Water Distribution System of the Cachuma Project, California, subject to valid existing rights and consistent with the terms and conditions set forth in the Agreement.

(c) LIABILITY.—Effective upon the date of the conveyance authorized by subsection (b), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the lands, buildings, or facilities conveyed under this section, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (popularly known as the Federal Tort Claims Act).

(d) BENEFITS.—After conveyance of the Goleta Water Distribution System under this section—

(1) such distribution system shall not be considered to be a part of a Federal reclamation project; and

(2) the District shall not be eligible to receive any benefits with respect to any facility comprising the Goleta Water Distribution System, except benefits that would be available to a similarly situated entity with respect to property that is not part of a Federal reclamation project.

(e) COMPLIANCE WITH OTHER LAWS.—

(1) COMPLIANCE WITH ENVIRONMENTAL AND HISTORIC PRESERVATION LAWS.—Prior to any conveyance under this section, the Secretary shall complete all actions required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and all other applicable laws.

(2) COMPLIANCE BY THE DISTRICT.—Upon the conveyance of the Goleta Water Distribution System under this section, the District shall comply with all applicable Federal, State, and local laws and regulations in its operation of the facilities that are transferred.

(3) APPLICABLE AUTHORITY.—All provisions of Federal reclamation law (the Act of June 17, 1902 (43 U.S.C. 371 et seq.) and Acts supplemental to and amendatory of that Act) shall continue to be applicable to project water provided to the District.

(f) REPORT.—If, 12 months after the date of the enactment of this Act, the Secretary has not completed the conveyance required under subsection (b), the Secretary shall complete a report that states the reason the conveyance has not been completed and the date by which the conveyance shall be completed. The Secretary shall submit a report required under this subsection to Congress not later than 14 months after the date of the enactment of this Act.

Subtitle D—San Gabriel Basin Restoration Fund

SEC. 9301. RESTORATION FUND.

Section 110 of division B of the Miscellaneous Appropriations Act, 2001 (114 Stat. 2763A–222), as enacted into law by section 1(a)(4) of the Consolidated Appropriations Act, 2001 (Public Law 106–554, as amended by Public Law 107–66), is further amended—

(1) in subsection (a)(3)(B), by inserting after clause (iii) the following:

''(iv) NON-FEDERAL MATCH.—After $85,000,000 has cumulatively been appropriated under subsection (d)(1), the remainder of Federal funds appropriated under subsection (d) shall be subject to the following matching requirement:

''(I) SAN GABRIEL BASIN WATER QUALITY AUTHORITY.—The San Gabriel Basin Water Quality Authority shall be responsible for providing a 35 percent non-Federal match for Federal funds made available to the Authority under this Act.

''(II) CENTRAL BASIN MUNICIPAL WATER DISTRICT.—The Central Basin Municipal Water District shall be responsible for providing a 35 percent non-Federal match for Federal funds made available to the District under this Act.'';

(2) in subsection (a), by adding at the end the following:

''(4) INTEREST ON FUNDS IN RESTORATION FUND.—No amounts appropriated above the cumulative amount of $85,000,000 to the Restoration Fund under subsection (d)(1) shall be invested by the Secretary of the Treasury in interest-bearing securities of the United States.''; and

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

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Restoration Fund established under subsection (a) $146,200,000. Such funds shall remain available until expended.

''(2) SET-ASIDE.—Of the amounts appropriated under paragraph (1), no more than $21,200,000 shall be made available to carry out the Central Basin Water Quality Project.''.

Subtitle E—Lower Colorado River Multi-Species Conservation Program

SEC. 9401. DEFINITIONS.

In this subtitle:

(1) LOWER COLORADO RIVER MULTI-SPECIES CONSERVATION PROGRAM.—The term ''Lower Colorado River Multi-Species Conservation Program'' or ''LCR MSCP'' means the cooperative effort on the Lower Colorado River between Federal and non-Federal entities in Arizona, California, and Nevada approved by the Secretary of the Interior on April 2, 2005.

(2) LOWER COLORADO RIVER.—The term ''Lower Colorado River'' means the segment of the Colorado River within the planning area as provided in section 2(B) of the Implementing Agreement, a Program Document.

(3) PROGRAM DOCUMENTS.—The term ''Program Documents'' means the Habitat Conservation Plan, Biological Assessment and Biological and Conference Opinion, Environmental Impact Statement/Environmental Impact Report, Funding and Management Agreement, Implementing Agreement, and Section 10(a)(1)(B) Permit issued and, as applicable, executed in connection with the LCR MSCP, and any amendments or successor documents that are developed consistent with existing agreements and applicable law.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means each of the States of Arizona, California, and Nevada.

SEC. 9402. IMPLEMENTATION AND WATER ACCOUNTING.

(a) IMPLEMENTATION.—The Secretary is authorized to manage and implement the LCR MSCP in accordance with the Program Documents.

(b) WATER ACCOUNTING.—The Secretary is authorized to enter into an agreement with the States providing for the use of water from the Lower Colorado River for habitat creation and maintenance in accordance with the Program Documents.

SEC. 9403. ENFORCEABILITY OF PROGRAM DOCUMENTS.

(a) IN GENERAL.—Due to the unique conditions of the Colorado River, any party to the Funding and Management Agreement or the Implementing Agreement, and any permittee under the Section 10(a)(1)(B) Permit, may commence a civil action in United States district court to adjudicate, confirm, validate or decree the rights and obligations of the parties under those Program Documents.

(b) JURISDICTION.—The district court shall have jurisdiction over such actions and may issue such orders, judgments, and decrees as are consistent with the court's exercise of jurisdiction under this section.

(c) UNITED STATES AS DEFENDANT.—

(1) IN GENERAL.—The United States or any agency of the United States may be named as a defendant in such actions.

(2) SOVEREIGN IMMUNITY.—Subject to paragraph (3), the sovereign immunity of the United States is waived for purposes of actions commenced pursuant to this section.

(3) NONWAIVER FOR CERTAIN CLAIMS.—Nothing in this section waives the sovereign immunity of the United States to claims for money damages, monetary compensation, the provision of indemnity, or any claim seeking money from the United States.

(d) RIGHTS UNDER FEDERAL AND STATE LAW.—

(1) IN GENERAL.—Except as specifically provided in this section, nothing in this section limits any rights or obligations of any party under Federal or State law.

(2) APPLICABILITY TO LOWER COLORADO RIVER MULTI-SPECIES CONSERVATION PROGRAM.—This section—

(A) shall apply only to the Lower Colorado River Multi-Species Conservation Program; and

(B) shall not affect the terms of, or rights or obligations under, any other conservation plan created pursuant to any Federal or State law.

(e) VENUE.—Any suit pursuant to this section may be brought in any United States district court in the State in which any non-Federal party to the suit is situated.

SEC. 9404. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary such sums as may be necessary to meet the obligations of the Secretary under the Program Documents, to remain available until expended.

(b) NON-REIMBURSABLE AND NON-RETURNABLE.—All amounts appropriated to and expended by the Secretary for the LCR MSCP shall be non-reimbursable and non-returnable.

Subtitle F—Secure Water

SEC. 9501. FINDINGS.

Congress finds that—

(1) adequate and safe supplies of water are fundamental to the health, economy, security, and ecology of the United States;

(2) systematic data-gathering with respect to, and research and development of, the water resources of the United States will help ensure the continued existence of sufficient quantities of water to support—

(A) increasing populations;

(B) economic growth;

(C) irrigated agriculture;

(D) energy production; and

(E) the protection of aquatic ecosystems;

(3) global climate change poses a significant challenge to the protection and use of the water resources of the United States due to an increased uncertainty with respect to the timing, form, and geographical distribution of precipitation, which may have a substantial effect on the supplies of water for agricultural, hydroelectric power, industrial, domestic supply, and environmental needs;

(4) although States bear the primary responsibility and authority for managing the water resources of the United States, the Federal Government should support the States, as well as regional, local, and tribal governments, by carrying out—

(A) nationwide data collection and monitoring activities;

(B) relevant research; and

(C) activities to increase the efficiency of the use of water in the United States;

(5) Federal agencies that conduct water management and related activities have a responsibility—

(A) to take a lead role in assessing risks to the water resources of the United States (including risks posed by global climate change); and

(B) to develop strategies—

(i) to mitigate the potential impacts of each risk described in subparagraph (A); and

(ii) to help ensure that the long-term water resources management of the United States is sustainable and will ensure sustainable quantities of water;

(6) it is critical to continue and expand research and monitoring efforts—

(A) to improve the understanding of the variability of the water cycle; and

(B) to provide basic information necessary—

(i) to manage and efficiently use the water resources of the United States; and

(ii) to identify new supplies of water that are capable of being reclaimed; and

(7) the study of water use is vital—

(A) to the understanding of the impacts of human activity on water and ecological resources; and

(B) to the assessment of whether available surface and groundwater supplies will be available to meet the future needs of the United States.

SEC. 9502. DEFINITIONS.

In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration.

(2) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the National Advisory Committee on Water Information established—

(A) under the Office of Management and Budget Circular 92–01; and

(B) to coordinate water data collection activities.

(3) ASSESSMENT PROGRAM.—The term ''assessment program'' means the water availability and use assessment program established by the Secretary under section 9508(a).

(4) CLIMATE DIVISION.—The term ''climate division'' means 1 of the 359 divisions in the United States that represents 2 or more regions located within a State that are as climatically homogeneous as possible, as determined by the Administrator.

(5) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Reclamation.

(6) DIRECTOR.—The term ''Director'' means the Director of the United States Geological Survey.

(7) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means any State, Indian tribe, irrigation district, water district, or other organization with water or power delivery authority.

(8) FEDERAL POWER MARKETING ADMINISTRATION.—The term ''Federal Power Marketing Administration'' means—

(A) the Bonneville Power Administration;

(B) the Southeastern Power Administration;

(C) the Southwestern Power Administration; and

(D) the Western Area Power Administration.

(9) HYDROLOGIC ACCOUNTING UNIT.—The term ''hydrologic accounting unit'' means 1 of the 352 river basin hydrologic accounting units used by the United States Geological Survey.

(10) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) MAJOR AQUIFER SYSTEM.—The term ''major aquifer system'' means a groundwater system that is—

(A) identified as a significant groundwater system by the Director; and

(B) included in the Groundwater Atlas of the United States, published by the United States Geological Survey.

(12) MAJOR RECLAMATION RIVER BASIN.—

(A) IN GENERAL.—The term ''major reclamation river basin'' means each major river system (including tributaries)—

(i) that is located in a service area of the Bureau of Reclamation; and

(ii) at which is located a federally authorized project of the Bureau of Reclamation.

(B) INCLUSIONS.—The term ''major reclamation river basin'' includes—

(i) the Colorado River;

(ii) the Columbia River;

(iii) the Klamath River;

(iv) the Missouri River;

(v) the Rio Grande;

(vi) the Sacramento River;

(vii) the San Joaquin River; and

(viii) the Truckee River.

(13) NON-FEDERAL PARTICIPANT.—The term ''non-Federal participant'' means—

(A) a State, regional, or local authority;

(B) an Indian tribe or tribal organization; or

(C) any other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association, or a nongovernmental organization.

(14) PANEL.—The term ''panel'' means the climate change and water intragovernmental panel established by the Secretary under section 9506(a).

(15) PROGRAM.—The term ''program'' means the regional integrated sciences and assessments program—

(A) established by the Administrator; and

(B) that is comprised of 8 regional programs that use advances in integrated climate sciences to assist decisionmaking processes.

(16) SECRETARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''Secretary'' means the Secretary of the Interior.

(B) EXCEPTIONS.—The term ''Secretary'' means—

(i) in the case of sections 9503, 9504, and 9509, the Secretary of the Interior (acting through the Commissioner); and

(ii) in the case of sections 9507 and 9508, the Secretary of the Interior (acting through the Director).

(17) SERVICE AREA.—The term ''service area'' means any area that encompasses a watershed that contains a federally authorized reclamation project that is located in any State or area described in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

SEC. 9503. CLIMATE CHANGE ADAPTATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a climate change adaptation program—

(1) to assess each effect of, and risk resulting from, global climate change with respect to the quantity of water resources located in a service area; and

(2) to ensure, to the maximum extent possible, that strategies are developed at watershed and aquifer system scales to address potential water shortages, conflicts, and other impacts to water users located at, and the environment of, each service area.

(b) REQUIRED ELEMENTS.—In carrying out the program described in subsection (a), the Secretary shall—

(1) consult with the United States Geological Survey, the National Oceanic and Atmospheric Administration, the program, and each appropriate State water resource agency, to ensure that the Secretary has access to the best available scientific information with respect to presently observed and projected future impacts of global climate change on water resources;

(2) assess specific risks to the water supply of each major reclamation river basin, including any risk relating to—

(A) a change in snowpack;

(B) changes in the timing and quantity of runoff;

(C) changes in groundwater recharge and discharge; and

(D) any increase in—

(i) the demand for water as a result of increasing temperatures; and

(ii) the rate of reservoir evaporation;

(3) with respect to each major reclamation river basin, analyze the extent to which changes in the water supply of the United States will impact—

(A) the ability of the Secretary to deliver water to the contractors of the Secretary;

(B) hydroelectric power generation facilities;

(C) recreation at reclamation facilities;

(D) fish and wildlife habitat;

(E) applicable species listed as an endangered, threatened, or candidate species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(F) water quality issues (including salinity levels of each major reclamation river basin);

(G) flow and water dependent ecological resiliency; and

(H) flood control management;

(4) in consultation with appropriate non-Federal participants, consider and develop appropriate strategies to mitigate each impact of water supply changes analyzed by the Secretary under paragraph (3), including strategies relating to—

(A) the modification of any reservoir storage or operating guideline in existence as of the date of enactment of this Act;

(B) the development of new water management, operating, or habitat restoration plans;

(C) water conservation;

(D) improved hydrologic models and other decision support systems; and

(E) groundwater and surface water storage needs; and

(5) in consultation with the Director, the Administrator, the Secretary of Agriculture (acting through the Chief of the Natural Resources Conservation Service), and applicable State water resource agencies, develop a monitoring plan to acquire and maintain water resources data—

(A) to strengthen the understanding of water supply trends; and

(B) to assist in each assessment and analysis conducted by the Secretary under paragraphs (2) and (3).

(c) REPORTING.—Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report that describes—

(1) each effect of, and risk resulting from, global climate change with respect to the quantity of water resources located in each major reclamation river basin;

(2) the impact of global climate change with respect to the operations of the Secretary in each major reclamation river basin;

(3) each mitigation and adaptation strategy considered and implemented by the Secretary to address each effect of global climate change described in paragraph (1);

(4) each coordination activity conducted by the Secretary with—

(A) the Director;

(B) the Administrator;

(C) the Secretary of Agriculture (acting through the Chief of the Natural Resources Conservation Service); or

(D) any appropriate State water resource agency; and

(5) the implementation by the Secretary of the monitoring plan developed under subsection (b)(5).

(d) FEASIBILITY STUDIES.—

(1) AUTHORITY OF SECRETARY.—The Secretary, in cooperation with any non-Federal participant, may conduct 1 or more studies to determine the feasibility and impact on ecological resiliency of implementing each mitigation and adaptation strategy described in subsection (c)(3), including the construction of any water supply, water management, environmental, or habitat enhancement water infrastructure that the Secretary determines to be necessary to address the effects of global climate change on water resources located in each major reclamation river basin.

(2) COST SHARING.—

(A) FEDERAL SHARE.—

(i) IN GENERAL.—Except as provided in clause (ii), the Federal share of the cost of a study described in paragraph (1) shall not exceed 50 percent of the cost of the study.

(ii) EXCEPTION RELATING TO FINANCIAL HARDSHIP.—The Secretary may increase the Federal share of the cost of a study described in paragraph (1) to exceed 50 percent of the cost of the study if the Secretary determines that, due to a financial hardship, the non-Federal participant of the study is unable to contribute an amount equal to 50 percent of the cost of the study.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of a study described in paragraph (1) may be provided in the form of any in-kind services that substantially contribute toward the completion of the study, as determined by the Secretary.

(e) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section amends or otherwise affects any existing authority under reclamation laws that govern the operation of any Federal reclamation project.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2023, to remain available until expended.

SEC. 9504. WATER MANAGEMENT IMPROVEMENT.

(a) AUTHORIZATION OF GRANTS AND COOPERATIVE AGREEMENTS.—

(1) AUTHORITY OF SECRETARY.—The Secretary may provide any grant to, or enter into an agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement—

(A) to conserve water;

(B) to increase water use efficiency;

(C) to facilitate water markets;

(D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;

(E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;

(F) to prevent the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of a proposed rule);

(G) to accelerate the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by Federal reclamation projects or are subject to a recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the Commissioner of Reclamation has implementation responsibilities; or

(H) to carry out any other activity—

(i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or

(ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area.

(2) APPLICATION.—To be eligible to receive a grant, or enter into an agreement with the Secretary under paragraph (1), an eligible applicant shall—

(A) be located within the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

(B) submit to the Secretary an application that includes a proposal of the improvement or activity to be planned, designed, constructed, or implemented by the eligible applicant.

(3) REQUIREMENTS OF GRANTS AND COOPERATIVE AGREEMENTS.—

(A) COMPLIANCE WITH REQUIREMENTS.—Each grant and agreement entered into by the Secretary with any eligible applicant under paragraph (1) shall be in compliance with each requirement described in subparagraphs (B) through (F).

(B) AGRICULTURAL OPERATIONS.—In carrying out paragraph (1), the Secretary shall not provide a grant, or enter into an agreement, for an improvement to conserve irrigation water unless the eligible applicant agrees not—

(i) to use any associated water savings to increase the total irrigated acreage of the eligible applicant; or

(ii) to otherwise increase the consumptive use of water in the operation of the eligible applicant, as determined pursuant to the law of the State in which the operation of the eligible applicant is located.

(C) NONREIMBURSABLE FUNDS.—Any funds provided by the Secretary to an eligible applicant through a grant or agreement under paragraph (1) shall be nonreimbursable.

(D) TITLE TO IMPROVEMENTS.—If an infrastructure improvement to a federally owned facility is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1), the Federal Government shall continue to hold title to the facility and improvements to the facility.

(E) COST SHARING.—

(i) FEDERAL SHARE.—The Federal share of the cost of any infrastructure improvement or activity that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall not exceed 50 percent of the cost of the infrastructure improvement or activity.

(ii) CALCULATION OF NON-FEDERAL SHARE.—In calculating the non-Federal share of the cost of an infrastructure improvement or activity proposed by an eligible applicant through an application submitted by the eligible applicant under paragraph (2), the Secretary shall—

(I) consider the value of any in-kind services that substantially contributes toward the completion of the improvement or activity, as determined by the Secretary; and

(II) not consider any other amount that the eligible applicant receives from a Federal agency.

(iii) MAXIMUM AMOUNT.—The amount provided to an eligible applicant through a grant or other agreement under paragraph (1) shall be not more than $5,000,000.

(iv) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the cost of operating and maintaining any infrastructure improvement that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall be 100 percent.

(F) LIABILITY.—

(i) IN GENERAL.—Except as provided under chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this section, the title of which is not held by the United States.

(ii) TORT CLAIMS ACT.—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act'').

(b) RESEARCH AGREEMENTS.—

(1) AUTHORITY OF SECRETARY.—The Secretary may enter into 1 or more agreements with any university, nonprofit research institution, or organization with water or power delivery authority to fund any research activity that is designed—

(A) to conserve water resources;

(B) to increase the efficiency of the use of water resources; or

(C) to enhance the management of water resources, including increasing the use of renewable energy in the management and delivery of water.

(2) TERMS AND CONDITIONS OF SECRETARY.—

(A) IN GENERAL.—An agreement entered into between the Secretary and any university, institution, or organization described in

paragraph (1) shall be subject to such terms and conditions as the Secretary determines to be appropriate.

(B) AVAILABILITY.—The agreements under this subsection shall be available to all Reclamation projects and programs that may benefit from project-specific or programmatic cooperative research and development.

(c) MUTUAL BENEFIT.—Grants or other agreements made under this section may be for the mutual benefit of the United States and the entity that is provided the grant or enters into the cooperative agreement.

(d) RELATIONSHIP TO PROJECT-SPECIFIC AUTHORITY.—This section shall not supersede any existing project-specific funding authority.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000, to remain available until expended.

SEC. 9505. HYDROELECTRIC POWER ASSESSMENT.

(a) DUTY OF SECRETARY OF ENERGY.—The Secretary of Energy, in consultation with the Administrator of each Federal Power Marketing Administration, shall assess each effect of, and risk resulting from, global climate change with respect to water supplies that are required for the generation of hydroelectric power at each Federal water project that is applicable to a Federal Power Marketing Administration.

(b) ACCESS TO APPROPRIATE DATA.—

(1) IN GENERAL.—In carrying out each assessment under subsection (a), the Secretary of Energy shall consult with the United States Geological Survey, the National Oceanic and Atmospheric Administration, the program, and each appropriate State water resource agency, to ensure that the Secretary of Energy has access to the best available scientific information with respect to presently observed impacts and projected future impacts of global climate change on water supplies that are used to produce hydroelectric power.

(2) ACCESS TO DATA FOR CERTAIN ASSESSMENTS.—In carrying out each assessment under subsection (a), with respect to the Bonneville Power Administration and the Western Area Power Administration, the Secretary of Energy shall consult with the Commissioner to access data and other information that—

(A) is collected by the Commissioner; and

(B) the Secretary of Energy determines to be necessary for the conduct of the assessment.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary of Energy shall submit to the appropriate committees of Congress a report that describes—

(1) each effect of, and risk resulting from, global climate change with respect to—

(A) water supplies used for hydroelectric power generation; and

(B) power supplies marketed by each Federal Power Marketing Administration, pursuant to—

(i) long-term power contracts;

(ii) contingent capacity contracts; and

(iii) short-term sales; and

(2) each recommendation of the Administrator of each Federal Power Marketing Administration relating to any change in any operation or contracting practice of each Federal Power Marketing Administration to address each effect and risk described in paragraph (1), including the use of purchased power to meet long-term commitments of each Federal Power Marketing Administration.

(d) COSTS NONREIMBURSABLE.—Any costs incurred by the Secretary of Energy in carrying out this section shall be nonreimbursable.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2023, to remain available until expended.

SEC. 9506. CLIMATE CHANGE AND WATER INTRAGOVERNMENTAL PANEL.

(a) ESTABLISHMENT.—The Secretary shall establish and lead a climate change and water intragovernmental panel—

(1) to review the current scientific understanding of each impact of global climate change on the quantity and quality of water resources of the United States; and

(2) to develop any strategy that the panel determines to be necessary to improve observational capabilities, expand data acquisition, or take other actions—

(A) to increase the reliability and accuracy of modeling and prediction systems to benefit water managers at the Federal, State, and local levels; and

(B) to increase the understanding of the impacts of climate change on aquatic ecosystems.

(b) MEMBERSHIP.—The panel shall be comprised of—

(1) the Secretary;

(2) the Director;

(3) the Administrator;

(4) the Secretary of Agriculture (acting through the Chief of the Natural Resources Conservation Service);

(5) the Commissioner;

(6) the Chief of Engineers;

(7) the Administrator of the Environmental Protection Agency; and

(8) the Secretary of Energy.

(c) REVIEW ELEMENTS.—In conducting the review and developing the strategy under subsection (a), the panel shall consult with State water resource agencies, the Advisory Committee, drinking water utilities, water research organizations, and relevant water user, environmental, and other nongovernmental organizations—

(1) to assess the extent to which the conduct of measures of streamflow, groundwater levels, soil moisture, evapotranspiration rates, evaporation rates, snowpack levels, precipitation amounts, flood risk, and glacier mass is necessary to improve the understanding of the Federal Government and the States with respect to each impact of global climate change on water resources;

(2) to identify data gaps in current water monitoring networks that must be addressed to improve the capability of the Federal Government and the States to measure, analyze, and predict changes to the quality and quantity of water resources, including flood risks, that are directly or indirectly affected by global climate change;

(3) to establish data management and communication protocols and standards to increase the quality and efficiency by which each Federal agency acquires and reports relevant data;

(4) to consider options for the establishment of a data portal to enhance access to water resource data—

(A) relating to each nationally significant watershed and aquifer located in the United States; and

(B) that is collected by each Federal agency and any other public or private entity for each nationally significant watershed and aquifer located in the United States;

(5) to expand, and integrate each initiative of the panel with, to the maximum extent possible, any interagency initiative in existence as of the date of enactment of this Act, including—

(A) the national integrated drought information system of the National Oceanic and Atmospheric Administration;

(B) the advanced hydrologic prediction service of the National Weather Service;

(C) the National Water Information System of the United States Geological Survey; and

(D) the Hydrologic Information System of the Consortium of Universities for the Advancements of Hydrologic Sciences;

(6) to facilitate the development of hydrologic and other models to integrate data that reflects groundwater and surface water interactions;

(7) to apply the hydrologic and other models developed under paragraph (6) to water resource management problems identified by the panel, including the need to maintain or improve ecological resiliency at watershed and aquifer system scales; and

(8) to facilitate the development of mechanisms to effectively combine global and regional climate models with hydrologic and ecological models to produce water resource information to assist water managers at the Federal, State, and local levels in the development of adaptation strategies that can be incorporated into long-term water management and flood-hazard mitigation decisions.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that describes the review conducted, and the strategy developed, by the panel under subsection (a).

(e) DEMONSTRATION, RESEARCH, AND METHODOLOGY DEVELOPMENT PROJECTS.—

(1) AUTHORITY OF SECRETARY.—The Secretary, in consultation with the panel and the Advisory Committee, may provide grants to, or enter into any contract, cooperative agreement, interagency agreement, or other transaction with, an appropriate entity to carry out any demonstration, research, or methodology development project that the Secretary determines to be necessary to assist in the implementation of the strategy developed by the panel under subsection (a)(2).

(2) REQUIREMENTS.—

(A) MAXIMUM AMOUNT OF FEDERAL SHARE.—The Federal share of the cost of any demonstration, research, or methodology development project that is the subject of any grant, contract, cooperative agreement, interagency agreement, or other transaction entered into between the Secretary and an appropriate entity under paragraph (1) shall not exceed $1,000,000.

(B) REPORT.—An appropriate entity that receives funds from a grant, contract, cooperative agreement, interagency agreement, or other transaction entered into between the Secretary and the appropriate entity under paragraph (1) shall submit to the Secretary a report describing the results of the demonstration, research, or methodology development project conducted by the appropriate entity.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out subsections (a) through (d) $2,000,000 for each of fiscal years 2009 through 2011, to remain available until expended.

(2) DEMONSTRATION, RESEARCH, AND METHODOLOGY DEVELOPMENT PROJECTS.—There is authorized to be appropriated to carry out subsection (e) $10,000,000 for the period of fiscal years 2009 through 2013, to remain available until expended.

SEC. 9507. WATER DATA ENHANCEMENT BY UNITED STATES GEOLOGICAL SURVEY.

(a) NATIONAL STREAMFLOW INFORMATION PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Advisory Committee and consistent with this section, shall proceed with implementation of the national

streamflow information program, as reviewed by the National Research Council in 2004.

(2) REQUIREMENTS.—In conducting the national streamflow information program, the Secretary shall—

(A) measure streamflow and related environmental variables in nationally significant watersheds—

(i) in a reliable and continuous manner; and

(ii) to develop a comprehensive source of information on which public and private decisions relating to the management of water resources may be based;

(B) provide for a better understanding of hydrologic extremes (including floods and droughts) through the conduct of intensive data collection activities during and following hydrologic extremes;

(C) establish a base network that provides resources that are necessary for—

(i) the monitoring of long-term changes in streamflow; and

(ii) the conduct of assessments to determine the extent to which each long-term change monitored under clause (i) is related to global climate change;

(D) integrate the national streamflow information program with data collection activities of Federal agencies and appropriate State water resource agencies (including the national drought information system)—

(i) to enhance the comprehensive understanding of water availability;

(ii) to improve flood-hazard assessments;

(iii) to identify any data gap with respect to water resources; and

(iv) to improve hydrologic forecasting; and

(E) incorporate principles of adaptive management in the conduct of periodic reviews of information collected under the national streamflow information program to assess whether the objectives of the national streamflow information program are being adequately addressed.

(3) IMPROVED METHODOLOGIES.—The Secretary shall—

(A) improve methodologies relating to the analysis and delivery of data; and

(B) investigate, develop, and implement new methodologies and technologies to estimate or measure streamflow in a more cost-efficient manner.

(4) NETWORK ENHANCEMENT.—

(A) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, in accordance with subparagraph (B), the Secretary shall—

(i) increase the number of streamgages funded by the national streamflow information program to a quantity of not less than 4,700 sites; and

(ii) ensure all streamgages are flood-hardened and equipped with water-quality sensors and modernized telemetry.

(B) REQUIREMENTS OF SITES.—Each site described in subparagraph (A) shall conform with the National Streamflow Information Program plan as reviewed by the National Research Council.

(5) FEDERAL SHARE.—The Federal share of the national streamgaging network established pursuant to this subsection shall be 100 percent of the cost of carrying out the national streamgaging network.

(6) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), there are authorized to be appropriated such sums as are necessary to operate the national streamflow information program for the period of fiscal years 2009 through 2023, to remain available until expended.

(B) NETWORK ENHANCEMENT FUNDING.—There is authorized to be appropriated to carry out the network enhancements described in paragraph (4) $10,000,000 for each of fiscal years 2009 through 2019, to remain available until expended.

(b) NATIONAL GROUNDWATER RESOURCES MONITORING.—

(1) IN GENERAL.—The Secretary shall develop a systematic groundwater monitoring program for each major aquifer system located in the United States.

(2) PROGRAM ELEMENTS.—In developing the monitoring program described in paragraph (1), the Secretary shall—

(A) establish appropriate criteria for monitoring wells to ensure the acquisition of long-term, high-quality data sets, including, to the maximum extent possible, the inclusion of real-time instrumentation and reporting;

(B) in coordination with the Advisory Committee and State and local water resource agencies—

(i) assess the current scope of groundwater monitoring based on the access availability and capability of each monitoring well in existence as of the date of enactment of this Act; and

(ii) develop and carry out a monitoring plan that maximizes coverage for each major aquifer system that is located in the United States; and

(C) prior to initiating any specific monitoring activities within a State after the date of enactment of this Act, consult and coordinate with the applicable State water resource agency with jurisdiction over the aquifer that is the subject of the monitoring activities, and comply with all applicable laws (including regulations) of the State.

(3) PROGRAM OBJECTIVES.—In carrying out the monitoring program described in paragraph (1), the Secretary shall—

(A) provide data that is necessary for the improvement of understanding with respect to surface water and groundwater interactions;

(B) by expanding the network of monitoring wells to reach each climate division, support the groundwater climate response network to improve the understanding of the effects of global climate change on groundwater recharge and availability; and

(C) support the objectives of the assessment program.

(4) IMPROVED METHODOLOGIES.—The Secretary shall—

(A) improve methodologies relating to the analysis and delivery of data; and

(B) investigate, develop, and implement new methodologies and technologies to estimate or measure groundwater recharge, discharge, and storage in a more cost-efficient manner.

(5) FEDERAL SHARE.—The Federal share of the monitoring program described in paragraph (1) may be 100 percent of the cost of carrying out the monitoring program.

(6) PRIORITY.—In selecting monitoring activities consistent with the monitoring program described in paragraph (1), the Secretary shall give priority to those activities for which a State or local governmental entity agrees to provide for a substantial share of the cost of establishing or operating a monitoring well or other measuring device to carry out a monitoring activity.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for the period of fiscal years 2009 through 2023, to remain available until expended.

(c) BRACKISH GROUNDWATER ASSESSMENT.—

(1) STUDY.—The Secretary, in consultation with State and local water resource agencies, shall conduct a study of available data and other relevant information—

(A) to identify significant brackish groundwater resources located in the United States; and

(B) to consolidate any available data relating to each groundwater resource identified under subparagraph (A).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that includes—

(A) a description of each—

(i) significant brackish aquifer that is located in the United States (including 1 or more maps of each significant brackish aquifer that is located in the United States);

(ii) data gap that is required to be addressed to fully characterize each brackish aquifer described in clause (i); and

(iii) current use of brackish groundwater that is supplied by each brackish aquifer described in clause (i); and

(B) a summary of the information available as of the date of enactment of this Act with respect to each brackish aquifer described in subparagraph (A)(i) (including the known level of total dissolved solids in each brackish aquifer).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for the period of fiscal years 2009 through 2011, to remain available until expended.

(d) IMPROVED WATER ESTIMATION, MEASUREMENT, AND MONITORING TECHNOLOGIES.—

(1) AUTHORITY OF SECRETARY.—The Secretary may provide grants on a nonreimbursable basis to appropriate entities with expertise in water resource data acquisition and reporting, including Federal agencies, the Water Resources Research Institutes and other academic institutions, and private entities, to—

(A) investigate, develop, and implement new methodologies and technologies to estimate or measure water resources data in a cost-efficient manner; and

(B) improve methodologies relating to the analysis and delivery of data.

(2) PRIORITY.—In providing grants to appropriate entities under paragraph (1), the Secretary shall give priority to appropriate entities that propose the development of new methods and technologies for—

(A) predicting and measuring streamflows;

(B) estimating changes in the storage of groundwater;

(C) improving data standards and methods of analysis (including the validation of data entered into geographic information system databases);

(D) measuring precipitation and potential evapotranspiration; and

(E) water withdrawals, return flows, and consumptive use.

(3) PARTNERSHIPS.—In recognition of the value of collaboration to foster innovation and enhance research and development efforts, the Secretary shall encourage partnerships, including public-private partnerships, between and among Federal agencies, academic institutions, and private entities to promote the objectives described in paragraph (1).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2009 through 2019.

SEC. 9508. NATIONAL WATER AVAILABILITY AND USE ASSESSMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in coordination with the Advisory Committee and State and local water resource agencies, shall establish a national assessment program to be known as the ''national water availability and use assessment program''—

(1) to provide a more accurate assessment of the status of the water resources of the United States;

(2) to assist in the determination of the quantity of water that is available for beneficial uses;

(3) to assist in the determination of the quality of the water resources of the United States;

(4) to identify long-term trends in water availability;

(5) to use each long-term trend described in paragraph (4) to provide a more accurate assessment of the change in the availability of water in the United States; and

(6) to develop the basis for an improved ability to forecast the availability of water for future economic, energy production, and environmental uses.

(b) PROGRAM ELEMENTS.—

(1) WATER USE.—In carrying out the assessment program, the Secretary shall conduct any appropriate activity to carry out an ongoing assessment of water use in hydrologic accounting units and major aquifer systems located in the United States, including—

(A) the maintenance of a comprehensive national water use inventory to enhance the level of understanding with respect to the effects of spatial and temporal patterns of water use on the availability and sustainable use of water resources;

(B) the incorporation of water use science principles, with an emphasis on applied research and statistical estimation techniques in the assessment of water use;

(C) the integration of any dataset maintained by any other Federal or State agency into the dataset maintained by the Secretary; and

(D) a focus on the scientific integration of any data relating to water use, water flow, or water quality to generate relevant information relating to the impact of human activity on water and ecological resources.

(2) WATER AVAILABILITY.—In carrying out the assessment program, the Secretary shall conduct an ongoing assessment of water availability by—

(A) developing and evaluating nationally consistent indicators that reflect each status and trend relating to the availability of water resources in the United States, including—

(i) surface water indicators, such as streamflow and surface water storage measures (including lakes, reservoirs, perennial snowfields, and glaciers);

(ii) groundwater indicators, including groundwater level measurements and changes in groundwater levels due to—

(I) natural recharge;

(II) withdrawals;

(III) saltwater intrusion;

(IV) mine dewatering;

(V) land drainage;

(VI) artificial recharge; and

(VII) other relevant factors, as determined by the Secretary; and

(iii) impaired surface water and groundwater supplies that are known, accessible, and used to meet ongoing water demands;

(B) maintaining a national database of water availability data that—

(i) is comprised of maps, reports, and other forms of interpreted data;

(ii) provides electronic access to the archived data of the national database; and

(iii) provides for real-time data collection; and

(C) developing and applying predictive modeling tools that integrate groundwater, surface water, and ecological systems.

(c) GRANT PROGRAM.—

(1) AUTHORITY OF SECRETARY.—The Secretary may provide grants to State water resource agencies to assist State water resource agencies in—

(A) developing water use and availability datasets that are integrated with each appropriate dataset developed or maintained by the Secretary; or

(B) integrating any water use or water availability dataset of the State water resource agency into each appropriate dataset developed or maintained by the Secretary.

(2) CRITERIA.—To be eligible to receive a grant under paragraph (1), a State water resource agency shall demonstrate to the Secretary that the water use and availability dataset proposed to be established or integrated by the State water resource agency—

(A) is in compliance with each quality and conformity standard established by the Secretary to ensure that the data will be capable of integration with any national dataset; and

(B) will enhance the ability of the officials of the State or the State water resource agency to carry out each water management and regulatory responsibility of the officials of the State in accordance with each applicable law of the State.

(3) MAXIMUM AMOUNT.—The amount of a grant provided to a State water resource agency under paragraph (1) shall be an amount not more than $250,000.

(d) REPORT.—Not later than December 31, 2012, and every 5 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report that provides a detailed assessment of—

(1) the current availability of water resources in the United States, including—

(A) historic trends and annual updates of river basin inflows and outflows;

(B) surface water storage;

(C) groundwater reserves; and

(D) estimates of undeveloped potential resources (including saline and brackish water and wastewater);

(2) significant trends affecting water availability, including each documented or projected impact to the availability of water as a result of global climate change;

(3) the withdrawal and use of surface water and groundwater by various sectors, including—

(A) the agricultural sector;

(B) municipalities;

(C) the industrial sector;

(D) thermoelectric power generators; and

(E) hydroelectric power generators;

(4) significant trends relating to each water use sector, including significant changes in water use due to the development of new energy supplies;

(5) significant water use conflicts or shortages that have occurred or are occurring; and

(6) each factor that has caused, or is causing, a conflict or shortage described in paragraph (5).

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out subsections (a), (b), and (d) $20,000,000 for each of fiscal years 2009 through 2023, to remain available until expended.

(2) GRANT PROGRAM.—There is authorized to be appropriated to carry out subsection (c) $12,500,000 for the period of fiscal years 2009 through 2013, to remain available until expended.

SEC. 9509. RESEARCH AGREEMENT AUTHORITY.

The Secretary may enter into contracts, grants, or cooperative agreements, for periods not to exceed 5 years, to carry out research within the Bureau of Reclamation.

SEC. 9510. EFFECT.

(a) IN GENERAL.—Nothing in this subtitle supersedes or limits any existing authority provided, or responsibility conferred, by any provision of law.

(b) EFFECT ON STATE WATER LAW.—

(1) IN GENERAL.—Nothing in this subtitle preempts or affects any—

(A) State water law; or

(B) interstate compact governing water.

(2) COMPLIANCE REQUIRED.—The Secretary shall comply with applicable State water laws in carrying out this subtitle.

Subtitle G—Aging Infrastructure

SEC. 9601 DEFINITIONS.

In this subtitle:

(1) INSPECTION.—The term ''inspection'' means an inspection of a project facility carried out by the Secretary—

(A) to assess and determine the general condition of the project facility; and

(B) to estimate the value of property, and the size of the population, that would be at risk if the project facility fails, is breached, or otherwise allows flooding to occur.

(2) PROJECT FACILITY.—The term ''project facility'' means any part or incidental feature of a project, excluding high- and significant-hazard dams, constructed under the Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(3) RESERVED WORKS.—The term ''reserved works'' mean any project facility at which the Secretary carries out the operation and maintenance of the project facility.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(5) TRANSFERRED WORKS.—The term ''transferred works'' means a project facility, the operation and maintenance of which is carried out by a non-Federal entity, under the provisions of a formal operation and maintenance transfer contract.

(6) TRANSFERRED WORKS OPERATING ENTITY.—The term ''transferred works operating entity'' means the organization which is contractually responsible for operation and maintenance of transferred works.

(7) EXTRAORDINARY OPERATION AND MAINTENANCE WORK.—The term ''extraordinary operation and maintenance work'' means major, nonrecurring maintenance to Reclamation-owned or operated facilities, or facility components, that is—

(A) intended to ensure the continued safe, dependable, and reliable delivery of authorized project benefits; and

(B) greater than 10 percent of the contractor's or the transferred works operating entity's annual operation and maintenance budget for the facility, or greater than $100,000.

SEC. 9602. GUIDELINES AND INSPECTION OF PROJECT FACILITIES AND TECHNICAL ASSISTANCE TO TRANSFERRED WORKS OPERATING ENTITIES.

(a) GUIDELINES AND INSPECTIONS.—

(1) DEVELOPMENT OF GUIDELINES.—Not later than 1 year after the date of enactment of this Act, the Secretary in consultation with transferred works operating entities shall develop, consistent with existing transfer contracts, specific inspection guidelines for project facilities which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such project facilities were to fail.

(2) CONDUCT OF INSPECTIONS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall conduct inspections of those project facilities, which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such facilities were to fail, using such specific inspection guidelines and criteria developed pursuant to paragraph (1). In selecting project facilities to inspect, the Secretary shall take into account the potential magnitude of public safety and economic damage posed by each project facility.

(3) TREATMENT OF COSTS.—The costs incurred by the Secretary in conducting these inspections shall be nonreimbursable.

(b) USE OF INSPECTION DATA.—The Secretary shall use the data collected through the conduct of the inspections under subsection (a)(2) to—

(1) provide recommendations to the transferred works operating entities for improvement of operation and maintenance processes, operating procedures including operation guidelines consistent with existing transfer contracts, and structural modifications to those transferred works;

(2) determine an appropriate inspection frequency for such nondam project facilities which shall not exceed 6 years; and

(3) provide, upon request of transferred work operating entities, local governments, or State agencies, information regarding potential hazards posed by existing or proposed residential, commercial, industrial or public-use development adjacent to project facilities.

(c) TECHNICAL ASSISTANCE TO TRANSFERRED WORKS OPERATING ENTITIES.—

(1) AUTHORITY OF SECRETARY TO PROVIDE TECHNICAL ASSISTANCE.—The Secretary is authorized, at the request of a transferred works operating entity in proximity to an urbanized area, to provide technical assistance to accomplish the following, if consistent with existing transfer contracts:

(A) Development of documented operating procedures for a project facility.

(B) Development of documented emergency notification and response procedures for a project facility.

(C) Development of facility inspection criteria for a project facility.

(D) Development of a training program on operation and maintenance requirements and practices for a project facility for a transferred works operating entity's workforce.

(E) Development of a public outreach plan on the operation and risks associated with a project facility.

(F) Development of any other plans or documentation which, in the judgment of the Secretary, will contribute to public safety and the sage operation of a project facility.

(2) COSTS.—The Secretary is authorized to provide, on a non-reimbursable basis, up to 50 percent of the cost of such technical assistance, with the balance of such costs being advanced by the transferred works operating entity or other non-Federal source. The non-Federal 50 percent minimum cost share for such technical assistance may be in the form of in-lieu contributions of resources by the transferred works operating entity or other non-Federal source.

SEC. 9603. EXTRAORDINARY OPERATION AND MAINTENANCE WORK PERFORMED BY THE SECRETARY.

(a) IN GENERAL.—The Secretary or the transferred works operating entity may carry out, in accordance with subsection (b) and consistent with existing transfer contracts, any extraordinary operation and maintenance work on a project facility that the Secretary determines to be reasonably required to preserve the structural safety of the project facility.

(b) REIMBURSEMENT OF COSTS ARISING FROM EXTRAORDINARY OPERATION AND MAINTENANCE WORK.—

(1) TREATMENT OF COSTS.—For reserved works, costs incurred by the Secretary in conducting extraordinary operation and maintenance work will be allocated to the authorized reimbursable purposes of the project and shall be repaid within 50 years, with interest, from the year in which work undertaken pursuant to this subtitle is substantially complete.

(2) AUTHORITY OF SECRETARY.—For transferred works, the Secretary is authorized to advance the costs incurred by the transferred works operating entity in conducting extraordinary operation and maintenance work and negotiate appropriate 50-year repayment contracts with project beneficiaries providing for the return of reimbursable costs, with interest, under this subsection: Provided, however, That no contract entered into pursuant to this subtitle shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (43 U.S.C. 390cc(a)).

(3) DETERMINATION OF INTEREST RATE.—The interest rate used for computing interest on work in progress and interest on the unpaid balance of the reimbursable costs of extraordinary operation and maintenance work authorized by this subtitle shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which extraordinary operation and maintenance work is commenced, on the basis of average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest ⅛ of 1 percent on the unamortized balance of any portion of the loan.

(c) EMERGENCY EXTRAORDINARY OPERATION AND MAINTENANCE WORK.—

(1) IN GENERAL.—The Secretary or the transferred works operating entity shall carry out any emergency extraordinary operation and maintenance work on a project facility that the Secretary determines to be necessary to minimize the risk of imminent harm to public health or safety, or property.

(2) REIMBURSEMENT.—The Secretary may advance funds for emergency extraordinary operation and maintenance work and shall seek reimbursement from the transferred works operating entity or benefitting entity upon receiving a written assurance from the governing body of such entity that it will negotiate a contract pursuant to section 9603 for repayment of costs incurred by the Secretary in undertaking such work.

(3) FUNDING.—If the Secretary determines that a project facility inspected and maintained pursuant to the guidelines and criteria set forth in section 9602(a) requires extraordinary operation and maintenance pursuant to paragraph (1), the Secretary may provide Federal funds on a nonreimbursable basis sufficient to cover 35 percent of the cost of the extraordinary operation and maintenance allocable to the transferred works operating entity, which is needed to minimize the risk of imminent harm. The remaining share of the Federal funds advanced by the Secretary for such work shall be repaid under subsection (b).

SEC. 9604. RELATIONSHIP TO TWENTY-FIRST CENTURY WATER WORKS ACT.

Nothing in this subtitle shall preclude a transferred works operating entity from applying and receiving a loan-guarantee pursuant to the Twenty-First Century Water Works Act (43 U.S.C. 2401 et seq.).

SEC. 9605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

SEC. 9606. LOAN GUARANTEE FINANCE DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) FEDERAL LOAN GUARANTEE AND LOAN GUARANTEE.—The terms ''Federal loan guarantee'' and ''loan guarantee'' have the meaning given the terms in the Twenty-First Century Water Works Act (43 U.S.C. 2401 et seq.).

(3) DEMONSTRATION PROJECT AND PROJECT.—The terms ''demonstration project'' and ''project'' have the meaning given the term ''project'' in section 202 of the Twenty-First Century Water Works Act (43 U.S.C. 2421).

(4) LENDER.—The term ''lender'' has the meaning given the term in section 202 of the Twenty-First Century Water Works Act (43 U.S.C. 2421).

(5) LOAN GUARANTEE SUBSIDY COST.—The term ''loan guarantee subsidy cost'' has the meaning given under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) as the annual budget authority needed to cover the portion of credit assistance estimated to be un-recovered because of defaults, expressed as a percentage of the amount of each loan approved for guarantee. This definition shall apply to loan guarantees given to improve facilities to which the Federal Government holds title, as well as to non-Federal facilities.

(b) DEMONSTRATION PROGRAM.—

(1) IDENTIFICATION OF DEMONSTRATION PROJECTS.—Within 180 days of enactment of this Act, the Secretary shall identify no more than 3 projects as eligible for Federal loan guarantees. The identified projects shall include at least 1 project involving extraordinary operation and maintenance work.

(2) MEMORANDUM OF AGREEMENT.—Within 90 days of enactment of this Act, the Secretary shall complete the Interagency Coordination and Cooperation actions in section 209 of the Twenty-First Century Water Works Act (43 U.S.C. 2428).

(3) ELIGIBILITY OF PROJECTS.—Within 270 days of enactment of this Act, and in accordance with an agreement with the entities seeking to carry-out the projects identified under paragraph (1), the Secretary shall make available to lenders Federal loan guarantees equal to the full cost of projects identified in this section.

(4) SUBSIDY.—The loan guarantee subsidy cost shall be the greater of 2 percent or the subsidy determined by the Secretary of Agriculture for covering the Federal cost of guaranteeing loans to lenders financing water projects under the United States Department of Agricultural Rural Development authorities.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle, to remain available until expended.

TITLE X—WATER SETTLEMENTS

Subtitle A—San Joaquin River Restoration Settlement

PART I—SAN JOAQUIN RIVER RESTORATION SETTLEMENT ACT

SEC. 10001. SHORT TITLE.

This part may be cited as the ''San Joaquin River Restoration Settlement Act''.

SEC. 10002. PURPOSE.

The purpose of this part is to authorize implementation of the Settlement.

SEC. 10003. DEFINITIONS.

In this part:

(1) The terms ''Friant Division long-term contractors'', ''Interim Flows'', ''Restoration Flows'', ''Recovered Water Account'', ''Restoration Goal'', and ''Water Management Goal'' have the meanings given the terms in the Settlement.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''Settlement'' means the Stipulation of Settlement dated September 13, 2006, in the litigation entitled Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., United States District Court, Eastern District of California, No. CIV. S–88–1658–LKK/GGH.

SEC. 10004. IMPLEMENTATION OF SETTLEMENT.

(a) IN GENERAL.—The Secretary of the Interior is hereby authorized and directed to implement the terms and conditions of the Settlement in cooperation with the State of California, including the following measures as these measures are prescribed in the Settlement:

(1) Design and construct channel and structural improvements as described in paragraph 11 of the Settlement, provided, however, that the Secretary shall not make or fund any such improvements to facilities or property of the State of California without the approval of the State of California and the State's agreement in 1 or more memoranda of understanding to participate where appropriate.

(2) Modify Friant Dam operations so as to provide Restoration Flows and Interim Flows.

(3) Acquire water, water rights, or options to acquire water as described in paragraph 13 of the Settlement, provided, however, such acquisitions shall only be made from willing sellers and not through eminent domain.

(4) Implement the terms and conditions of paragraph 16 of the Settlement related to recirculation, recapture, reuse, exchange, or transfer of water released for Restoration Flows or Interim Flows, for the purpose of accomplishing the Water Management Goal of the Settlement, subject to—

(A) applicable provisions of California water law;

(B) the Secretary's use of Central Valley Project facilities to make Project water (other than water released from Friant Dam pursuant to the Settlement) and water acquired through transfers available to existing south-of-Delta Central Valley Project contractors; and

(C) the Secretary's performance of the Agreement of November 24, 1986, between the United States of America and the Department of Water Resources of the State of California for the coordinated operation of the Central Valley Project and the State Water Project as authorized by Congress in section 2(d) of the Act of August 26, 1937 (50 Stat. 850, 100 Stat. 3051), including any agreement to resolve conflicts arising from said Agreement.

(5) Develop and implement the Recovered Water Account as specified in paragraph 16(b) of the Settlement, including the pricing and payment crediting provisions described in paragraph 16(b)(3) of the Settlement, provided that all other provisions of Federal reclamation law shall remain applicable.

(b) AGREEMENTS.—

(1) AGREEMENTS WITH THE STATE.—In order to facilitate or expedite implementation of the Settlement, the Secretary is authorized and directed to enter into appropriate agreements, including cost-sharing agreements, with the State of California.

(2) OTHER AGREEMENTS.—The Secretary is authorized to enter into contracts, memoranda of understanding, financial assistance agreements, cost sharing agreements, and other appropriate agreements with State, tribal, and local governmental agencies, and with private parties, including agreements related to construction, improvement, and operation and maintenance of facilities, subject to any terms and conditions that the Secretary deems necessary to achieve the purposes of the Settlement.

(c) ACCEPTANCE AND EXPENDITURE OF NON-FEDERAL FUNDS.—The Secretary is authorized to accept and expend non-Federal funds in order to facilitate implementation of the Settlement.

(d) MITIGATION OF IMPACTS.—Prior to the implementation of decisions or agreements to construct, improve, operate, or maintain facilities that the Secretary determines are needed to implement the Settlement, the Secretary shall identify—

(1) the impacts associated with such actions; and

(2) the measures which shall be implemented to mitigate impacts on adjacent and downstream water users and landowners.

(e) DESIGN AND ENGINEERING STUDIES.—The Secretary is authorized to conduct any design or engineering studies that are necessary to implement the Settlement.

(f) EFFECT ON CONTRACT WATER ALLOCATIONS.—Except as otherwise provided in this section, the implementation of the Settlement and the reintroduction of California Central Valley Spring Run Chinook salmon pursuant to the Settlement and section 10011, shall not result in the involuntary reduction in contract water allocations to Central Valley Project long-term contractors, other than Friant Division long-term contractors.

(g) EFFECT ON EXISTING WATER CONTRACTS.—Except as provided in the Settlement and this part, nothing in this part shall modify or amend the rights and obligations of the parties to any existing water service, repayment, purchase, or exchange contract.

SEC. 10005. ACQUISITION AND DISPOSAL OF PROPERTY; TITLE TO FACILITIES.

(a) TITLE TO FACILITIES.—Unless acquired pursuant to subsection (b), title to any facility or facilities, stream channel, levees, or other real property modified or improved in the course of implementing the Settlement authorized by this part, and title to any modifications or improvements of such facility or facilities, stream channel, levees, or other real property—

(1) shall remain in the owner of the property; and

(2) shall not be transferred to the United States on account of such modifications or improvements.

(b) ACQUISITION OF PROPERTY.—

(1) IN GENERAL.—The Secretary is authorized to acquire through purchase from willing sellers any property, interests in property, or options to acquire real property needed to implement the Settlement authorized by this part.

(2) APPLICABLE LAW.—The Secretary is authorized, but not required, to exercise all of the authorities provided in section 2 of the Act of August 26, 1937 (50 Stat. 844, chapter 832), to carry out the measures authorized in this section and section 10004.

(c) DISPOSAL OF PROPERTY.—

(1) IN GENERAL.—Upon the Secretary's determination that retention of title to property or interests in property acquired pursuant to this part is no longer needed to be held by the United States for the furtherance of the Settlement, the Secretary is authorized to dispose of such property or interest in property on such terms and conditions as the Secretary deems appropriate and in the best interest of the United States, including possible transfer of such property to the State of California.

(2) RIGHT OF FIRST REFUSAL.—In the event the Secretary determines that property acquired pursuant to this part through the exercise of its eminent domain authority is no longer necessary for implementation of the Settlement, the Secretary shall provide a right of first refusal to the property owner from whom the property was initially acquired, or his or her successor in interest, on the same terms and conditions as the property is being offered to other parties.

(3) DISPOSITION OF PROCEEDS.—Proceeds from the disposal by sale or transfer of any such property or interests in such property shall be deposited in the fund established by section 10009(c).

(d) GROUNDWATER BANK.—Nothing in this part authorizes the Secretary to operate a groundwater bank along or adjacent to the San Joaquin River upstream of the confluence with the Merced River, and any such groundwater bank shall be operated by a non-Federal entity.

SEC. 10006. COMPLIANCE WITH APPLICABLE LAW.

(a) APPLICABLE LAW.—

(1) IN GENERAL.—In undertaking the measures authorized by this part, the Secretary and the Secretary of Commerce shall comply with all applicable Federal and State laws, rules, and regulations, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as necessary.

(2) ENVIRONMENTAL REVIEWS.—The Secretary and the Secretary of Commerce are authorized and directed to initiate and expeditiously complete applicable environmental reviews and consultations as may be necessary to effectuate the purposes of the Settlement.

(b) EFFECT ON STATE LAW.—Nothing in this part shall preempt State law or modify any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law.

(c) USE OF FUNDS FOR ENVIRONMENTAL REVIEWS.—

(1) DEFINITION OF ENVIRONMENTAL REVIEW.—For purposes of this subsection, the term ''environmental review'' includes any consultation and planning necessary to comply with subsection (a).

(2) PARTICIPATION IN ENVIRONMENTAL REVIEW PROCESS.—In undertaking the measures authorized by section 10004, and for which environmental review is required, the Secretary may provide funds made available under this part to affected Federal agencies, State agencies, local agencies, and Indian tribes if the Secretary determines that such funds are necessary to allow the Federal agencies, State agencies, local agencies, or Indian tribes to effectively participate in the environmental review process.

(3) LIMITATION.—Funds may be provided under paragraph (2) only to support activities that directly contribute to the implementation of the terms and conditions of the Settlement.

(d) NONREIMBURSABLE FUNDS.—The United States' share of the costs of implementing this part shall be nonreimbursable under Federal reclamation law, provided that nothing in this subsection shall limit or be construed to limit the use of the funds assessed and collected pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727), for implementation of the Settlement, nor shall it be construed to limit or modify existing or future Central Valley Project ratesetting policies.

SEC. 10007. COMPLIANCE WITH CENTRAL VALLEY PROJECT IMPROVEMENT ACT.

Congress hereby finds and declares that the Settlement satisfies and discharges all of the obligations of the Secretary contained in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), provided, however, that—

(1) the Secretary shall continue to assess and collect the charges provided in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), as provided in the Settlement; and

(2) those assessments and collections shall continue to be counted toward the requirements of the Secretary contained in section 3407(c)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4726).

SEC. 10008. NO PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Nothing in this part confers upon any person or entity not a party to the Settlement a private right of action or claim for relief to interpret or enforce the provisions of this part or the Settlement.

(b) APPLICABLE LAW.—This section shall not alter or curtail any right of action or claim for relief under any other applicable law.

SEC. 10009. APPROPRIATIONS; SETTLEMENT FUND.

(a) IMPLEMENTATION COSTS.—

(1) IN GENERAL.—The costs of implementing the Settlement shall be covered by payments or in-kind contributions made by Friant Division contractors and other non-Federal parties, including the funds provided in subparagraphs (A) through (D) of subsection (c)(1), estimated to total $440,000,000, of which the non-Federal payments are estimated to total $200,000,000 (at October 2006 price levels) and the amount from repaid Central Valley Project capital obligations is estimated to total $240,000,000, the additional Federal appropriation of $250,000,000 authorized pursuant to subsection (b)(1), and such additional funds authorized pursuant to subsection (b)(2); provided however, that the costs of implementing the provisions of section 10004(a)(1) shall be shared by the State of California pursuant to the terms of a memorandum of understanding executed by the State of California and the Parties to the Settlement on September 13, 2006, which includes at least $110,000,000 of State funds.

(2) ADDITIONAL AGREEMENTS.—

(A) IN GENERAL.—The Secretary shall enter into 1 or more agreements to fund or implement improvements on a project-by-project basis with the State of California.

(B) REQUIREMENTS.—Any agreements entered into under subparagraph (A) shall provide for recognition of either monetary or in-kind contributions toward the State of California's share of the cost of implementing the provisions of section 10004(a)(1).

(3) LIMITATION.—Except as provided in the Settlement, to the extent that costs incurred solely to implement this Settlement would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to the funding provided in subsection (c), there are also authorized to be appropriated not to exceed $250,000,000 (at October 2006 price levels) to implement this part and the Settlement, to be available until expended; provided however, that the Secretary is authorized to spend such additional appropriations only in amounts equal to the amount of funds deposited in the Fund (not including payments under subsection (c)(1)(B) and proceeds under subsection (c)(1)(C)), the amount of in-kind contributions, and other non-Federal payments actually committed to the implementation of this part or the Settlement.

(2) USE OF THE CENTRAL VALLEY PROJECT RESTORATION FUND.—The Secretary is authorized to use monies from the Central Valley Project Restoration Fund created under section 3407 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4727) for purposes of this part in an amount not to exceed $2,000,000 (October 2006 price levels) in any fiscal year.

(c) FUND.—

(1) IN GENERAL.—There is hereby established within the Treasury of the United States a fund, to be known as the San Joaquin River Restoration Fund, into which the following funds shall be deposited and used solely for the purpose of implementing the Settlement except as otherwise provided in subsections (a) and (b) of section 10203:

(A) All payments received pursuant to section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721).

(B) The construction cost component (not otherwise needed to cover operation and maintenance costs) of payments made by Friant Division, Hidden Unit, and Buchanan Unit long-term contractors pursuant to long-term water service contracts or pursuant to repayment contracts, including repayment contracts executed pursuant to section 10010. The construction cost repayment obligation assigned such contractors under such contracts shall be reduced by the amount paid pursuant to this paragraph and the appropriate share of the existing Federal investment in the Central Valley Project to be recovered by the Secretary pursuant to Public Law 99–546 (100 Stat. 3050) shall be reduced by an equivalent sum.

(C) Proceeds from the sale of water pursuant to the Settlement, or from the sale of property or interests in property as provided in section 10005.

(D) Any non-Federal funds, including State cost-sharing funds, contributed to the United States for implementation of the Settlement, which the Secretary may expend without further appropriation for the purposes for which contributed.

(2) AVAILABILITY.—All funds deposited into the Fund pursuant to subparagraphs (A), (B), and (C) of paragraph (1) are authorized for appropriation to implement the Settlement and this part, in addition to the authorization provided in subsections (a) and (b) of section 10203, except that $88,000,000 of such funds are available for expenditure without further appropriation; provided that after October 1, 2018, all funds in the Fund shall be available for expenditure without further appropriation.

(d) LIMITATION ON CONTRIBUTIONS.—Payments made by long-term contractors who receive water from the Friant Division and Hidden and Buchanan Units of the Central Valley Project pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727) and payments made pursuant to paragraph 16(b)(3) of the Settlement and subsection (c)(1)(B) shall be the limitation of such entities' direct financial contribution to the Settlement, subject to the terms and conditions of paragraph 21 of the Settlement.

(e) NO ADDITIONAL EXPENDITURES REQUIRED.—Nothing in this part shall be construed to require a Federal official to expend Federal funds not appropriated by Congress, or to seek the appropriation of additional funds by Congress, for the implementation of the Settlement.

(f) REACH 4B.—

(1) STUDY.—

(A) IN GENERAL.—In accordance with the Settlement and the memorandum of understanding executed pursuant to paragraph 6 of the Settlement, the Secretary shall conduct a study that specifies—

(i) the costs of undertaking any work required under paragraph 101(a)(3) of the Settlement to increase the capacity of reach 4B prior to reinitiation of Restoration Flows;

(ii) the impacts associated with reinitiation of such flows; and

(iii) measures that shall be implemented to mitigate impacts.

(B) DEADLINE.—The study under subparagraph (A) shall be completed prior to restoration of any flows other than Interim Flows.

(2) REPORT.—

(A) IN GENERAL.—The Secretary shall file a report with Congress not later than 90 days after issuing a determination, as required by the Settlement, on whether to expand channel conveyance capacity to 4500 cubic feet per second in reach 4B of the San Joaquin River, or use an alternative route for pulse flows, that—

(i) explains whether the Secretary has decided to expand Reach 4B capacity to 4500 cubic feet per second; and

(ii) addresses the following matters:

(I) The basis for the Secretary's determination, whether set out in environmental review documents or otherwise, as to whether the expansion of Reach 4B would be the preferable means to achieve the Restoration Goal as provided in the Settlement, including how different factors were assessed such as comparative biological and habitat benefits, comparative costs, relative availability of State cost-sharing funds, and the comparative benefits and impacts on water temperature, water supply, private property, and local and downstream flood control.

(II) The Secretary's final cost estimate for expanding Reach 4B capacity to 4500 cubic feet per second, or any alternative route selected, as well as the alternative cost estimates provided by the State, by the Restoration Administrator, and by the other parties to the Settlement.

(III) The Secretary's plan for funding the costs of expanding Reach 4B or any alternative route selected, whether by existing Federal funds provided under this subtitle, by non-Federal funds, by future Federal appropriations, or some combination of such sources.

(B) DETERMINATION REQUIRED.—The Secretary shall, to the extent feasible, make the determination in subparagraph (A) prior to undertaking any substantial construction work to increase capacity in reach 4B.

(3) COSTS.—If the Secretary's estimated Federal cost for expanding reach 4B in paragraph (2), in light of the Secretary's funding plan set out in that paragraph, would exceed the remaining Federal funding authorized by this part (including all funds reallocated, all funds dedicated, and all new funds authorized by this part and separate from all commitments of State and other non-Federal funds and in-kind commitments), then before the Secretary commences actual construction work in reach 4B (other than planning, design, feasibility, or other preliminary measures) to expand capacity to 4500 cubic feet per second to implement this Settlement, Congress must have increased the applicable authorization ceiling provided by this part in an amount at least sufficient to cover the higher estimated Federal costs.

SEC. 10010. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.

(a) CONVERSION OF CONTRACTS.—

(1) The Secretary is authorized and directed to convert, prior to December 31, 2010, all existing long-term contracts with the following Friant Division, Hidden Unit, and Buchanan Unit contractors, entered under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1196), to contracts under subsection (d) of section 9 of said Act (53 Stat. 1195), under mutually agreeable terms and conditions: Arvin-Edison Water Storage District; Delano-Earlimart Irrigation District; Exeter Irrigation District; Fresno Irrigation District; Ivanhoe Irrigation District; Lindmore Irrigation District; Lindsay-Strathmore Irrigation District; Lower Tule River Irrigation District; Orange Cove Irrigation District; Porterville Irrigation District; Saucelito Irrigation District; Shafter-Wasco Irrigation District; Southern San Joaquin Municipal Utility District; Stone Corral Irrigation District; Tea Pot Dome Water District; Terra Bella Irrigation District; Tulare Irrigation District; Madera Irrigation District; and Chowchilla Water District. Upon request of the contractor, the Secretary is authorized to convert, prior to December 31, 2010, other existing long-term contracts with

Friant Division contractors entered under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1196), to contracts under subsection (d) of section 9 of said Act (53 Stat. 1195), under mutually agreeable terms and conditions.

(2) Upon request of the contractor, the Secretary is further authorized to convert, prior to December 31, 2010, any existing Friant Division long-term contract entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to a contract under subsection (c)(1) of section 9 of said Act, under mutually agreeable terms and conditions.

(3) All such contracts entered into pursuant to paragraph (1) shall—

(A) require the repayment, either in lump sum or by accelerated prepayment, of the remaining amount of construction costs identified in the Central Valley Project Schedule of Irrigation Capital Rates by Contractor 2007 Irrigation Water Rates, dated January 25, 2007, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2011, or if made in approximately equal annual installments, no later than January 31, 2014; such amount to be discounted by ½ the Treasury Rate. An estimate of the remaining amount of construction costs as of January 31, 2011, as adjusted, shall be provided by the Secretary to each contractor no later than June 30, 2010;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable Reclamation law, provided that the reference to the amount of $5,000,000 shall not be a precedent in any other context;

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract; and

(D) conform to the Settlement and this part and shall continue so long as the contractor pays applicable charges, consistent with subsection (c)(2) and applicable law.

(4) All such contracts entered into pursuant to paragraph (2) shall—

(A) require the repayment in lump sum of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Municipal and Industrial Water Rates, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2014. An estimate of the remaining amount of construction costs as of January 31, 2014, as adjusted, shall be provided by the Secretary to each contractor no later than June 30, 2013;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable Reclamation law, provided that the reference to the amount of $5,000,000 shall not be a precedent in any other context; and

(C) conform to the Settlement and this part and shall continue so long as the contractor pays applicable charges, consistent with subsection (c)(2) and applicable law.

(b) FINAL ADJUSTMENT.—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary upon completion of the construction of the Central Valley Project. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be no less than 1 year and no more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary is authorized and directed to credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) Notwithstanding any repayment obligation under subsection (a)(3)(B) or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in subsection (a)(3)(A), the provisions of section 213(a) and (b) of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to lands in such district.

(2) Notwithstanding any repayment obligation under paragraph (3)(B) or (4)(B) of subsection (a), or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in paragraphs (3)(A) and (4)(A) of subsection (a), the Secretary shall waive the pricing provisions of section 3405(d) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575) for such contractor, provided that such contractor shall continue to pay applicable operation and maintenance costs and other charges applicable to such repayment contracts pursuant to the then-current rate-setting policy and applicable law.

(3) Provisions of the Settlement applying to Friant Division, Hidden Unit, and Buchanan Unit long-term water service contracts shall also apply to contracts executed pursuant to this section.

(d) REDUCTION OF CHARGE FOR THOSE CONTRACTS CONVERTED PURSUANT TO SUBSECTION (a)(1).—

(1) At the time all payments by the contractor required by subsection (a)(3)(A) have been completed, the Secretary shall reduce the charge mandated in section 10007(1) of this part, from 2020 through 2039, to offset the financing costs as defined in section 10010(d)(3). The reduction shall be calculated at the time all payments by the contractor required by subsection (a)(3)(A) have been completed. The calculation shall remain fixed from 2020 through 2039 and shall be based upon anticipated average annual water deliveries, as mutually agreed upon by the Secretary and the contractor, for the period from 2020 through 2039, and the amounts of such reductions shall be discounted using the Treasury Rate; provided, that such charge shall not be reduced to less than $4.00 per acre foot of project water delivered; provided further, that such reduction shall be implemented annually unless the Secretary determines, based on the availability of other monies, that the charges mandated in section 10007(1) are otherwise needed to cover ongoing federal costs of the Settlement, including any federal operation and maintenance costs of facilities that the Secretary determines are needed to implement the Settlement. If the Secretary determines that such charges are necessary to cover such ongoing federal costs, the Secretary shall, instead of making the reduction in such charges, reduce the contractor's operation and maintenance obligation by an equivalent amount, and such amount shall not be recovered by the United States from any Central Valley Project contractor, provided nothing herein shall affect the obligation of the contractor to make payments pursuant to a transfer agreement with a non-federal operating entity.

(2) If the calculated reduction in paragraph (1), taking into consideration the minimum amount required, does not result in the contractor offsetting its financing costs, the Secretary is authorized and directed to reduce, after 2019, any outstanding or future obligations of the contractor to the Bureau of Reclamation, other than the charge assessed and collected under section 3407(d) of Public law 102–575, by the amount of such deficiency, with such amount indexed to 2020 using the Treasury Rate and such amount shall be not be recovered by the United States from any Central Valley Project contractor, provided nothing herein shall affect the obligation of the contractor to make payments pursuant to a transfer agreement with a non-Federal operating entity.

(3) Financing costs, for the purposes of this subsection, shall be computed as the difference of the net present value of the construction cost identified in subsection (a)(3)(A) using the full Treasury Rate as compared to using one half of the Treasury Rate and applying those rates against a calculated average annual capital repayment through 2030.

(4) Effective in 2040, the charge shall revert to the amount called for in section 10007(1) of this part.

(5) For purposes of this section, ''Treasury Rate'' shall be defined as the 20 year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury as of October 1, 2010.

(e) SATISFACTION OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Upon the first release of Interim Flows or Restoration Flows, pursuant to paragraphs 13 or 15 of the Settlement, any short- or long-term agreement, to which 1 or more long-term Friant Division, Hidden Unit, or Buchanan Unit contractor that converts its contract pursuant to subsection (a) is a party, providing for the transfer or exchange of water not released as Interim Flows or Restoration Flows shall be deemed to satisfy the provisions of subsection 3405(a)(1)(A) and (I) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575) without the further concurrence of the Secretary as to compliance with said subsections if the contractor provides, not later than 90 days before commencement of any such transfer or exchange for a period in excess of 1 year, and not later than 30 days before commencement of any proposed transfer or exchange with duration of less than 1 year, written notice to the Secretary stating how the proposed transfer or exchange is intended to reduce, avoid, or mitigate impacts to water deliveries caused by the Interim Flows or Restoration Flows or is intended to otherwise facilitate the Water Management Goal, as described in the Settlement. The Secretary shall promptly make such notice publicly available.

(2) DETERMINATION OF REDUCTIONS TO WATER DELIVERIES.—Water transferred or exchanged under an agreement that meets the terms of this subsection shall not be counted as a replacement or an offset for purposes of determining reductions to water deliveries to any Friant Division long-term contractor except as provided in paragraph 16(b) of the Settlement. The Secretary shall, at least annually, make publicly available a compilation of the number of transfer or exchange agreements exercising the provisions of this subsection to reduce, avoid, or mitigate impacts to water deliveries caused by the Interim Flows or Restoration Flows or to facilitate the Water Management Goal, as well as the volume of water transferred or exchanged under such agreements.

(3) STATE LAW.—Nothing in this subsection alters State law or permit conditions, including any applicable geographical restrictions on the place of use of water transferred or exchanged pursuant to this subsection.

(f) CERTAIN REPAYMENT OBLIGATIONS NOT ALTERED.—Implementation of the provisions of this section shall not alter the repayment obligation of any other long-term water service or repayment contractor receiving water from the Central Valley Project, or shift any costs that would otherwise have been properly assignable to the Friant contractors absent this section, including operations and maintenance costs, construction costs, or other capitalized costs incurred after the date of enactment of this Act, to other such contractors.

(g) STATUTORY INTERPRETATION.—Nothing in this part shall be construed to affect the right of any Friant Division, Hidden Unit, or Buchanan Unit long-term contractor to use a particular type of financing to make the payments required in paragraph (3)(A) or (4)(A) of subsection (a).

SEC. 10011. CALIFORNIA CENTRAL VALLEY SPRING RUN CHINOOK SALMON.

(a) FINDING.—Congress finds that the implementation of the Settlement to resolve 18 years of contentious litigation regarding restoration of the San Joaquin River and the reintroduction of the California Central Valley Spring Run Chinook salmon is a unique and unprecedented circumstance that requires clear expressions of Congressional intent regarding how the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are utilized to achieve the goals of restoration of the San Joaquin River and the successful reintroduction of California Central Valley Spring Run Chinook salmon.

(b) REINTRODUCTION IN THE SAN JOAQUIN RIVER.—California Central Valley Spring Run Chinook salmon shall be reintroduced in the San Joaquin River below Friant Dam pursuant to section 10(j) of the Endangered Species Act of 1973 (16 U.S.C. 1539(j)) and the Settlement, provided that the Secretary of Commerce finds that a permit for the reintroduction of California Central Valley Spring Run Chinook salmon may be issued pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

(c) FINAL RULE.—

(1) DEFINITION OF THIRD PARTY.—For the purpose of this subsection, the term ''third party'' means persons or entities diverting or receiving water pursuant to applicable State and Federal laws and shall include Central Valley Project contractors outside of the Friant Division of the Central Valley Project and the State Water Project.

(2) ISSUANCE.—The Secretary of Commerce shall issue a final rule pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) governing the incidental take of reintroduced California Central Valley Spring Run Chinook salmon prior to the reintroduction.

(3) REQUIRED COMPONENTS.—The rule issued under paragraph (2) shall provide that the reintroduction will not impose more than de minimus: water supply reductions, additional storage releases, or bypass flows on unwilling third parties due to such reintroduction.

(4) APPLICABLE LAW.—Nothing in this section—

(A) diminishes the statutory or regulatory protections provided in the Endangered Species Act of 1973 for any species listed pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) other than the reintroduced population of California Central Valley Spring Run Chinook salmon, including protections pursuant to existing biological opinions or new biological opinions issued by the Secretary or Secretary of Commerce; or

(B) precludes the Secretary or Secretary of Commerce from imposing protections under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for other species listed pursuant to section 4 of that Act (16 U.S.C. 1533) because those protections provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of Commerce shall report to Congress on the progress made on the reintroduction set forth in this section and the Secretary's plans for future implementation of this section.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) an assessment of the major challenges, if any, to successful reintroduction;

(B) an evaluation of the effect, if any, of the reintroduction on the existing population of California Central Valley Spring Run Chinook salmon existing on the Sacramento River or its tributaries; and

(C) an assessment regarding the future of the reintroduction.

(e) FERC PROJECTS.—

(1) IN GENERAL.—With regard to California Central Valley Spring Run Chinook salmon reintroduced pursuant to the Settlement, the Secretary of Commerce shall exercise its authority under section 18 of the Federal Power Act (16 U.S.C. 811) by reserving its right to file prescriptions in proceedings for projects licensed by the Federal Energy Regulatory Commission on the Calaveras, Stanislaus, Tuolumne, Merced, and San Joaquin rivers and otherwise consistent with subsection (c) until after the expiration of the term of the Settlement, December 31, 2025, or the expiration of the designation made pursuant to subsection (b), whichever ends first.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection shall preclude the Secretary of Commerce from imposing prescriptions pursuant to section 18 of the Federal Power Act (16 U.S.C. 811) solely for other anadromous fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(f) EFFECT OF SECTION.—Nothing in this section is intended or shall be construed—

(1) to modify the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.); or

(2) to establish a precedent with respect to any other application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.).

PART II—STUDY TO DEVELOP WATER PLAN; REPORT

SEC. 10101. STUDY TO DEVELOP WATER PLAN; REPORT.

(a) PLAN.—

(1) GRANT.—To the extent that funds are made available in advance for this purpose, the Secretary of the Interior, acting through the Bureau of Reclamation, shall provide direct financial assistance to the California Water Institute, located at California State University, Fresno, California, to conduct a study regarding the coordination and integration of sub-regional integrated regional water management plans into a unified Integrated Regional Water Management Plan for the subject counties in the hydrologic basins that would address issues related to—

(A) water quality;

(B) water supply (both surface, ground water banking, and brackish water desalination);

(C) water conveyance;

(D) water reliability;

(E) water conservation and efficient use (by distribution systems and by end users);

(F) flood control;

(G) water resource-related environmental enhancement; and

(H) population growth.

(2) STUDY AREA.—The study area referred to in paragraph (1) is the proposed study area of the San Joaquin River Hydrologic Region and Tulare Lake Hydrologic Region, as defined by California Department of Water Resources Bulletin 160–05, volume 3, chapters 7 and 8, including Kern, Tulare, Kings, Fresno, Madera, Merced, Stanislaus, and San Joaquin counties in California.

(b) USE OF PLAN.—The Integrated Regional Water Management Plan developed for the 2 hydrologic basins under subsection (a) shall serve as a guide for the counties in the study area described in subsection (a)(2) to use as a mechanism to address and solve long-term water needs in a sustainable and equitable manner.

(c) REPORT.—The Secretary shall ensure that a report containing the results of the Integrated Regional Water Management Plan for the hydrologic regions is submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than 24 months after financial assistance is made available to the California Water Institute under subsection (a)(1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 to remain available until expended.

PART III—FRIANT DIVISION IMPROVEMENTS

SEC. 10201. FEDERAL FACILITY IMPROVEMENTS.

(a) The Secretary of the Interior (hereafter referred to as the ''Secretary'') is authorized and directed to conduct feasibility studies in coordination with appropriate Federal, State, regional, and local authorities on the following improvements and facilities in the Friant Division, Central Valley Project, California:

(1) Restoration of the capacity of the Friant-Kern Canal and Madera Canal to such capacity as previously designed and constructed by the Bureau of Reclamation.

(2) Reverse flow pump-back facilities on the Friant-Kern Canal, with reverse-flow capacity of approximately 500 cubic feet per second at the Poso and Shafter Check Structures and approximately 300 cubic feet per second at the Woollomes Check Structure.

(b) Upon completion of and consistent with the applicable feasibility studies, the Secretary is authorized to construct the improvements and facilities identified in subsection (a) in accordance with all applicable Federal and State laws.

(c) The costs of implementing this section shall be in accordance with section 10203, and shall be a nonreimbursable Federal expenditure.

SEC. 10202. FINANCIAL ASSISTANCE FOR LOCAL PROJECTS.

(a) AUTHORIZATION.—The Secretary is authorized to provide financial assistance to local agencies within the Central Valley Project, California, for the planning, design, environmental compliance, and construction of local facilities to bank water underground or to recharge groundwater, and that recover such water, provided that the project meets the criteria in subsection (b). The Secretary is further authorized to require that any such local agency receiving financial assistance under the terms of this section submit progress reports and accountings to the Secretary, as the Secretary deems appropriate, which such reports shall be publicly available.

(b) CRITERIA.—

(1) A project shall be eligible for Federal financial assistance under subsection (a) only if all or a portion of the project is designed to reduce, avoid, or offset the quantity of the expected water supply impacts to Friant Division long-term contractors caused by the Interim or Restoration Flows authorized in part I of this subtitle, and such quantities have not already been reduced, avoided, or offset by other programs or projects.

(2) Federal financial assistance shall only apply to the portion of a project that the local agency designates as reducing, avoiding, or offsetting the expected water supply impacts caused by the Interim or Restoration Flows authorized in part I of this subtitle, consistent with the methodology developed pursuant to paragraph (3)(C).

(3) No Federal financial assistance shall be provided by the Secretary under this part for construction of a project under subsection (a) unless the Secretary—

(A) determines that appropriate planning, design, and environmental compliance activities associated with such a project have been completed, and that the Secretary has been offered the opportunity to participate in the project at a price that is no higher than the local agency's own costs, in order to secure necessary storage, extraction, and conveyance rights for water that may be needed to meet the Restoration Goal as described in part I of this subtitle, where such project has capacity beyond that designated for the purposes in paragraph (2) or where it is feasible to expand such project to allow participation by the Secretary;

(B) determines, based on information available at the time, that the local agency has the financial capability and willingness to fund its share of the project's construction and all operation and maintenance costs on an annual basis;

(C) determines that a method acceptable to the Secretary has been developed for quantifying the benefit, in terms of reduction, avoidance, or offset of the water supply impacts expected to be caused by the Interim or Restoration Flows authorized in part I of this subtitle, that will result from the project, and for ensuring appropriate adjustment in the recovered water account pursuant to section 10004(a)(5); and

(D) has entered into a cost-sharing agreement with the local agency which commits the local agency to funding its share of the project's construction costs on an annual basis.

(c) GUIDELINES.—Within 1 year from the date of enactment of this part, the Secretary shall develop, in consultation with the Friant Division long-term contractors, proposed guidelines for the application of the criteria defined in subsection (b), and will make the proposed guidelines available for public comment. Such guidelines may consider prioritizing the distribution of available funds to projects that provide the broadest benefit within the affected area and the equitable allocation of funds. Upon adoption of such guidelines, the Secretary shall implement such assistance program, subject to the availability of funds appropriated for such purpose.

(d) COST SHARING.—The Federal financial assistance provided to local agencies under subsection (a) shall not exceed—

(1) 50 percent of the costs associated with planning, design, and environmental compliance activities associated with such a project; and

(2) 50 percent of the costs associated with construction of any such project.

(e) PROJECT OWNERSHIP.—

(1) Title to, control over, and operation of, projects funded under subsection (a) shall remain in one or more non-Federal local agencies. Nothing in this part authorizes the Secretary to operate a groundwater bank along or adjacent to the San Joaquin River upstream of the confluence with the Merced River, and any such groundwater bank shall be operated by a non-Federal entity. All projects funded pursuant to this subsection shall comply with all applicable Federal and State laws, including provisions of California water law.

(2) All operation, maintenance, and replacement and rehabilitation costs of such projects shall be the responsibility of the local agency. The Secretary shall not provide funding for any operation, maintenance, or replacement and rehabilitation costs of projects funded under subsection (a).

SEC. 10203. AUTHORIZATION OF APPROPRIATIONS.

(a) The Secretary is authorized and directed to use monies from the fund established under section 10009 to carry out the provisions of section 10201(a)(1), in an amount not to exceed $35,000,000.

(b) In addition to the funds made available pursuant to subsection (a), the Secretary is also authorized to expend such additional funds from the fund established under section 10009 to carry out the purposes of section 10201(a)(2), if such facilities have not already been authorized and funded under the plan provided for pursuant to section 10004(a)(4), in an amount not to exceed $17,000,000, provided that the Secretary first determines that such expenditure will not conflict with or delay his implementation of actions required by part I of this subtitle. Notice of the Secretary's determination shall be published not later than his submission of the report to Congress required by section 10009(f)(2).

(c) In addition to funds made available in subsections (a) and (b), there are authorized to be appropriated $50,000,000 (October 2008 price levels) to carry out the purposes of this part which shall be non-reimbursable.

Subtitle B—Northwestern New Mexico Rural Water Projects

SEC. 10301. SHORT TITLE.

This subtitle may be cited as the ''Northwestern New Mexico Rural Water Projects Act''.

SEC. 10302. DEFINITIONS.

In this subtitle:

(1) AAMODT ADJUDICATION.—The term ''Aamodt adjudication'' means the general stream adjudication that is the subject of the civil action entitled ''State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.'', No. 66 CV 6639 MV/LCS (D.N.M.).

(2) ABEYTA ADJUDICATION.—The term ''Abeyta adjudication'' means the general stream adjudication that is the subject of the civil actions entitled ''State of New Mexico v. Abeyta and State of New Mexico v. Arrellano'', Civil Nos. 7896–BB (D.N.M) and 7939–BB (D.N.M.) (consolidated).

(3) ACRE-FEET.—The term ''acre-feet'' means acre-feet per year.

(4) AGREEMENT.—The term ''Agreement'' means the agreement among the State of New Mexico, the Nation, and the United States setting forth a stipulated and binding agreement signed by the State of New Mexico and the Nation on April 19, 2005.

(5) ALLOTTEE.—The term ''allottee'' means a person that holds a beneficial real property interest in a Navajo allotment that—

(A) is located within the Navajo Reservation or the State of New Mexico;

(B) is held in trust by the United States; and

(C) was originally granted to an individual member of the Nation by public land order or otherwise.

(6) ANIMAS-LA PLATA PROJECT.—The term ''Animas-La Plata Project'' has the meaning given the term in section 3 of Public Law 100–585 (102 Stat. 2973), including Ridges Basin Dam, Lake Nighthorse, the Navajo Nation Municipal Pipeline, and any other features or modifications made pursuant to the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106–554; 114 Stat. 2763A–258).

(7) CITY.—The term ''City'' means the city of Gallup, New Mexico, or a designee of the City, with authority to provide water to the Gallup, New Mexico service area.

(8) COLORADO RIVER COMPACT.—The term ''Colorado River Compact'' means the Colorado River Compact of 1922 as approved by Congress in the Act of December 21, 1928 (45 Stat. 1057) and by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000).

(9) COLORADO RIVER SYSTEM.—The term ''Colorado River System'' has the same meaning given the term in Article II(a) of the Colorado River Compact.

(10) COMPACT.—The term ''Compact'' means the Upper Colorado River Basin Compact as consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48).

(11) CONTRACT.—The term ''Contract'' means the contract between the United States and the Nation setting forth certain commitments, rights, and obligations of the United States and the Nation, as described in paragraph 6.0 of the Agreement.

(12) DEPLETION.—The term ''depletion'' means the depletion of the flow of the San Juan River stream system in the State of New Mexico by a particular use of water (including any depletion incident to the use) and represents the diversion from the stream system by the use, less return flows to the stream system from the use.

(13) DRAFT IMPACT STATEMENT.—The term ''Draft Impact Statement'' means the draft environmental impact statement prepared by the Bureau of Reclamation for the Project dated March 2007.

(14) FUND.—The term ''Fund'' means the Reclamation Waters Settlements Fund established by section 10501(a).

(15) HYDROLOGIC DETERMINATION.—The term ''hydrologic determination'' means the hydrologic determination entitled ''Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico,'' prepared by the Bureau of Reclamation pursuant to section 11 of the Act of June 13, 1962 (Public Law 87–483; 76 Stat. 99), and dated May 23, 2007.

(16) LOWER BASIN.—The term ''Lower Basin'' has the same meaning given the term in Article II(g) of the Colorado River Compact.

(17) NATION.—The term ''Nation'' means the Navajo Nation, a body politic and federally-recognized Indian nation as provided for in section 101(2) of the Federally Recognized Indian Tribe List of 1994 (25 U.S.C. 497a(2)), also known variously as the ''Navajo Tribe,'' the ''Navajo Tribe of Arizona, New Mexico &

Utah,'' and the ''Navajo Tribe of Indians'' and other similar names, and includes all bands of Navajo Indians and chapters of the Navajo Nation.

(18) NAVAJO-GALLUP WATER SUPPLY PROJECT; PROJECT.—The term ''Navajo-Gallup Water Supply Project'' or ''Project'' means the Navajo-Gallup Water Supply Project authorized under section 10602(a), as described as the preferred alternative in the Draft Impact Statement.

(19) NAVAJO INDIAN IRRIGATION PROJECT.—The term ''Navajo Indian Irrigation Project'' means the Navajo Indian irrigation project authorized by section 2 of Public Law 87–483 (76 Stat. 96).

(20) NAVAJO RESERVOIR.—The term ''Navajo Reservoir'' means the reservoir created by the impoundment of the San Juan River at Navajo Dam, as authorized by the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620 et seq.).

(21) NAVAJO NATION MUNICIPAL PIPELINE; PIPELINE.—The term ''Navajo Nation Municipal Pipeline'' or ''Pipeline'' means the pipeline used to convey the water of the Animas-La Plata Project of the Navajo Nation from the City of Farmington, New Mexico, to communities of the Navajo Nation located in close proximity to the San Juan River Valley in the State of New Mexico (including the City of Shiprock), as authorized by section 15(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973; 114 Stat. 2763A–263).

(22) NON-NAVAJO IRRIGATION DISTRICTS.—The term ''Non-Navajo Irrigation Districts'' means—

(A) the Hammond Conservancy District;

(B) the Bloomfield Irrigation District; and

(C) any other community ditch organization in the San Juan River basin in the State of New Mexico.

(23) PARTIAL FINAL DECREE.—The term ''Partial Final Decree'' means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth the rights of the Nation to use and administer waters of the San Juan River Basin in New Mexico, as set forth in Appendix 1 of the Agreement.

(24) PROJECT PARTICIPANTS.—The term ''Project Participants'' means the City, the Nation, and the Jicarilla Apache Nation.

(25) SAN JUAN RIVER BASIN RECOVERY IMPLEMENTATION PROGRAM.—The term ''San Juan River Basin Recovery Implementation Program'' means the intergovernmental program established pursuant to the cooperative agreement dated October 21, 1992 (including any amendments to the program).

(26) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation or any other designee.

(27) STREAM ADJUDICATION.—The term ''stream adjudication'' means the general stream adjudication that is the subject of New Mexico v. United States, et al., No. 75–185 (11th Jud. Dist., San Juan County, New Mexico) (involving claims to waters of the San Juan River and the tributaries of that river).

(28) SUPPLEMENTAL PARTIAL FINAL DECREE.—The term ''Supplemental Partial Final Decree'' means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth certain water rights of the Nation, as set forth in Appendix 2 of the Agreement.

(29) TRUST FUND.—The term ''Trust Fund'' means the Navajo Nation Water Resources Development Trust Fund established by section 10702(a).

(30) UPPER BASIN.—The term ''Upper Basin'' has the same meaning given the term in Article II(f) of the Colorado River Compact.

SEC. 10303. COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) EFFECT OF EXECUTION OF AGREEMENT.—The execution of the Agreement under section 10701(a)(2) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this subtitle, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 10304. NO REALLOCATION OF COSTS.

(a) EFFECT OF ACT.—Notwithstanding any other provision of law, the Secretary shall not reallocate or reassign any costs of projects that have been authorized under the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620 et seq.), as of the date of enactment of this Act because of—

(1) the authorization of the Navajo-Gallup Water Supply Project under this subtitle; or

(2) the changes in the uses of the water diverted by the Navajo Indian Irrigation Project or the waters stored in the Navajo Reservoir authorized under this subtitle.

(b) USE OF POWER REVENUES.—Notwithstanding any other provision of law, no power revenues under the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620 et seq.), shall be used to pay or reimburse any costs of the Navajo Indian Irrigation Project or Navajo-Gallup Water Supply Project.

SEC. 10305. INTEREST RATE.

Notwithstanding any other provision of law, the interest rate applicable to any repayment contract entered into under section 10604 shall be equal to the discount rate for Federal water resources planning, as determined by the Secretary.

PART I—AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT AND PUBLIC LAW 87–483

SEC. 10401. AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT.

(a) PARTICIPATING PROJECTS.—Paragraph (2) of the first section of the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620(2)) is amended by inserting ''the Navajo-Gallup Water Supply Project,'' after ''Fruitland Mesa,''.

(b) NAVAJO RESERVOIR WATER BANK.—The Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') is amended—

(1) by redesignating section 16 (43 U.S.C. 620o) as section 17; and

(2) by inserting after section 15 (43 U.S.C. 620n) the following:

''SEC. 16. (a) The Secretary of the Interior may create and operate within the available capacity of Navajo Reservoir a top water bank.

''(b) Water made available for the top water bank in accordance with subsections (c) and (d) shall not be subject to section 11 of Public Law 87–483 (76 Stat. 99).

''(c) The top water bank authorized under subsection (a) shall be operated in a manner that—

''(1) is consistent with applicable law, except that, notwithstanding any other provision of law, water for purposes other than irrigation may be stored in the Navajo Reservoir pursuant to the rules governing the top water bank established under this section; and

''(2) does not impair the ability of the Secretary of the Interior to deliver water under contracts entered into under—

''(A) Public Law 87–483 (76 Stat. 96); and

''(B) New Mexico State Engineer File Nos. 2847, 2848, 2849, and 2917.

''(d)(1) The Secretary of the Interior, in cooperation with the State of New Mexico (acting through the Interstate Stream Commission), shall develop any terms and procedures for the storage, accounting, and release of water in the top water bank that are necessary to comply with subsection (c).

''(2) The terms and procedures developed under paragraph (1) shall include provisions requiring that—

''(A) the storage of banked water shall be subject to approval under State law by the New Mexico State Engineer to ensure that impairment of any existing water right does not occur, including storage of water under New Mexico State Engineer File No. 2849;

''(B) water in the top water bank be subject to evaporation and other losses during storage;

''(C) water in the top water bank be released for delivery to the owner or assigns of the banked water on request of the owner, subject to reasonable scheduling requirements for making the release;

''(D) water in the top water bank be the first water spilled or released for flood control purposes in anticipation of a spill, on the condition that top water bank water shall not be released or included for purposes of calculating whether a release should occur for purposes of satisfying the flow recommendations of the San Juan River Basin Recovery Implementation Program; and

''(E) water eligible for banking in the top water bank shall be water that otherwise would have been diverted and beneficially used in New Mexico that year.

''(e) The Secretary of the Interior may charge fees to water users that use the top water bank in amounts sufficient to cover the costs incurred by the United States in administering the water bank.''.

SEC. 10402. AMENDMENTS TO PUBLIC LAW 87–483.

(a) NAVAJO INDIAN IRRIGATION PROJECT.—Public Law 87-483 (76 Stat. 96) is amended by striking section 2 and inserting the following:

''SEC. 2. (a) In accordance with the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act') (43 U.S.C. 620 et seq.), the Secretary of the Interior is authorized to construct, operate, and maintain the Navajo Indian Irrigation Project to provide irrigation water to a service area of not more than 110,630 acres of land.

''(b)(1) Subject to paragraph (2), the average annual diversion by the Navajo Indian Irrigation Project from the Navajo Reservoir over any consecutive 10-year period shall be the lesser of—

''(A) 508,000 acre-feet per year; or

''(B) the quantity of water necessary to supply an average depletion of 270,000 acre-feet per year.

''(2) The quantity of water diverted for any 1 year shall not exceed the average annual diversion determined under paragraph (1) by more than 15 percent.

''(c) In addition to being used for irrigation, the water diverted by the Navajo Indian Irrigation Project under subsection (b) may be used within the area served by Navajo Indian Irrigation Project facilities for the following purposes:

''(1) Aquaculture purposes, including the rearing of fish in support of the San Juan River Basin Recovery Implementation Program authorized by Public Law 106–392 (114 Stat. 1602).

''(2) Domestic, industrial, or commercial purposes relating to agricultural production and processing.

''(3)(A) The generation of hydroelectric power as an incident to the diversion of water by the Navajo Indian Irrigation Project for authorized purposes.

''(B) Notwithstanding any other provision of law—

''(i) any hydroelectric power generated under this paragraph shall be used or marketed by the Navajo Nation;

''(ii) the Navajo Nation shall retain any revenues from the sale of the hydroelectric power; and

''(iii) the United States shall have no trust obligation to monitor, administer, or account for the revenues received by the Navajo Nation, or the expenditure of the revenues.

''(4) The implementation of the alternate water source provisions described in subparagraph 9.2 of the agreement executed under section 10701(a)(2) of the Northwestern New Mexico Rural Water Projects Act.

''(d) The Navajo Indian Irrigation Project water diverted under subsection (b) may be transferred to areas located within or outside the area served by Navajo Indian Irrigation Project facilities, and within or outside the boundaries of the Navajo Nation, for any beneficial use in accordance with—

''(1) the agreement executed under section 10701(a)(2) of the Northwestern New Mexico Rural Water Projects Act;

''(2) the contract executed under section 10604(a)(2)(B) of that Act; and

''(3) any other applicable law.

''(e) The Secretary may use the capacity of the Navajo Indian Irrigation Project works to convey water supplies for—

''(1) the Navajo-Gallup Water Supply Project under section 10602 of the Northwestern New Mexico Rural Water Projects Act; or

''(2) other nonirrigation purposes authorized under subsection (c) or (d).

''(f)(1) Repayment of the costs of construction of the project (as authorized in subsection (a)) shall be in accordance with the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act') (43 U.S.C. 620 et seq.), including section 4(d) of that Act.

''(2) The Secretary shall not reallocate, or require repayment of, construction costs of the Navajo Indian Irrigation Project because of the conveyance of water supplies for nonirrigation purposes under subsection (e).''.

(b) RUNOFF ABOVE NAVAJO DAM.—Section 11 of Public Law 87–483 (76 Stat. 100) is amended by adding at the end the following:

''(d)(1) For purposes of implementing in a year of prospective shortage the water allocation procedures established by subsection (a), the Secretary of the Interior shall determine the quantity of any shortages and the appropriate apportionment of water using the normal diversion requirements on the flow of the San Juan River originating above Navajo Dam based on the following criteria:

''(A) The quantity of diversion or water delivery for the current year anticipated to be necessary to irrigate land in accordance with cropping plans prepared by contractors.

''(B) The annual diversion or water delivery demands for the current year anticipated for non-irrigation uses under water delivery contracts, including contracts authorized by the Northwestern New Mexico Rural Water Projects Act, but excluding any current demand for surface water for placement into aquifer storage for future recovery and use.

''(C) An annual normal diversion demand of 135,000 acre-feet for the initial stage of the San Juan-Chama Project authorized by section 8, which shall be the amount to which any shortage is applied.

''(2) The Secretary shall not include in the normal diversion requirements—

''(A) the quantity of water that reliably can be anticipated to be diverted or delivered under a contract from inflows to the San Juan River arising below Navajo Dam under New Mexico State Engineer File No. 3215; or

''(B) the quantity of water anticipated to be supplied through reuse.

''(e)(1) If the Secretary determines that there is a shortage of water under subsection (a), the Secretary shall respond to the shortage in the Navajo Reservoir water supply by curtailing releases and deliveries in the following order:

''(A) The demand for delivery for uses in the State of Arizona under the Navajo-Gallup Water Supply Project authorized by section 10603 of the Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for the uses from inflows to the San Juan River that arise below Navajo Dam in accordance with New Mexico State Engineer File No. 3215.

''(B) The demand for delivery for uses allocated under paragraph 8.2 of the agreement executed under section 10701(a)(2) of the Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for such uses under State Engineer File No. 3215.

''(C) The uses in the State of New Mexico that are determined under subsection (d), in accordance with the procedure for apportioning the water supply under subsection (a).

''(2) For any year for which the Secretary determines and responds to a shortage in the Navajo Reservoir water supply, the Secretary shall not deliver, and contractors of the water supply shall not divert, any of the water supply for placement into aquifer storage for future recovery and use.

''(3) To determine the occurrence and amount of any shortage to contracts entered into under this section, the Secretary shall not include as available storage any water stored in a top water bank in Navajo Reservoir established under section 16(a) of the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act').

''(f) The Secretary of the Interior shall apportion water under subsections (a), (d), and (e) on an annual volume basis.

''(g) The Secretary of the Interior may revise a determination of shortages, apportionments, or allocations of water under subsections (a), (d), and (e) on the basis of information relating to water supply conditions that was not available at the time at which the determination was made.

''(h) Nothing in this section prohibits the distribution of water in accordance with cooperative water agreements between water users providing for a sharing of water supplies.

''(i) Diversions under New Mexico State Engineer File No. 3215 shall be distributed, to the maximum extent water is available, in proportionate amounts to the diversion demands of contractors and subcontractors of the Navajo Reservoir water supply that are diverting water below Navajo Dam.''.

SEC. 10403. EFFECT ON FEDERAL WATER LAW.

Unless expressly provided in this subtitle, nothing in this subtitle modifies, conflicts with, preempts, or otherwise affects—

(1) the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(2) the Boulder Canyon Project Adjustment Act (54 Stat. 774, chapter 643);

(3) the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620 et seq.);

(4) the Act of September 30, 1968 (commonly known as the ''Colorado River Basin Project Act'') (82 Stat. 885);

(5) Public Law 87–483 (76 Stat. 96);

(6) the Treaty between the United States of America and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington February 3, 1944 (59 Stat. 1219);

(7) the Colorado River Compact of 1922, as approved by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000);

(8) the Compact;

(9) the Act of April 6, 1949 (63 Stat. 31, chapter 48);

(10) the Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2237); or

(11) section 205 of the Energy and Water Development Appropriations Act, 2005 (118 Stat. 2949).

PART II—RECLAMATION WATER SETTLEMENTS FUND

SEC. 10501. RECLAMATION WATER SETTLEMENTS FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Reclamation Water Settlements Fund'', consisting of—

(1) such amounts as are deposited to the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund under subsection (d).

(b) DEPOSITS TO FUND.—

(1) IN GENERAL.—For each of fiscal years 2019 through 2028, the Secretary of the Treasury shall deposit in the Fund, if available, $120,000,000 of the revenues that would otherwise be deposited for the fiscal year in the fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093).

(2) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Fund under paragraph (1) shall be made available pursuant to this section—

(A) without further appropriation; and

(B) in addition to amounts appropriated pursuant to any authorization contained in any other provision of law.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—

(A) EXPENDITURES.—Subject to subparagraph (B), for each of fiscal years 2019 through 2033, the Secretary may expend from the Fund an amount not to exceed $120,000,000, plus the interest accrued in the Fund, for the fiscal year in which expenditures are made pursuant to paragraphs (2) and (3).

(B) ADDITIONAL EXPENDITURES.—The Secretary may expend more than $120,000,000 for any fiscal year if such amounts are available in the Fund due to expenditures not reaching $120,000,000 for prior fiscal years.

(2) AUTHORITY.—The Secretary may expend money from the Fund to implement a settlement agreement approved by Congress that resolves, in whole or in part, litigation involving the United States, if the settlement agreement or implementing legislation requires the Bureau of Reclamation to provide financial assistance for, or plan, design, and construct—

(A) water supply infrastructure; or

(B) a project—

(i) to rehabilitate a water delivery system to conserve water; or

(ii) to restore fish and wildlife habitat or otherwise improve environmental conditions associated with or affected by, or located within the same river basin as, a Federal reclamation project that is in existence on the date of enactment of this Act.

(3) USE FOR COMPLETION OF PROJECT AND OTHER SETTLEMENTS.—

(A) PRIORITIES.—

(i) FIRST PRIORITY.—

(I) IN GENERAL.—The first priority for expenditure of amounts in the Fund during the entire period in which the Fund is in existence shall be for the purposes described in, and in the order of, clauses (i) through (iv) of subparagraph (B).

(II) RESERVED AMOUNTS.—The Secretary shall reserve and use amounts deposited into the Fund in accordance with subclause (I).

(ii) OTHER PURPOSES.—Any amounts in the Fund that are not needed for the purposes described in subparagraph (B) may be used for other purposes authorized in paragraph (2).

(B) COMPLETION OF PROJECT.—

(i) NAVAJO-GALLUP WATER SUPPLY PROJECT.—

(I) IN GENERAL.—Subject to subclause (II), effective beginning January 1, 2019, if, in the judgment of the Secretary on an annual basis the deadline described in section 10701(f)(1)(A)(ix) is unlikely to be met because a sufficient amount of funding is not otherwise available through appropriations made available pursuant to section 10609(a), the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the costs, and substantially complete as expeditiously as practicable, the construction of the water supply infrastructure authorized as part of the Project.

(II) MAXIMUM AMOUNT.—

(aa) IN GENERAL.—Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $500,000,000 for the period of fiscal years 2019 through 2028.

(bb) EXCEPTION.—The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (ii) through (iv).

(ii) OTHER NEW MEXICO SETTLEMENTS.—

(I) IN GENERAL.—Subject to subclause (II), effective beginning January 1, 2019, in addition to the funding made available under clause (i), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing the Indian water rights settlement agreements entered into by the State of New Mexico in the Aamodt adjudication and the Abeyta adjudication, if such settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) MAXIMUM AMOUNT.—The amount expended under subclause (I) shall not exceed $250,000,000.

(iii) MONTANA SETTLEMENTS.—

(I) IN GENERAL.—Subject to subclause (II), effective beginning January 1, 2019, in addition to funding made available pursuant to clauses (i) and (ii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing Indian water rights settlement agreements entered into by the State of Montana with the Blackfeet Tribe, the Crow Tribe, or the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation in the judicial proceeding entitled ''In re the General Adjudication of All the Rights to Use Surface and Groundwater in the State of Montana'', if a settlement or settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) MAXIMUM AMOUNT.—

(aa) IN GENERAL.—Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $350,000,000 for the period of fiscal years 2019 through 2028.

(bb) EXCEPTION.—The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clause (i), (ii), and (iv).

(cc) OTHER FUNDING.—The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

(iv) ARIZONA SETTLEMENT.—

(I) IN GENERAL.—Subject to subclause (II), effective beginning January 1, 2019, in addition to funding made available pursuant to clauses (i), (ii), and (iii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing an Indian water rights settlement agreement entered into by the State of Arizona with the Navajo Nation to resolve the water rights claims of the Nation in the Lower Colorado River basin in Arizona, if a settlement is subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) MAXIMUM AMOUNT.—

(aa) IN GENERAL.—Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $100,000,000 for the period of fiscal years 2019 through 2028.

(bb) EXCEPTION.—The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (i) through (iii).

(cc) OTHER FUNDING.—The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

(C) REVERSION.—If the settlements described in clauses (ii) through (iv) of subparagraph (B) have not been approved and authorized by an Act of Congress by December 31, 2018, the amounts reserved for the settlements shall no longer be reserved by the Secretary pursuant to subparagraph (A)(i) and shall revert to the Fund for any authorized use, as determined by the Secretary.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(2) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) TERMINATION.—On September 30, 2033—

(1) the Fund shall terminate; and

(2) the unexpended and unobligated balance of the Fund shall be transferred to the appropriate fund of the Treasury.

PART III—NAVAJO-GALLUP WATER SUPPLY PROJECT

SEC. 10601. PURPOSES.

The purposes of this part are—

(1) to authorize the Secretary to construct, operate, and maintain the Navajo-Gallup Water Supply Project;

(2) to allocate the capacity of the Project among the Nation, the City, and the Jicarilla Apache Nation; and

(3) to authorize the Secretary to enter into Project repayment contracts with the City and the Jicarilla Apache Nation.

SEC. 10602. AUTHORIZATION OF NAVAJO-GALLUP WATER SUPPLY PROJECT.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, is authorized to design, construct, operate, and maintain the Project in substantial accordance with the preferred alternative in the Draft Impact Statement.

(b) PROJECT FACILITIES.—To provide for the delivery of San Juan River water to Project Participants, the Secretary may construct, operate, and maintain the Project facilities described in the preferred alternative in the Draft Impact Statement, including:

(1) A pumping plant on the San Juan River in the vicinity of Kirtland, New Mexico.

(2)(A) A main pipeline from the San Juan River near Kirtland, New Mexico, to Shiprock, New Mexico, and Gallup, New Mexico, which follows United States Highway 491.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).

(3)(A) A main pipeline from Cutter Reservoir to Ojo Encino, New Mexico, which follows United States Highway 550.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).

(4)(A) Lateral pipelines from the main pipelines to Nation communities in the States of New Mexico and Arizona.

(B) Any pumping plants associated with the pipelines authorized under subparagraph (A).

(5) Any water regulation, storage or treatment facility, service connection to an existing public water supply system, power substation, power distribution works, or other appurtenant works (including a building or access road) that is related to the Project facilities authorized by paragraphs (1) through (4), including power transmission facilities and associated wheeling services to connect Project facilities to existing high-voltage transmission facilities and deliver power to the Project.

(c) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary is authorized to acquire any land or interest in land that is necessary to construct, operate, and maintain the Project facilities authorized under subsection (b).

(2) LAND OF THE PROJECT PARTICIPANTS.—As a condition of construction of the facilities authorized under this part, the Project Participants shall provide all land or interest in land, as appropriate, that the Secretary identifies as necessary for acquisition under this subsection at no cost to the Secretary.

(3) LIMITATION.—The Secretary may not condemn water rights for purposes of the Project.

(d) CONDITIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall not commence construction of the facilities authorized under subsection (b) until such time as—

(A) the Secretary executes the Agreement and the Contract;

(B) the contracts authorized under section 10604 are executed;

(C) the Secretary—

(i) completes an environmental impact statement for the Project; and

(ii) has issued a record of decision that provides for a preferred alternative; and

(D) the Secretary has entered into an agreement with the State of New Mexico under which the State of New Mexico will provide a share of the construction costs of the Project of not less than $50,000,000, except that the State of New Mexico shall receive credit for funds the State has contributed to construct water conveyance facilities to the Project Participants to the extent that the facilities reduce the cost of the Project as estimated in the Draft Impact Statement.

(2) EXCEPTION.—If the Jicarilla Apache Nation elects not to enter into a contract pursuant to section 10604, the Secretary, after consulting with the Nation, the City, and the State of New Mexico acting through the Interstate Stream Commission, may make appropriate modifications to the scope of the Project and proceed with Project construction if all other conditions for construction have been satisfied.

(3) EFFECT OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design, construction, operation, maintenance, or replacement of the Project.

(e) POWER.—The Secretary shall reserve, from existing reservations of Colorado River Storage Project power for Bureau of Reclamation projects, up to 26 megawatts of power for use by the Project.

(f) CONVEYANCE OF TITLE TO PROJECT FACILITIES.—

(1) IN GENERAL.—The Secretary is authorized to enter into separate agreements with the City and the Nation and, on entering into the agreements, shall convey title to each Project facility or section of a Project facility authorized under subsection (b) (including any appropriate interests in land) to the City and the Nation after—

(A) completion of construction of a Project facility or a section of a Project facility that is operating and delivering water; and

(B) execution of a Project operations agreement approved by the Secretary and the Project Participants that sets forth—

(i) any terms and conditions that the Secretary determines are necessary—

(I) to ensure the continuation of the intended benefits of the Project; and

(II) to fulfill the purposes of this part;

(ii) requirements acceptable to the Secretary and the Project Participants for—

(I) the distribution of water under the Project or section of a Project facility; and

(II) the allocation and payment of annual operation, maintenance, and replacement costs of the Project or section of a Project facility based on the proportionate uses of Project facilities; and

(iii) conditions and requirements acceptable to the Secretary and the Project Participants for operating and maintaining each Project facility on completion of the conveyance of title, including the requirement that the City and the Nation shall—

(I) comply with—

(aa) the Compact; and

(bb) other applicable law; and

(II) be responsible for—

(aa) the operation, maintenance, and replacement of each Project facility; and

(bb) the accounting and management of water conveyance and Project finances, as necessary to administer and fulfill the conditions of the Contract executed under section 10604(a)(2)(B).

(2) EFFECT OF CONVEYANCE.—The conveyance of title to each Project facility shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) relating to the use of the water associated with the Project.

(3) LIABILITY.—

(A) IN GENERAL.—Effective on the date of the conveyance authorized by this subsection, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land, buildings, or facilities conveyed under this subsection, other than damages caused by acts of negligence committed by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) TORT CLAIMS.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act'').

(4) NOTICE OF PROPOSED CONVEYANCE.—Not later than 45 days before the date of a proposed conveyance of title to any Project facility, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate notice of the conveyance of each Project facility.

(g) COLORADO RIVER STORAGE PROJECT POWER.—The conveyance of Project facilities under subsection (f) shall not affect the availability of Colorado River Storage Project power to the Project under subsection (e).

(h) REGIONAL USE OF PROJECT FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), Project facilities constructed under subsection (b) may be used to treat and convey non-Project water or water that is not allocated by subsection 10603(b) if—

(A) capacity is available without impairing any water delivery to a Project Participant; and

(B) the unallocated or non-Project water beneficiary—

(i) has the right to use the water;

(ii) agrees to pay the operation, maintenance, and replacement costs assignable to the beneficiary for the use of the Project facilities; and

(iii) agrees to pay an appropriate fee that may be established by the Secretary to assist in the recovery of any capital cost allocable to that use.

(2) EFFECT OF PAYMENTS.—Any payments to the United States or the Nation for the use of unused capacity under this subsection or for water under any subcontract with the Nation or the Jicarilla Apache Nation shall not alter the construction repayment requirements or the operation, maintenance, and replacement payment requirements of the Project Participants.

SEC. 10603. DELIVERY AND USE OF NAVAJO-GALLUP WATER SUPPLY PROJECT WATER.

(a) USE OF PROJECT WATER.—

(1) IN GENERAL.—In accordance with this subtitle and other applicable law, water supply from the Project shall be used for municipal, industrial, commercial, domestic, and stock watering purposes.

(2) USE ON CERTAIN LAND.—

(A) IN GENERAL.—Subject to subparagraph (B), the Nation may use Project water allocations on—

(i) land held by the United States in trust for the Nation and members of the Nation; and

(ii) land held in fee by the Nation.

(B) TRANSFER.—The Nation may transfer the purposes and places of use of the allocated water in accordance with the Agreement and applicable law.

(3) HYDROELECTRIC POWER.—

(A) IN GENERAL.—Hydroelectric power may be generated as an incident to the delivery of Project water for authorized purposes under paragraph (1).

(B) ADMINISTRATION.—Notwithstanding any other provision of law—

(i) any hydroelectric power generated under this paragraph shall be used or marketed by the Nation;

(ii) the Nation shall retain any revenues from the sale of the hydroelectric power; and

(iii) the United States shall have no trust obligation or other obligation to monitor, administer, or account for the revenues received by the Nation, or the expenditure of the revenues.

(4) STORAGE.—

(A) IN GENERAL.—Subject to subparagraph (B), any water contracted for delivery under paragraph (1) that is not needed for current water demands or uses may be delivered by the Project for placement in underground storage in the State of New Mexico for future recovery and use.

(B) STATE APPROVAL.—Delivery of water under subparagraph (A) is subject to—

(i) approval by the State of New Mexico under applicable provisions of State law relating to aquifer storage and recovery; and

(ii) the provisions of the Agreement and this subtitle.

(b) PROJECT WATER AND CAPACITY ALLOCATIONS.—

(1) DIVERSION.—Subject to availability and consistent with Federal and State law, the Project may divert from the Navajo Reservoir and the San Juan River a quantity of water to be allocated and used consistent with the Agreement and this subtitle, that does not exceed in any 1 year, the lesser of—

(A) 37,760 acre-feet of water; or

(B) the quantity of water necessary to supply a depletion from the San Juan River of 35,890 acre-feet.

(2) PROJECT DELIVERY CAPACITY ALLOCATIONS.—

(A) IN GENERAL.—The capacity of the Project shall be allocated to the Project Participants in accordance with subparagraphs (B) through (E), other provisions of this subtitle, and other applicable law.

(B) DELIVERY CAPACITY ALLOCATION TO THE CITY.—The Project may deliver at the point of diversion from the San Juan River not more than 7,500 acre-feet of water in any 1 year for which the City has secured rights for the use of the City.

(C) DELIVERY CAPACITY ALLOCATION TO NAVAJO NATION COMMUNITIES IN NEW MEXICO.—For use by the Nation in the State of New Mexico, the Project may deliver water out of the water rights held by the Secretary for the Nation and confirmed under this subtitle, at the points of diversion from the San Juan River or at Navajo Reservoir in any 1 year, the lesser of—

(i) 22,650 acre-feet of water; or

(ii) the quantity of water necessary to supply a depletion from the San Juan River of 20,780 acre-feet of water.

(D) DELIVERY CAPACITY ALLOCATION TO NAVAJO NATION COMMUNITIES IN ARIZONA.—Subject to subsection (c), the Project may deliver at the point of diversion from the San Juan River not more than 6,411 acre-feet of water in any 1 year for use by the Nation in the State of Arizona.

(E) DELIVERY CAPACITY ALLOCATION TO JICARILLA APACHE NATION.—The Project may deliver at Navajo Reservoir not more than 1,200 acre-feet of water in any 1 year of the water rights of the Jicarilla Apache Nation, held by the Secretary and confirmed by the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102–441; 106 Stat. 2237), for use by the Jicarilla Apache Nation in the southern portion of the Jicarilla Apache Nation Reservation in the State of New Mexico.

(3) USE IN EXCESS OF DELIVERY CAPACITY ALLOCATION QUANTITY.—Notwithstanding each

delivery capacity allocation quantity limit described in subparagraphs (B), (C), and (E) of paragraph (2), the Secretary may authorize a Project Participant to exceed the delivery capacity allocation quantity limit of that Project Participant if—

(A) delivery capacity is available without impairing any water delivery to any other Project Participant; and

(B) the Project Participant benefitting from the increased allocation of delivery capacity—

(i) has the right under applicable law to use the additional water;

(ii) agrees to pay the operation, maintenance, and replacement costs relating to the additional use of any Project facility; and

(iii) agrees, if the Project title is held by the Secretary, to pay a fee established by the Secretary to assist in recovering capital costs relating to that additional use.

(c) CONDITIONS FOR USE IN ARIZONA.—

(1) REQUIREMENTS.—Project water shall not be delivered for use by any community of the Nation located in the State of Arizona under subsection (b)(2)(D) until—

(A) the Nation and the State of Arizona have entered into a water rights settlement agreement approved by an Act of Congress that settles and waives the Nation's claims to water in the Lower Basin and the Little Colorado River Basin in the State of Arizona, including those of the United States on the Nation's behalf; and

(B) the Secretary and the Navajo Nation have entered into a Navajo Reservoir water supply delivery contract for the physical delivery and diversion of water via the Project from the San Juan River system to supply uses in the State of Arizona.

(2) ACCOUNTING OF USES IN ARIZONA.—

(A) IN GENERAL.—Pursuant to paragraph (1) and notwithstanding any other provision of law, water may be diverted by the Project from the San Juan River in the State of New Mexico in accordance with an appropriate permit issued under New Mexico law for use in the State of Arizona within the Navajo Reservation in the Lower Basin; provided that any depletion of water that results from the diversion of water by the Project from the San Juan River in the State of New Mexico for uses within the State of Arizona (including depletion incidental to the diversion, impounding, or conveyance of water in the State of New Mexico for uses in the State of Arizona) shall be administered and accounted for as either—

(i) a part of, and charged against, the available consumptive use apportionment made to the State of Arizona by Article III(a) of the Compact and to the Upper Basin by Article III(a) of the Colorado River Compact, in which case any water so diverted by the Project into the Lower Basin for use within the State of Arizona shall not be credited as water reaching Lee Ferry pursuant to Article III(c) and III(d) of the Colorado River Compact; or

(ii) subject to subparagraph (B), a part of, and charged against, the consumptive use apportionment made to the Lower Basin by Article III(a) of the Colorado River Compact, in which case it shall—

(I) be a part of the Colorado River water that is apportioned to the State of Arizona in Article II(B) of the Consolidated Decree of the Supreme Court of the United States in Arizona v. California (547 U.S. 150) (as may be amended or supplemented);

(II) be credited as water reaching Lee Ferry pursuant to Article III(c) and III(d) of the Colorado River Compact; and

(III) be accounted as the water identified in section 104(a)(1)(B)(ii) of the Arizona Water Settlements Act, (118 Stat. 3478);

(B) LIMITATION.—Notwithstanding subparagraph (B), no water diverted by the Project shall be accounted for pursuant to subparagraph (B) until such time that—

(i) the Secretary has developed and, as necessary and appropriate, modified, in consultation with the Upper Colorado River Commission and the Governors' Representatives on Colorado River Operations from each State signatory to the Colorado River Compact, all operational and decisional criteria, policies, contracts, guidelines or other documents that control the operations of the Colorado River System reservoirs and diversion works, so as to adjust, account for, and offset the diversion of water apportioned to the State of Arizona, pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.), from a point of diversion on the San Juan River in New Mexico; provided that all such modifications shall be consistent with the provisions of this Section, and the modifications made pursuant to this clause shall be applicable only for the duration of any such diversions pursuant to section 10603(c)(2)(B); and

(ii) Article II(B) of the Decree of the Supreme Court of the United States in Arizona v. California (547 U.S. 150 as may be amended or supplemented) is administered so that diversions from the main stream for the Central Arizona Project, as served under existing contracts with the United States by diversion works heretofore constructed, shall be limited and reduced to offset any diversions made pursuant to section 10603(c)(2)(B) of this Act. This clause shall not affect, in any manner, the amount of water apportioned to Arizona pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.), or amend any provisions of said decree or the Colorado River Basin Project Act (43 U.S.C. 1501 et. seq.).

(3) UPPER BASIN PROTECTIONS.—

(A) CONSULTATIONS.—Henceforth, in any consultation pursuant to 16 U.S.C. 1536(a) with respect to water development in the San Juan River Basin, the Secretary shall confer with the States of Colorado and New Mexico, consistent with the provisions of section 5 of the ''Principles for Conducting Endangered Species Act Section 7 Consultations on Water Development and Water Management Activities Affecting Endangered Fish Species in the San Juan River Basin'' as adopted by the Coordination Committee, San Juan River Basin Recovery Implementation Program, on June 19, 2001, and as may be amended or modified.

(B) PRESERVATION OF EXISTING RIGHTS.—Rights to the consumptive use of water available to the Upper Basin from the Colorado River System under the Colorado River Compact and the Compact shall not be reduced or prejudiced by any use of water pursuant to subsection 10603(c). Nothing in this Act shall be construed so as to impair, conflict with, or otherwise change the duties and powers of the Upper Colorado River Commission.

(d) FORBEARANCE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), during any year in which a shortage to the normal diversion requirement for any use relating to the Project within the State of Arizona occurs (as determined under section 11 of Public Law 87–483 (76 Stat. 99)), the Nation may temporarily forbear the delivery of the water supply of the Navajo Reservoir for uses in the State of New Mexico under the apportionments of water to the Navajo Indian Irrigation Project and the normal diversion requirements of the Project to allow an equivalent quantity of water to be delivered from the Navajo Reservoir water supply for municipal and domestic uses of the Nation in the State of Arizona under the Project.

(2) LIMITATION OF FORBEARANCE.—The Nation may forebear the delivery of water under paragraph (1) of a quantity not exceeding the quantity of the shortage to the normal diversion requirement for any use relating to the Project within the State of Arizona.

(3) EFFECT.—The forbearance of the delivery of water under paragraph (1) shall be subject to the requirements in subsection (c).

(e) EFFECT.—Nothing in this subtitle—

(1) authorizes the marketing, leasing, or transfer of the water supplies made available to the Nation under the Contract to non-Navajo water users in States other than the State of New Mexico; or

(2) authorizes the forbearance of water uses in the State of New Mexico to allow uses of water in other States other than as authorized under subsection (d).

(f) COLORADO RIVER COMPACTS.—Notwithstanding any other provision of law—

(1) water may be diverted by the Project from the San Juan River in the State of New Mexico for use within New Mexico in the lower basin, as that term is used in the Colorado River Compact;

(2) any water diverted under paragraph (1) shall be a part of, and charged against, the consumptive use apportionment made to the State of New Mexico by Article III(a) of the Compact and to the upper basin by Article III(a) of the Colorado River Compact; and

(3) any water so diverted by the Project into the lower basin within the State of New Mexico shall not be credited as water reaching Lee Ferry pursuant to Articles III(c) and III(d) of the Colorado River Compact.

(g) PAYMENT OF OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(1) IN GENERAL.—The Secretary is authorized to pay the operation, maintenance, and replacement costs of the Project allocable to the Project Participants under section 10604 until the date on which the Secretary declares any section of the Project to be substantially complete and delivery of water generated by, and through, that section of the Project can be made to a Project participant.

(2) PROJECT PARTICIPANT PAYMENTS.—Beginning on the date described in paragraph (1), each Project Participant shall pay all allocated operation, maintenance, and replacement costs for that substantially completed section of the Project, in accordance with contracts entered into pursuant to section 10604, except as provided in section 10604(f).

(h) NO PRECEDENT.—Nothing in this Act shall be construed as authorizing or establishing a precedent for any type of transfer of Colorado River System water between the Upper Basin and Lower Basin. Nor shall anything in this Act be construed as expanding the Secretary's authority in the Upper Basin.

(i) UNIQUE SITUATION.—Diversions by the Project consistent with this section address critical tribal and non-Indian water supply needs under unique circumstances, which include, among other things—

(1) the intent to benefit an American Indian tribe;

(2) the Navajo Nation's location in both the Upper and Lower Basin;

(3) the intent to address critical Indian water needs in the State of Arizona and Indian and non-Indian water needs in the State of New Mexico,

(4) the location of the Navajo Nation's capital city of Window Rock in the State of Arizona in close proximity to the border of the State of New Mexico and the pipeline route for the Project;

(5) the lack of other reasonable options available for developing a firm, sustainable supply of municipal water for the Navajo Nation at Window Rock in the State of Arizona; and

(6) the limited volume of water to be diverted by the Project to supply municipal uses in the Window Rock area in the State of Arizona.

(j) CONSENSUS.—Congress notes the consensus of the Governors' Representatives on Colorado River Operations of the States that are signatory to the Colorado River Compact regarding the diversions authorized for the Project under this section.

(k) EFFICIENT USE.—The diversions and uses authorized for the Project under this Section represent unique and efficient uses of Colorado River apportionments in a manner that Congress has determined would be consistent with the obligations of the United States to the Navajo Nation.

SEC. 10604. PROJECT CONTRACTS.

(a) NAVAJO NATION CONTRACT.—

(1) HYDROLOGIC DETERMINATION.—Congress recognizes that the Hydrologic Determination necessary to support approval of the Contract has been completed.

(2) CONTRACT APPROVAL.—

(A) APPROVAL.—

(i) IN GENERAL.—Except to the extent that any provision of the Contract conflicts with this subtitle, Congress approves, ratifies, and confirms the Contract.

(ii) AMENDMENTS.—To the extent any amendment is executed to make the Contract consistent with this subtitle, that amendment is authorized, ratified, and confirmed.

(B) EXECUTION OF CONTRACT.—The Secretary, acting on behalf of the United States, shall enter into the Contract to the extent that the Contract does not conflict with this subtitle (including any amendment that is required to make the Contract consistent with this subtitle).

(3) NONREIMBURSABILITY OF ALLOCATED COSTS.—The following costs shall be nonreimbursable and not subject to repayment by the Nation or any other Project beneficiary:

(A) Any share of the construction costs of the Nation relating to the Project authorized by section 10602(a).

(B) Any costs relating to the construction of the Navajo Indian Irrigation Project that may otherwise be allocable to the Nation for use of any facility of the Navajo Indian Irrigation Project to convey water to each Navajo community under the Project.

(C) Any costs relating to the construction of Navajo Dam that may otherwise be allocable to the Nation for water deliveries under the Contract.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT OBLIGATION.—Subject to subsection (f), the Contract shall include provisions under which the Nation shall pay any costs relating to the operation, maintenance, and replacement of each facility of the Project that are allocable to the Nation.

(5) LIMITATION, CANCELLATION, TERMINATION, AND RESCISSION.—The Contract may be limited by a term of years, canceled, terminated, or rescinded only by an Act of Congress.

(b) CITY OF GALLUP CONTRACT.—

(1) CONTRACT AUTHORIZATION.—Consistent with this subtitle, the Secretary is authorized to enter into a repayment contract with the City that requires the City—

(A) to repay, within a 50-year period, the share of the construction costs of the City relating to the Project, with interest as provided under section 10305; and

(B) consistent with section 10603(g), to pay the operation, maintenance, and replacement costs of the Project that are allocable to the City.

(2) CONTRACT PREPAYMENT.—

(A) IN GENERAL.—The contract authorized under paragraph (1) may allow the City to satisfy the repayment obligation of the City for construction costs of the Project on the payment of the share of the City prior to the initiation of construction.

(B) AMOUNT.—The amount of the share of the City described in subparagraph (A) shall be determined by agreement between the Secretary and the City.

(C) REPAYMENT OBLIGATION.—Any repayment obligation established by the Secretary and the City pursuant to subparagraph (A) shall be subject to a final cost allocation by the Secretary on project completion and to the limitations set forth in paragraph (3).

(3) SHARE OF CONSTRUCTION COSTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the share of the construction costs of the Project allocable to the City and establish the percentage of the allocated construction costs that the City shall be required to repay pursuant to the contract entered into under paragraph (1), based on the ability of the City to pay.

(B) MINIMUM PERCENTAGE.—Notwithstanding subparagraph (A), the repayment obligation of the City shall be at least 25 percent of the construction costs of the Project that are allocable to the City, but shall in no event exceed 35 percent.

(4) EXCESS CONSTRUCTION COSTS.—Any construction costs of the Project allocable to the City in excess of the repayment obligation of the City, as determined under paragraph (3), shall be nonreimbursable.

(5) GRANT FUNDS.—A grant from any other Federal source shall not be credited toward the amount required to be repaid by the City under a repayment contract.

(6) TITLE TRANSFER.—If title is transferred to the City prior to repayment under section 10602(f), the City shall be required to provide assurances satisfactory to the Secretary of fulfillment of the remaining repayment obligation of the City.

(7) WATER DELIVERY SUBCONTRACT.—The Secretary shall not enter into a contract under paragraph (1) with the City until the City has secured a water supply for the City's portion of the Project described in section 10603(b)(2)(B), by entering into, as approved by the Secretary, a water delivery subcontract for a period of not less than 40 years beginning on the date on which the construction of any facility of the Project serving the City is completed, with—

(A) the Nation, as authorized by the Contract;

(B) the Jicarilla Apache Nation, as authorized by the settlement contract between the United States and the Jicarilla Apache Tribe, authorized by the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102–441; 106 Stat. 2237); or

(C) an acquired alternate source of water, subject to approval of the Secretary and the State of New Mexico, acting through the New Mexico Interstate Stream Commission and the New Mexico State Engineer.

(c) JICARILLA APACHE NATION CONTRACT.—

(1) CONTRACT AUTHORIZATION.—Consistent with this subtitle, the Secretary is authorized to enter into a repayment contract with the Jicarilla Apache Nation that requires the Jicarilla Apache Nation—

(A) to repay, within a 50-year period, the share of any construction cost of the Jicarilla Apache Nation relating to the Project, with interest as provided under section 10305; and

(B) consistent with section 10603(g), to pay the operation, maintenance, and replacement costs of the Project that are allocable to the Jicarilla Apache Nation.

(2) CONTRACT PREPAYMENT.—

(A) IN GENERAL.—The contract authorized under paragraph (1) may allow the Jicarilla Apache Nation to satisfy the repayment obligation of the Jicarilla Apache Nation for construction costs of the Project on the payment of the share of the Jicarilla Apache Nation prior to the initiation of construction.

(B) AMOUNT.—The amount of the share of Jicarilla Apache Nation described in subparagraph (A) shall be determined by agreement between the Secretary and the Jicarilla Apache Nation.

(C) REPAYMENT OBLIGATION.—Any repayment obligation established by the Secretary and the Jicarilla Apache Nation pursuant to subparagraph (A) shall be subject to a final cost allocation by the Secretary on project completion and to the limitations set forth in paragraph (3).

(3) SHARE OF CONSTRUCTION COSTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the share of the construction costs of the Project allocable to the Jicarilla Apache Nation and establish the percentage of the allocated construction costs of the Jicarilla Apache Nation that the Jicarilla Apache Nation shall be required to repay based on the ability of the Jicarilla Apache Nation to pay.

(B) MINIMUM PERCENTAGE.—Notwithstanding subparagraph (A), the repayment obligation of the Jicarilla Apache Nation shall be at least 25 percent of the construction costs of the Project that are allocable to the Jicarilla Apache Nation, but shall in no event exceed 35 percent.

(4) EXCESS CONSTRUCTION COSTS.—Any construction costs of the Project allocable to the Jicarilla Apache Nation in excess of the repayment obligation of the Jicarilla Apache Nation as determined under paragraph (3), shall be nonreimbursable.

(5) GRANT FUNDS.—A grant from any other Federal source shall not be credited toward the share of the Jicarilla Apache Nation of construction costs.

(6) NAVAJO INDIAN IRRIGATION PROJECT COSTS.—The Jicarilla Apache Nation shall have no obligation to repay any Navajo Indian Irrigation Project construction costs that might otherwise be allocable to the Jicarilla Apache Nation for use of the Navajo Indian Irrigation Project facilities to convey water to the Jicarilla Apache Nation, and any such costs shall be nonreimbursable.

(d) CAPITAL COST ALLOCATIONS.—

(1) IN GENERAL.—For purposes of estimating the capital repayment requirements of the Project Participants under this section, the Secretary shall review and, as appropriate, update the Draft Impact Statement allocating capital construction costs for the Project.

(2) FINAL COST ALLOCATION.—The repayment contracts entered into with Project Participants under this section shall require that the Secretary perform a final cost allocation when construction of the Project is determined to be substantially complete.

(3) REPAYMENT OBLIGATION.—The Secretary shall determine the repayment obligation of the Project Participants based on the final cost allocation identifying reimbursable and nonreimbursable capital costs of the Project consistent with this subtitle.

(e) OPERATION, MAINTENANCE, AND REPLACEMENT COST ALLOCATIONS.—For purposes of determining the operation, maintenance, and replacement obligations of the Project Participants under this section, the Secretary shall review and, as appropriate, update the Draft Impact Statement that allocates operation, maintenance, and replacement costs for the Project.

(f) TEMPORARY WAIVERS OF PAYMENTS.—

(1) IN GENERAL.—On the date on which the Secretary declares a section of the Project to be substantially complete and delivery of water generated by and through that section of the Project can be made to the Nation, the Secretary may waive, for a period of not

more than 10 years, the operation, maintenance, and replacement costs allocable to the Nation for that section of the Project that the Secretary determines are in excess of the ability of the Nation to pay.

(2) SUBSEQUENT PAYMENT BY NATION.—After a waiver under paragraph (1), the Nation shall pay all allocated operation, maintenance, and replacement costs of that section of the Project.

(3) PAYMENT BY UNITED STATES.—Any operation, maintenance, or replacement costs waived by the Secretary under paragraph (1) shall be paid by the United States and shall be nonreimbursable.

(4) EFFECT ON CONTRACTS.—Failure of the Secretary to waive costs under paragraph (1) because of a lack of availability of Federal funding to pay the costs under paragraph (3) shall not alter the obligations of the Nation or the United States under a repayment contract.

(5) TERMINATION OF AUTHORITY.—The authority of the Secretary to waive costs under paragraph (1) with respect to a Project facility transferred to the Nation under section 10602(f) shall terminate on the date on which the Project facility is transferred.

(g) PROJECT CONSTRUCTION COMMITTEE.—The Secretary shall facilitate the formation of a project construction committee with the Project Participants and the State of New Mexico—

(1) to review cost factors and budgets for construction and operation and maintenance activities;

(2) to improve construction management through enhanced communication; and

(3) to seek additional ways to reduce overall Project costs.

SEC. 10605. NAVAJO NATION MUNICIPAL PIPELINE.

(a) USE OF NAVAJO NATION PIPELINE.—In addition to use of the Navajo Nation Municipal Pipeline to convey the Animas-La Plata Project water of the Nation, the Nation may use the Navajo Nation Municipal Pipeline to convey non-Animas La Plata Project water for municipal and industrial purposes.

(b) CONVEYANCE OF TITLE TO PIPELINE.—

(1) IN GENERAL.—On completion of the Navajo Nation Municipal Pipeline, the Secretary may enter into separate agreements with the City of Farmington, New Mexico and the Nation to convey title to each portion of the Navajo Nation Municipal Pipeline facility or section of the Pipeline to the City of Farmington and the Nation after execution of a Project operations agreement approved by the Secretary, the Nation, and the City of Farmington that sets forth any terms and conditions that the Secretary determines are necessary.

(2) CONVEYANCE TO THE CITY OF FARMINGTON OR NAVAJO NATION.—In conveying title to the Navajo Nation Municipal Pipeline under this subsection, the Secretary shall convey—

(A) to the City of Farmington, the facilities and any land or interest in land acquired by the United States for the construction, operation, and maintenance of the Pipeline that are located within the corporate boundaries of the City; and

(B) to the Nation, the facilities and any land or interests in land acquired by the United States for the construction, operation, and maintenance of the Pipeline that are located outside the corporate boundaries of the City of Farmington.

(3) EFFECT OF CONVEYANCE.—The conveyance of title to the Pipeline shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) relating to the use of water associated with the Animas-La Plata Project.

(4) LIABILITY.—

(A) IN GENERAL.—Effective on the date of the conveyance authorized by this subsection, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land, buildings, or facilities conveyed under this subsection, other than damages caused by acts of negligence committed by the United States or by employees or agents of the United States prior to the date of conveyance.

(B) TORT CLAIMS.—Nothing in this subsection increases the liability of the United States beyond the liability provided under chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act'').

(5) NOTICE OF PROPOSED CONVEYANCE.—Not later than 45 days before the date of a proposed conveyance of title to the Pipeline, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, notice of the conveyance of the Pipeline.

SEC. 10606. AUTHORIZATION OF CONJUNCTIVE USE WELLS.

(a) CONJUNCTIVE GROUNDWATER DEVELOPMENT PLAN.—Not later than 1 year after the date of enactment of this Act, the Nation, in consultation with the Secretary, shall complete a conjunctive groundwater development plan for the wells described in subsections (b) and (c).

(b) WELLS IN THE SAN JUAN RIVER BASIN.—In accordance with the conjunctive groundwater development plan, the Secretary may construct or rehabilitate wells and related pipeline facilities to provide capacity for the diversion and distribution of not more than 1,670 acre-feet of groundwater in the San Juan River Basin in the State of New Mexico for municipal and domestic uses.

(c) WELLS IN THE LITTLE COLORADO AND RIO GRANDE BASINS.—

(1) IN GENERAL.—In accordance with the Project and conjunctive groundwater development plan for the Nation, the Secretary may construct or rehabilitate wells and related pipeline facilities to provide capacity for the diversion and distribution of—

(A) not more than 680 acre-feet of groundwater in the Little Colorado River Basin in the State of New Mexico;

(B) not more than 80 acre-feet of groundwater in the Rio Grande Basin in the State of New Mexico; and

(C) not more than 770 acre-feet of groundwater in the Little Colorado River Basin in the State of Arizona.

(2) USE.—Groundwater diverted and distributed under paragraph (1) shall be used for municipal and domestic uses.

(d) ACQUISITION OF LAND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may acquire any land or interest in land that is necessary for the construction, operation, and maintenance of the wells and related pipeline facilities authorized under subsections (b) and (c).

(2) LIMITATION.—Nothing in this subsection authorizes the Secretary to condemn water rights for the purposes described in paragraph (1).

(e) CONDITION.—The Secretary shall not commence any construction activity relating to the wells described in subsections (b) and (c) until the Secretary executes the Agreement.

(f) CONVEYANCE OF WELLS.—

(1) IN GENERAL.—On the determination of the Secretary that the wells and related facilities are substantially complete and delivery of water generated by the wells can be made to the Nation, an agreement with the Nation shall be entered into, to convey to the Nation title to—

(A) any well or related pipeline facility constructed or rehabilitated under subsections (a) and (b) after the wells and related facilities have been completed; and

(B) any land or interest in land acquired by the United States for the construction, operation, and maintenance of the well or related pipeline facility.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT.—

(A) IN GENERAL.—The Secretary is authorized to pay operation and maintenance costs for the wells and related pipeline facilities authorized under this subsection until title to the facilities is conveyed to the Nation.

(B) SUBSEQUENT ASSUMPTION BY NATION.—On completion of a conveyance of title under paragraph (1), the Nation shall assume all responsibility for the operation and maintenance of the well or related pipeline facility conveyed.

(3) EFFECT OF CONVEYANCE.—The conveyance of title to the Nation of the conjunctive use wells under paragraph (1) shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(g) USE OF PROJECT FACILITIES.—The capacities of the treatment facilities, main pipelines, and lateral pipelines of the Project authorized by section 10602(b) may be used to treat and convey groundwater to Nation communities if the Nation provides for payment of the operation, maintenance, and replacement costs associated with the use of the facilities or pipelines.

(h) LIMITATIONS.—The diversion and use of groundwater by wells constructed or rehabilitated under this section shall be made in a manner consistent with applicable Federal and State law.

SEC. 10607. SAN JUAN RIVER NAVAJO IRRIGATION PROJECTS.

(a) REHABILITATION.—Subject to subsection (b), the Secretary shall rehabilitate—

(1) the Fruitland-Cambridge Irrigation Project to serve not more than 3,335 acres of land, which shall be considered to be the total serviceable area of the project; and

(2) the Hogback-Cudei Irrigation Project to serve not more than 8,830 acres of land, which shall be considered to be the total serviceable area of the project.

(b) CONDITION.—The Secretary shall not commence any construction activity relating to the rehabilitation of the Fruitland-Cambridge Irrigation Project or the Hogback-Cudei Irrigation Project under subsection (a) until the Secretary executes the Agreement.

(c) OPERATION, MAINTENANCE, AND REPLACEMENT OBLIGATION.—The Nation shall continue to be responsible for the operation, maintenance, and replacement of each facility rehabilitated under this section.

SEC. 10608. OTHER IRRIGATION PROJECTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the State of New Mexico (acting through the Interstate Stream Commission) and the Non-Navajo Irrigation Districts that elect to participate, shall—

(1) conduct a study of Non-Navajo Irrigation District diversion and ditch facilities; and

(2) based on the study, identify and prioritize a list of projects, with associated cost estimates, that are recommended to be implemented to repair, rehabilitate, or reconstruct irrigation diversion and ditch facilities to improve water use efficiency.

(b) GRANTS.—The Secretary may provide grants to, and enter into cooperative agreements with, the Non-Navajo Irrigation Districts to plan, design, or otherwise implement the projects identified under subsection (a)(2).

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the total cost of carrying out a project under subsection (b) shall be not more than 50 percent, and shall be nonreimbursable.

(2) FORM.—The non-Federal share required under paragraph (1) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under subsection (b).

(3) STATE CONTRIBUTION.—The Secretary may accept from the State of New Mexico a partial or total contribution toward the non-Federal share for a project carried out under subsection (b).

SEC. 10609. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR NAVAJO-GALLUP WATER SUPPLY PROJECT.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to plan, design, and construct the Project $870,000,000 for the period of fiscal years 2009 through 2024, to remain available until expended.

(2) ADJUSTMENTS.—The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2007 in construction costs, as indicated by engineering cost indices applicable to the types of construction involved.

(3) USE.—In addition to the uses authorized under paragraph (1), amounts made available under that paragraph may be used for the conduct of related activities to comply with Federal environmental laws.

(4) OPERATION AND MAINTENANCE.—

(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to operate and maintain the Project consistent with this subtitle.

(B) EXPIRATION.—The authorization under subparagraph (A) shall expire 10 years after the year the Secretary declares the Project to be substantially complete.

(b) APPROPRIATIONS FOR CONJUNCTIVE USE WELLS.—

(1) SAN JUAN WELLS.—There is authorized to be appropriated to the Secretary for the construction or rehabilitation and operation and maintenance of conjunctive use wells under section 10606(b) $30,000,000, as adjusted under paragraph (3), for the period of fiscal years 2009 through 2019.

(2) WELLS IN THE LITTLE COLORADO AND RIO GRANDE BASINS.—There are authorized to be appropriated to the Secretary for the construction or rehabilitation and operation and maintenance of conjunctive use wells under section 10606(c) such sums as are necessary for the period of fiscal years 2009 through 2024.

(3) ADJUSTMENTS.—The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2008 in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(4) NONREIMBURSABLE EXPENDITURES.—Amounts made available under paragraphs (1) and (2) shall be nonreimbursable to the United States.

(5) USE.—In addition to the uses authorized under paragraphs (1) and (2), amounts made available under that paragraph may be used for the conduct of related activities to comply with Federal environmental laws.

(6) LIMITATION.—Appropriations authorized under paragraph (1) shall not be used for operation or maintenance of any conjunctive use wells at a time in excess of 3 years after the well is declared substantially complete.

(c) SAN JUAN RIVER IRRIGATION PROJECTS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary—

(A) to carry out section 10607(a)(1), not more than $7,700,000, as adjusted under paragraph (2), for the period of fiscal years 2009 through 2015, to remain available until expended; and

(B) to carry out section 10607(a)(2), not more than $15,400,000, as adjusted under paragraph (2), for the period of fiscal years 2009 through 2018, to remain available until expended.

(2) ADJUSTMENT.—The amounts made available under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since January 1, 2004, in construction costs, as indicated by engineering cost indices applicable to the types of construction involved in the rehabilitation.

(3) NONREIMBURSABLE EXPENDITURES.—Amounts made available under this subsection shall be nonreimbursable to the United States.

(d) OTHER IRRIGATION PROJECTS.—There are authorized to be appropriated to the Secretary to carry out section 10608 $11,000,000 for the period of fiscal years 2009 through 2018.

(e) CULTURAL RESOURCES.—

(1) IN GENERAL.—The Secretary may use not more than 2 percent of amounts made available under subsections (a), (b), and (c) for the survey, recovery, protection, preservation, and display of archaeological resources in the area of a Project facility or conjunctive use well.

(2) NONREIMBURSABLE EXPENDITURES.—Any amounts made available under paragraph (1) shall be nonreimbursable.

(f) FISH AND WILDLIFE FACILITIES.—

(1) IN GENERAL.—In association with the development of the Project, the Secretary may use not more than 4 percent of amounts made available under subsections (a), (b), and (c) to purchase land and construct and maintain facilities to mitigate the loss of, and improve conditions for the propagation of, fish and wildlife if any such purchase, construction, or maintenance will not affect the operation of any water project or use of water.

(2) NONREIMBURSABLE EXPENDITURES.—Any amounts expended under paragraph (1) shall be nonreimbursable.

PART IV—NAVAJO NATION WATER RIGHTS

SEC. 10701. AGREEMENT.

(a) AGREEMENT APPROVAL.—

(1) APPROVAL BY CONGRESS.—Except to the extent that any provision of the Agreement conflicts with this subtitle, Congress approves, ratifies, and confirms the Agreement (including any amendments to the Agreement that are executed to make the Agreement consistent with this subtitle).

(2) EXECUTION BY SECRETARY.—The Secretary shall enter into the Agreement to the extent that the Agreement does not conflict with this subtitle, including—

(A) any exhibits to the Agreement requiring the signature of the Secretary; and

(B) any amendments to the Agreement necessary to make the Agreement consistent with this subtitle.

(3) AUTHORITY OF SECRETARY.—The Secretary may carry out any action that the Secretary determines is necessary or appropriate to implement the Agreement, the Contract, and this section.

(4) ADMINISTRATION OF NAVAJO RESERVOIR RELEASES.—The State of New Mexico may administer water that has been released from storage in Navajo Reservoir in accordance with subparagraph 9.1 of the Agreement.

(b) WATER AVAILABLE UNDER CONTRACT.—

(1) QUANTITIES OF WATER AVAILABLE.—

(A) IN GENERAL.—Water shall be made available annually under the Contract for projects in the State of New Mexico supplied from the Navajo Reservoir and the San Juan River (including tributaries of the River) under New Mexico State Engineer File Numbers 2849, 2883, and 3215 in the quantities described in subparagraph (B).

(B) WATER QUANTITIES.—The quantities of water referred to in subparagraph (A) are as follows:

	Diversion (acre-feet/year)	Depletion (acre-feet/year)
Navajo Indian Irrigation Project	508,000	270,000
Navajo-Gallup Water Supply Project	22,650	20,780
Animas-La Plata Project	4,680	2,340
Total	535,330	293,120

(C) MAXIMUM QUANTITY.—A diversion of water to the Nation under the Contract for a project described in subparagraph (B) shall not exceed the quantity of water necessary to supply the amount of depletion for the project.

(D) TERMS, CONDITIONS, AND LIMITATIONS.—The diversion and use of water under the Contract shall be subject to and consistent with the terms, conditions, and limitations of the Agreement, this subtitle, and any other applicable law.

(2) AMENDMENTS TO CONTRACT.—The Secretary, with the consent of the Nation, may amend the Contract if the Secretary determines that the amendment is—

(A) consistent with the Agreement; and

(B) in the interest of conserving water or facilitating beneficial use by the Nation or a subcontractor of the Nation.

(3) RIGHTS OF THE NATION.—The Nation may, under the Contract—

(A) use tail water, wastewater, and return flows attributable to a use of the water by the Nation or a subcontractor of the Nation if—

(i) the depletion of water does not exceed the quantities described in paragraph (1); and

(ii) the use of tail water, wastewater, or return flows is consistent with the terms, conditions, and limitations of the Agreement, and any other applicable law; and

(B) change a point of diversion, change a purpose or place of use, and transfer a right for depletion under this subtitle (except for a point of diversion, purpose or place of use, or right for depletion for use in the State of Arizona under section 10603(b)(2)(D)), to another use, purpose, place, or depletion in the State of New Mexico to meet a water resource or economic need of the Nation if—

(i) the change or transfer is subject to and consistent with the terms of the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Contract, and any other applicable law; and

(ii) a change or transfer of water use by the Nation does not alter any obligation of the United States, the Nation, or another party to pay or repay project construction, operation, maintenance, or replacement costs under this subtitle and the Contract.

(c) SUBCONTRACTS.—

(1) IN GENERAL.—

(A) SUBCONTRACTS BETWEEN NATION AND THIRD PARTIES.—The Nation may enter into subcontracts for the delivery of Project water under the Contract to third parties for any beneficial use in the State of New Mexico (on or off land held by the United States in trust for the Nation or a member of the Nation or land held in fee by the Nation).

(B) APPROVAL REQUIRED.—A subcontract entered into under subparagraph (A) shall not be effective until approved by the Secretary in accordance with this subsection and the Contract.

(C) SUBMITTAL.—The Nation shall submit to the Secretary for approval or disapproval any subcontract entered into under this subsection.

(D) DEADLINE.—The Secretary shall approve or disapprove a subcontract submitted to the Secretary under subparagraph (C) not later than the later of—

(i) the date that is 180 days after the date on which the subcontract is submitted to the Secretary; and

(ii) the date that is 60 days after the date on which a subcontractor complies with—

(I) section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

(II) any other requirement of Federal law.

(E) ENFORCEMENT.—A party to a subcontract may enforce the deadline described in subparagraph (D) under section 1361 of title 28, United States Code.

(F) COMPLIANCE WITH OTHER LAW.—A subcontract described in subparagraph (A) shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, and any other applicable law.

(G) NO LIABILITY.—The Secretary shall not be liable to any party, including the Nation, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

(2) ALIENATION.—

(A) PERMANENT ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Contract.

(B) MAXIMUM TERM.—The term of any water use subcontract (including a renewal) under this subsection shall be not more than 99 years.

(3) NONINTERCOURSE ACT COMPLIANCE.—This subsection—

(A) provides congressional authorization for the subcontracting rights of the Nation; and

(B) is deemed to fulfill any requirement that may be imposed by section 2116 of the Revised Statutes (25 U.S.C. 177).

(4) FORFEITURE.—The nonuse of the water supply secured by a subcontractor of the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(5) NO PER CAPITA PAYMENTS.—No part of the revenue from a water use subcontract under this subsection shall be distributed to any member of the Nation on a per capita basis.

(d) WATER LEASES NOT REQUIRING SUBCONTRACTS.—

(1) AUTHORITY OF NATION.—

(A) IN GENERAL.—The Nation may lease, contract, or otherwise transfer to another party or to another purpose or place of use in the State of New Mexico (on or off land that is held by the United States in trust for the Nation or a member of the Nation or held in fee by the Nation) a water right that—

(i) is decreed to the Nation under the Agreement; and

(ii) is not subject to the Contract.

(B) COMPLIANCE WITH OTHER LAW.—In carrying out an action under this subsection, the Nation shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Supplemental Partial Final Decree described in paragraph 4.0 of the Agreement, and any other applicable law.

(2) ALIENATION; MAXIMUM TERM.—

(A) ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Agreement.

(B) MAXIMUM TERM.—The term of any water use lease, contract, or other arrangement (including a renewal) under this subsection shall be not more than 99 years.

(3) NO LIABILITY.—The Secretary shall not be liable to any party, including the Nation, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

(4) NONINTERCOURSE ACT COMPLIANCE.—This subsection—

(A) provides congressional authorization for the lease, contracting, and transfer of any water right described in paragraph (1)(A); and

(B) is deemed to fulfill any requirement that may be imposed by the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177).

(5) FORFEITURE.—The nonuse of a water right of the Nation by a lessee or contractor to the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(e) NULLIFICATION.—

(1) DEADLINES.—

(A) IN GENERAL.—In carrying out this section, the following deadlines apply with respect to implementation of the Agreement:

(i) AGREEMENT.—Not later than December 31, 2009, the Secretary shall execute the Agreement.

(ii) CONTRACT.—Not later than December 31, 2009, the Secretary and the Nation shall execute the Contract.

(iii) PARTIAL FINAL DECREE.—Not later than December 31, 2012, the court in the stream adjudication shall have entered the Partial Final Decree described in paragraph 3.0 of the Agreement.

(iv) FRUITLAND-CAMBRIDGE IRRIGATION PROJECT.—Not later than December 31, 2015, the rehabilitation construction of the Fruitland-Cambridge Irrigation Project authorized under section 10607(a)(1) shall be completed.

(v) SUPPLEMENTAL PARTIAL FINAL DECREE.—Not later than December 31, 2015, the court in the stream adjudication shall enter the Supplemental Partial Final Decree described in subparagraph 4.0 of the Agreement.

(vi) HOGBACK-CUDEI IRRIGATION PROJECT.—Not later than December 31, 2018, the rehabilitation construction of the Hogback-Cudei Irrigation Project authorized under section 10607(a)(2) shall be completed.

(vii) TRUST FUND.—Not later than December 31, 2019, the United States shall make all deposits into the Trust Fund under section 10702.

(viii) CONJUNCTIVE WELLS.—Not later than December 31, 2019, the funds authorized to be appropriated under section 10609(b)(1) for the conjunctive use wells authorized under section 10606(b) should be appropriated.

(ix) NAVAJO-GALLUP WATER SUPPLY PROJECT.—Not later than December 31, 2024, the construction of all Project facilities shall be completed.

(B) EXTENSION.—A deadline described in subparagraph (A) may be extended if the Nation, the United States (acting through the Secretary), and the State of New Mexico (acting through the New Mexico Interstate Stream Commission) agree that an extension is reasonably necessary.

(2) REVOCABILITY OF AGREEMENT, CONTRACT AND AUTHORIZATIONS.—

(A) PETITION.—If the Nation determines that a deadline described in paragraph (1)(A) is not substantially met, the Nation may submit to the court in the stream adjudication a petition to enter an order terminating the Agreement and Contract.

(B) TERMINATION.—On issuance of an order to terminate the Agreement and Contract under subparagraph (A)—

(i) the Trust Fund shall be terminated;

(ii) the balance of the Trust Fund shall be deposited in the general fund of the Treasury;

(iii) the authorizations for construction and rehabilitation of water projects under this subtitle shall be revoked and any Federal activity related to that construction and rehabilitation shall be suspended; and

(iv) this part and parts I and III shall be null and void.

(3) CONDITIONS NOT CAUSING NULLIFICATION OF SETTLEMENT.—

(A) IN GENERAL.—If a condition described in subparagraph (B) occurs, the Agreement and Contract shall not be nullified or terminated.

(B) CONDITIONS.—The conditions referred to in subparagraph (A) are as follows:

(i) A lack of right to divert at the capacities of conjunctive use wells constructed or rehabilitated under section 10606.

(ii) A failure—

(I) to determine or resolve an accounting of the use of water under this subtitle in the State of Arizona;

(II) to obtain a necessary water right for the consumptive use of water in Arizona;

(III) to contract for the delivery of water for use in Arizona; or

(IV) to construct and operate a lateral facility to deliver water to a community of the Nation in Arizona, under the Project.

(f) EFFECT ON RIGHTS OF INDIAN TRIBES.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in the Agreement, the Contract, or this section quantifies or adversely affects the land and water rights, or claims or entitlements to water, of any Indian tribe or community other than the rights, claims, or entitlements of the Nation in, to, and from the San Juan River Basin in the State of New Mexico.

(2) EXCEPTION.—The right of the Nation to use water under water rights the Nation has in other river basins in the State of New Mexico shall be forborne to the extent that the Nation supplies the uses for which the water rights exist by diversions of water from the San Juan River Basin under the Project consistent with subparagraph 9.13 of the Agreement.

SEC. 10702. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the ''Navajo Nation Water Resources Development Trust Fund'', consisting of—

(1) such amounts as are appropriated to the Trust Fund under subsection (f); and

(2) any interest earned on investment of amounts in the Trust Fund under subsection (d).

(b) USE OF FUNDS.—The Nation may use amounts in the Trust Fund—

(1) to investigate, construct, operate, maintain, or replace water project facilities, including facilities conveyed to the Nation under this subtitle and facilities owned by the United States for which the Nation is responsible for operation, maintenance, and replacement costs; and

(2) to investigate, implement, or improve a water conservation measure (including a metering or monitoring activity) necessary for the Nation to make use of a water right of the Nation under the Agreement.

(c) MANAGEMENT.—The Secretary shall manage the Trust Fund, invest amounts in the Trust Fund pursuant to subsection (d), and make amounts available from the Trust Fund for distribution to the Nation in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) INVESTMENT OF THE TRUST FUND.—Beginning on October 1, 2018, the Secretary shall invest amounts in the Trust Fund in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(e) CONDITIONS FOR EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—Subject to paragraph (7), on approval by the Secretary of a tribal management plan in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the Nation may withdraw all or a portion of the amounts in the Trust Fund.

(B) REQUIREMENTS.—In addition to any requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Nation only use amounts in the Trust Fund for the purposes described in subsection (b), including the identification of water conservation measures to be implemented in association with the agricultural water use of the Nation.

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Trust Fund are used in accordance with this subtitle.

(3) NO LIABILITY.—Neither the Secretary nor the Secretary of the Treasury shall be liable for the expenditure or investment of any amounts withdrawn from the Trust Fund by the Nation.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Nation shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Trust Fund made available under this section that the Nation does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Nation remaining in the Trust Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this subtitle.

(5) ANNUAL REPORT.—The Nation shall submit to the Secretary an annual report that describes any expenditures from the Trust Fund during the year covered by the report.

(6) LIMITATION.—No portion of the amounts in the Trust Fund shall be distributed to any Nation member on a per capita basis.

(7) CONDITIONS.—Any amount authorized to be appropriated to the Trust Fund under subsection (f) shall not be available for expenditure or withdrawal—

(A) before December 31, 2019; and

(B) until the date on which the court in the stream adjudication has entered—

(i) the Partial Final Decree; and

(ii) the Supplemental Partial Final Decree.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for deposit in the Trust Fund—

(1) $6,000,000 for each of fiscal years 2009 through 2013; and

(2) $4,000,000 for each of fiscal years 2014 through 2018.

SEC. 10703. WAIVERS AND RELEASES.

(a) CLAIMS BY THE NATION AND THE UNITED STATES.—The Nation, on behalf of itself and members of the Nation (other than members in the capacity of the members as allottees), and the United States, acting through the Secretary and in the capacity of the United States as trustee for the Nation, shall each execute a waiver and release of—

(1) all claims for water rights in, or for waters of, the San Juan River Basin in the State of New Mexico that the Nation, or the United States as trustee for the Nation, asserted, or could have asserted, in the San Juan River adjudication or in any other court proceeding;

(2) all claims that the Nation, or the United States as trustee for the Nation, has asserted or could assert for any damage, loss, or injury to water rights or claims of interference, diversion, or taking of water in the San Juan Basin in the State of New Mexico that, regardless of whether the damage, loss, or injury is unanticipated, unexpected, or unknown—

(A) accrued at any time before or on the effective date of the waiver and release under subsection (d); and

(B) may or may not be more numerous or more serious than is understood or expected; and

(3) all claims of any damage, loss, or injury or for injunctive or other relief because of the condition of or changes in water quality related to, or arising out of, the exercise of water rights.

(b) CLAIMS BY THE NATION AGAINST THE UNITED STATES.—The Nation, on behalf of itself and its members (other than members in the capacity of the members as allottees), shall execute a waiver and release of—

(1) all causes of action that the Nation or the members of the Nation (other than members in the capacity of the members as allottees) may have against the United States or any agencies or employees of the United States, arising out of claims for water rights in, or waters of, the San Juan River Basin in the State of New Mexico that the United States asserted, or could have asserted, in the stream adjudication or other court proceeding;

(2) all claims for any damage, loss, or injury to water rights, claims of interference, diversion or taking of water, or failure to protect, acquire, or develop municipal water or water rights for land within the San Juan Basin in the State of New Mexico that, regardless whether the damage, loss, or injury is unanticipated, unexpected, or unknown—

(A) accrued at any time before or on the effective date of the waiver and release under subsection (d); and

(B) may or may not be more numerous or more serious than is understood or expected; and

(3) all claims arising out of, resulting from, or relating in any manner to the negotiation, execution or adoption of the Agreement, the Contract, or this subtitle (including any specific terms and provisions of the Agreement, the Contract, or this subtitle) that the Nation may have against the United States or any agencies or employees of the United States.

(c) RESERVATION OF CLAIMS.—Notwithstanding subsections (a) and (b), the Nation and the members of the Nation (including members in the capacity of the members as allottees) and the United States, as trustee for the Nation and allottees, shall retain—

(1) all claims for water rights or injuries to water rights arising out of activities occurring outside the San Juan River Basin in the State of New Mexico, subject to paragraphs 8.0, 9.3, 9.12, 9.13 and 13.9 of the Agreement;

(2) all claims for enforcement of the Agreement, the Contract, the Partial Final Decree, the Supplemental Partial Final Decree, or this subtitle, through any legal and equitable remedies available in any court of competent jurisdiction;

(3) all rights to use and protect water rights acquired pursuant to State law after the effective date of the waivers and releases described in subsection (d);

(4) all claims relating to activities affecting the quality of water not related to the exercise of water rights; and

(5) all rights, remedies, privileges, immunities, and powers not specifically waived and released under the terms of the Agreement or this subtitle.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The waivers and releases described in subsection (a) shall be effective on the date on which the Secretary publishes in the Federal Register a statement of findings documenting that each of the deadlines described in section 10701(e)(1) have been met.

(2) DEADLINE.—If the deadlines in section 10701(e)(1)(A) have not been met by the later of March 1, 2025, or the date of any extension under section 10701(e)(1)(B)—

(A) the waivers and releases described in subsection (a) shall be of no effect; and

(B) section 10701(e)(2)(B) shall apply.

SEC. 10704. WATER RIGHTS HELD IN TRUST.

A tribal water right adjudicated and described in paragraph 3.0 of the Partial Final Decree and in paragraph 3.0 of the Supplemental Partial Final Decree shall be held in trust by the United States on behalf of the Nation.

TITLE XI—UNITED STATES GEOLOGICAL SURVEY AUTHORIZATIONS

SEC. 11001. REAUTHORIZATION OF THE NATIONAL GEOLOGIC MAPPING ACT OF 1992.

(a) FINDINGS.—Section 2(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) although significant progress has been made in the production of geologic maps since the establishment of the national cooperative geologic mapping program in 1992, no modern, digital, geologic map exists for approximately 75 percent of the United States;''; and

(2) in paragraph (2)—

(A) in subparagraph (C), by inserting ''homeland and'' after ''planning for'';

(B) in subparagraph (E), by striking ''predicting'' and inserting ''identifying'';

(C) in subparagraph (I), by striking ''and'' after the semicolon at the end;

(D) by redesignating subparagraph (J) as subparagraph (K); and

(E) by inserting after subparagraph (I) the following:

''(J) recreation and public awareness; and''; and

(3) in paragraph (9), by striking ''important'' and inserting ''available''.

(b) PURPOSE.—Section 2(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(b)) is amended by inserting ''and management'' before the period at the end.

(c) DEADLINES FOR ACTIONS BY THE UNITED STATES GEOLOGICAL SURVEY.—Section 4(b)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(b)(1)) is amended in the second sentence—

(1) in subparagraph (A), by striking ''not later than'' and all that follows through the semicolon and inserting ''not later than 1 year after the date of enactment of the Omnibus Public Land Management Act of 2008;'';

(2) in subparagraph (B), by striking ''not later than'' and all that follows through ''in accordance'' and inserting ''not later than 1 year after the date of enactment of the Omnibus Public Land Management Act of 2008 in accordance''; and

(3) in the matter preceding clause (i) of subparagraph (C), by striking ''not later than'' and all that follows through ''submit'' and inserting ''submit biennially''.

(d) GEOLOGIC MAPPING PROGRAM OBJECTIVES.—Section 4(c)(2) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(c)(2)) is amended—

(1) by striking ''geophysical-map data base, geochemical-map data base, and a''; and

(2) by striking ''provide'' and inserting ''provides''.

(e) GEOLOGIC MAPPING PROGRAM COMPONENTS.—Section 4(d)(1)(B)(ii) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(d)(1)(B)(ii)) is amended—

(1) in subclause (I), by striking ''and'' after the semicolon at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(III) the needs of land management agencies of the Department of the Interior.''.

(f) GEOLOGIC MAPPING ADVISORY COMMITTEE.—

(1) MEMBERSHIP.—Section 5(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)) is amended—

(A) in paragraph (2)—

(i) by inserting ''the Secretary of the Interior or a designee from a land management agency of the Department of the Interior,'' after ''Administrator of the Environmental Protection Agency or a designee,'';

(ii) by inserting ''and'' after ''Energy or a designee,''; and

(iii) by striking '', and the Assistant to the President for Science and Technology or a designee''; and

(B) in paragraph (3)—

(i) by striking ''Not later than'' and all that follows through ''consultation'' and inserting ''In consultation'';

(ii) by striking ''Chief Geologist, as Chairman'' and inserting ''Associate Director for Geology, as Chair''; and

(iii) by striking ''one representative from the private sector'' and inserting ''2 representatives from the private sector''.

(2) DUTIES.—Section 5(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)) is amended—

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

(B) by redesignating paragraph (3) as paragraph (4); and

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

''(3) provide a scientific overview of geologic maps (including maps of geologic-based hazards) used or disseminated by Federal agencies for regulation or land-use planning; and''.

(3) CONFORMING AMENDMENT.—Section 5(a)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)(1)) is amended by striking ''10-member'' and inserting ''11-member''.

(g) FUNCTIONS OF NATIONAL GEOLOGIC-MAP DATABASE.—Section 7(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31f(a)) is amended—

(1) in paragraph (1), by striking ''geologic map'' and inserting ''geologic-map''; and

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

''(A) all maps developed with funding provided by the National Cooperative Geologic Mapping Program, including under the Federal, State, and education components;''.

(h) BIENNIAL REPORT.—Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended by striking ''Not later'' and all that follows through ''biennially'' and inserting ''Not later than 3 years after the date of enactment of the Omnibus Public Land Management Act of 2008 and biennially''.

(i) AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.—Section 9 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31h) is amended—

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

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $64,000,000 for each of fiscal years 2007 through 2016.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''2000'' and inserting ''2005'';

(B) in paragraph (1), by striking ''48'' and inserting ''50''; and

(C) in paragraph (2), by striking 2 and inserting ''4''.

SEC. 11002. NEW MEXICO WATER RESOURCES STUDY.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Geological Survey (referred to in this section as the ''Secretary''), in coordination with the State of New Mexico (referred to in this section as the ''State'') and any other entities that the Secretary determines to be appropriate (including other Federal agencies and institutions of higher education), shall, in accordance with this section and any other applicable law, conduct a study of water resources in the State, including—

(1) a survey of groundwater resources, including an analysis of—

(A) aquifers in the State, including the quantity of water in the aquifers;

(B) the availability of groundwater resources for human use;

(C) the salinity of groundwater resources;

(D) the potential of the groundwater resources to recharge;

(E) the interaction between groundwater and surface water;

(F) the susceptibility of the aquifers to contamination; and

(G) any other relevant criteria; and

(2) a characterization of surface and bedrock geology, including the effect of the geology on groundwater yield and quality.

(b) STUDY AREAS.—The study carried out under subsection (a) shall include the Estancia Basin, Salt Basin, Tularosa Basin, Hueco Basin, and middle Rio Grande Basin in the State.

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

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE XII—MISCELLANEOUS

SEC. 12001. MANAGEMENT AND DISTRIBUTION OF NORTH DAKOTA TRUST FUNDS.

(a) NORTH DAKOTA TRUST FUNDS.—The Act of February 22, 1889 (25 Stat. 676, chapter 180), is amended by adding at the end the following:

''SEC. 26. NORTH DAKOTA TRUST FUNDS.

''(a) DISPOSITION.—Notwithstanding section 11, the State of North Dakota shall, with respect to any trust fund in which proceeds from the sale of public land are deposited under this Act (referred to in this section as the 'trust fund')—

''(1) deposit all revenues earned by a trust fund into the trust fund;

''(2) deduct the costs of administering a trust fund from each trust fund; and

''(3) manage each trust fund to—

''(A) preserve the purchasing power of the trust fund; and

''(B) maintain stable distributions to trust fund beneficiaries.

''(b) DISTRIBUTIONS.—Notwithstanding section 11, any distributions from trust funds in the State of North Dakota shall be made in accordance with section 2 of article IX of the Constitution of the State of North Dakota.

''(c) MANAGEMENT OF PROCEEDS.—Notwithstanding section 13, the State of North Dakota shall manage the proceeds referred to in that section in accordance with subsections (a) and (b).

''(d) MANAGEMENT OF LAND AND PROCEEDS.—Notwithstanding sections 14 and 16, the State of North Dakota shall manage the land granted under that section, including any proceeds from the land, and make distributions in accordance with subsections (a) and (b).''.

(b) MANAGEMENT AND DISTRIBUTION OF MORRILL ACT GRANTS.—The Act of July 2, 1862 (commonly known as the ''First Morrill Act'') (7 U.S.C. 301 et seq.), is amended by adding at the end the following:

''SEC. 9. LAND GRANTS IN THE STATE OF NORTH DAKOTA.

''(a) EXPENSES.—Notwithstanding section 3, the State of North Dakota shall manage the land granted to the State under the first section, including any proceeds from the land, in accordance with this section.

''(b) DISPOSITION OF PROCEEDS.—Notwithstanding section 4, the State of North Dakota shall, with respect to any trust fund in which proceeds from the sale of land under this Act are deposited (referred to in this section as the 'trust fund')—

''(1) deposit all revenues earned by a trust fund into the trust fund;

''(2) deduct the costs of administering a trust fund from each trust fund; and

''(3) manage each trust fund to—

''(A) preserve the purchasing power of the trust fund; and

''(B) maintain stable distributions to trust fund beneficiaries.

''(c) DISTRIBUTIONS.—Notwithstanding section 4, any distributions from trust funds in the State of North Dakota shall be made in accordance with section 2 of article IX of the Constitution of the State of North Dakota.

''(d) MANAGEMENT.—Notwithstanding section 5, the State of North Dakota shall manage the land granted under the first section, including any proceeds from the land, in accordance with this section.''.

(c) CONSENT OF CONGRESS.—Effective July 1, 2009, Congress consents to the amendments to the Constitution of North Dakota proposed by House Concurrent Resolution No. 3037 of the 59th Legislature of the State of North Dakota entitled ''A concurrent resolution for the amendment of sections 1 and 2 of article IX of the Constitution of North Dakota, relating to distributions from and the management of the common schools trust fund and the trust funds of other educational or charitable institutions; and to provide a contingent effective date'' and approved by the voters of the State of North Dakota on November 7, 2006.

SEC. 12002. AMENDMENTS TO THE FISHERIES RESTORATION AND IRRIGATION MITIGATION ACT OF 2000.

(a) PRIORITY PROJECTS.—Section 3(c)(3) of the Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended by striking ''$5,000,000'' and inserting ''$2,500,000''.

(b) COST SHARING.—Section 7(c) of Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended—

(1) by striking ''The value'' and inserting the following:

''(1) IN GENERAL.—The value''; and

(2) by adding at the end the following:

''(2) BONNEVILLE POWER ADMINISTRATION.—

''(A) IN GENERAL.—The Secretary may, without further appropriation and without fiscal year limitation, accept any amounts provided to the Secretary by the Administrator of the Bonneville Power Administration.

''(B) NON-FEDERAL SHARE.—Any amounts provided by the Bonneville Power Administration directly or through a grant to another entity for a project carried under the Program shall be credited toward the non-Federal share of the costs of the project.''.

(c) REPORT.—Section 9 of the Fisheries Restoration and Irrigation Mitigation Act of

2000 (16 U.S.C. 777 note; Public Law 106–502) is amended—

(1) by inserting ''any'' before ''amounts are made''; and

(2) by inserting after ''Secretary shall'' the following: '', after partnering with local governmental entities and the States in the Pacific Ocean drainage area,''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of the Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended—

(1) in subsection (a), by striking ''2001 through 2005'' and inserting '' 2009 through 2015''; and

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

''(2) ADMINISTRATIVE EXPENSES.—

''(A) DEFINITION OF ADMINISTRATIVE EXPENSE.—In this paragraph, the term 'administrative expense' means, except as provided in subparagraph (B)(iii)(II), any expenditure relating to—

''(i) staffing and overhead, such as the rental of office space and the acquisition of office equipment; and

''(ii) the review, processing, and provision of applications for funding under the Program.

''(B) LIMITATION.—

''(i) IN GENERAL.—Not more than 6 percent of amounts made available to carry out this Act for each fiscal year may be used for Federal and State administrative expenses of carrying out this Act.

''(ii) FEDERAL AND STATE SHARES.—To the maximum extent practicable, of the amounts made available for administrative expenses under clause (i)—

''(I) 50 percent shall be provided to the State agencies provided assistance under the Program; and

''(II) an amount equal to the cost of 1 full-time equivalent Federal employee, as determined by the Secretary, shall be provided to the Federal agency carrying out the Program.

''(iii) STATE EXPENSES.—Amounts made available to States for administrative expenses under clause (i)—

''(I) shall be divided evenly among all States provided assistance under the Program; and

''(II) may be used by a State to provide technical assistance relating to the program, including any staffing expenditures (including staff travel expenses) associated with—

''(aa) arranging meetings to promote the Program to potential applicants;

''(bb) assisting applicants with the preparation of applications for funding under the Program; and

''(cc) visiting construction sites to provide technical assistance, if requested by the applicant.''.

SEC. 12003. AMENDMENTS TO THE ALASKA NATURAL GAS PIPELINE ACT.

(a) ADMINISTRATION.—Section 106 of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d) is amended by adding at the end the following:

''(h) ADMINISTRATION.—

''(1) PERSONNEL APPOINTMENTS.—

''(A) IN GENERAL.—The Federal Coordinator may appoint and terminate such personnel as the Federal Coordinator determines to be appropriate.

''(B) AUTHORITY OF FEDERAL COORDINATOR.—Personnel appointed by the Federal Coordinator under subparagraph (A) shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

''(2) COMPENSATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), personnel appointed by the Federal Coordinator under paragraph (1)(A) shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to classification and General Schedule pay rates).

''(B) MAXIMUM LEVEL OF COMPENSATION.—The rate of pay for personnel appointed by the Federal Coordinator under paragraph (1)(A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule.

''(C) APPLICABILITY OF SECTION 5941.—Section 5941 of title 5, United States Code, shall apply to personnel appointed by the Federal Coordinator under paragraph (1)(A).

''(3) TEMPORARY SERVICES.—

''(A) IN GENERAL.—The Federal Coordinator may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code.

''(B) MAXIMUM LEVEL OF COMPENSATION.—The level of compensation of an individual employed on a temporary or intermittent basis under subparagraph (A) shall not exceed the maximum level of rate payable for level III of the Executive Schedule.

''(4) FEES, CHARGES, AND COMMISSIONS.—

''(A) IN GENERAL.—The Federal Coordinator shall have the authority to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds as provided to the Secretary of the Interior in section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734), except that the authority shall be with respect to the duties of the Federal Coordinator, as described in this Act.

''(B) AUTHORITY OF SECRETARY OF THE INTERIOR.—Subparagraph (A) shall not affect the authority of the Secretary of the Interior to establish, change, and abolish reasonable filing and service fees, charges, and commissions, require deposits of payments, and provide refunds under section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

''(C) USE OF FUNDS.—The Federal Coordinator is authorized to use, without further appropriation, amounts collected under subparagraph (A) to carry out this section.''.

(b) CLARIFICATION OF AUTHORITY.—Section 107(a) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720e(a)) is amended by striking paragraph (3) and inserting the following:

''(3) the validity of any determination, permit, approval, authorization, review, or other related action taken under any provision of law relating to a gas transportation project constructed and operated in accordance with section 103, including—

''(A) subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the 'Administrative Procedure Act');

''(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

''(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(D) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

''(E) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).''.

SEC. 12004. ADDITIONAL ASSISTANT SECRETARY FOR DEPARTMENT OF ENERGY.

(a) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the first sentence by striking ''7 Assistant Secretaries'' and inserting ''8 Assistant Secretaries''.

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Energy (7)'' and inserting ''Assistant Secretaries of Energy (8)''.

(c) SENSE OF CONGRESS.—It is the sense of Congress that leadership for missions of the Department of Energy relating to electricity delivery and reliability should be at the Assistant Secretary level.

SEC. 12005. LOVELACE RESPIRATORY RESEARCH INSTITUTE.

(a) DEFINITIONS.—In this section:

(1) INSTITUTE.—The term ''Institute'' means the Lovelace Respiratory Research Institute, a nonprofit organization chartered under the laws of the State of New Mexico.

(2) MAP.—The term ''map'' means the map entitled ''Lovelace Respiratory Research Institute Land Conveyance'' and dated March 18, 2008.

(3) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Energy, with respect to matters concerning the Department of Energy;

(B) the Secretary of the Interior, with respect to matters concerning the Department of the Interior; and

(C) the Secretary of the Air Force, with respect to matters concerning the Department of the Air Force.

(4) SECRETARY OF ENERGY.—The term ''Secretary of Energy'' means the Secretary of Energy, acting through the Administrator for the National Nuclear Security Administration.

(b) CONVEYANCE OF LAND.—

(1) IN GENERAL.—Notwithstanding section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) and subject to valid existing rights and this section, the Secretary of Energy, in consultation with the Secretary of the Interior and the Secretary of the Air Force, may convey to the Institute, on behalf of the United States, all right, title, and interest of the United States in and to the parcel of land described in paragraph (2) for research, scientific, or educational use.

(2) DESCRIPTION OF LAND.—The parcel of land referred to in paragraph (1)—

(A) is the approximately 135 acres of land identified as ''Parcel A'' on the map;

(B) includes any improvements to the land described in subparagraph (A); and

(C) excludes any portion of the utility system and infrastructure reserved by the Secretary of the Air Force under paragraph (4).

(3) OTHER FEDERAL AGENCIES.—The Secretary of the Interior and the Secretary of the Air Force shall complete any real property actions, including the revocation of any Federal withdrawals of the parcel conveyed under paragraph (1) and the parcel described in subsection (c)(1), that are necessary to allow the Secretary of Energy to—

(A) convey the parcel under paragraph (1); or

(B) transfer administrative jurisdiction under subsection (c).

(4) RESERVATION OF UTILITY INFRASTRUCTURE AND ACCESS.—The Secretary of the Air Force may retain ownership and control of—

(A) any portions of the utility system and infrastructure located on the parcel conveyed under paragraph (1); and

(B) any rights of access determined to be necessary by the Secretary of the Air Force to operate and maintain the utilities on the parcel.

(5) RESTRICTIONS ON USE.—

(A) AUTHORIZED USES.—The Institute shall allow only research, scientific, or educational uses of the parcel conveyed under paragraph (1).

(B) REVERSION.—

(i) IN GENERAL.—If, at any time, the Secretary of Energy, in consultation with the Secretary of the Air Force, determines, in accordance with clause (ii), that the parcel conveyed under paragraph (1) is not being used for a purpose described in subparagraph (A)—

(I) all right, title, and interest in and to the entire parcel, or any portion of the parcel not being used for the purposes, shall revert, at the option of the Secretary, to the United States; and

(II) the United States shall have the right of immediate entry onto the parcel.

(ii) REQUIREMENTS FOR DETERMINATION.—Any determination of the Secretary under clause (i) shall be made on the record and after an opportunity for a hearing.

(6) COSTS.—

(A) IN GENERAL.—The Secretary of Energy shall require the Institute to pay, or reimburse the Secretary concerned, for any costs incurred by the Secretary concerned in carrying out the conveyance under paragraph (1), including any survey costs related to the conveyance.

(B) REFUND.—If the Secretary concerned collects amounts under subparagraph (A) from the Institute before the Secretary concerned incurs the actual costs, and the amount collected exceeds the actual costs incurred by the Secretary concerned to carry out the conveyance, the Secretary concerned shall refund to the Institute an amount equal to difference between—

(i) the amount collected by the Secretary concerned; and

(ii) the actual costs incurred by the Secretary concerned.

(C) DEPOSIT IN FUND.—

(i) IN GENERAL.—Amounts received by the United States under this paragraph as a reimbursement or recovery of costs incurred by the Secretary concerned to carry out the conveyance under paragraph (1) shall be deposited in the fund or account that was used to cover the costs incurred by the Secretary concerned in carrying out the conveyance.

(ii) USE.—Any amounts deposited under clause (i) shall be available for the same purposes, and subject to the same conditions and limitations, as any other amounts in the fund or account.

(7) CONTAMINATED LAND.—In consideration for the conveyance of the parcel under paragraph (1), the Institute shall—

(A) take fee title to the parcel and any improvements to the parcel, as contaminated;

(B) be responsible for undertaking and completing all environmental remediation required at, in, under, from, or on the parcel for all environmental conditions relating to or arising from the release or threat of release of waste material, substances, or constituents, in the same manner and to the same extent as required by law applicable to privately owned facilities, regardless of the date of the contamination or the responsible party;

(C) indemnify the United States for—

(i) any environmental remediation or response costs the United States reasonably incurs if the Institute fails to remediate the parcel; or

(ii) contamination at, in, under, from, or on the land, for all environmental conditions relating to or arising from the release or threat of release of waste material, substances, or constituents;

(D) indemnify, defend, and hold harmless the United States from any damages, costs, expenses, liabilities, fines, penalties, claim, or demand for loss, including claims for property damage, personal injury, or death resulting from releases, discharges, emissions, spills, storage, disposal, or any other acts or omissions by the Institute and any officers, agents, employees, contractors, sublessees, licensees, successors, assigns, or invitees of the Institute arising from activities conducted, on or after October 1, 1996, on the parcel conveyed under paragraph (1); and

(E) reimburse the United States for all legal and attorney fees, costs, and expenses incurred in association with the defense of any claims described in subparagraph (D).

(8) CONTINGENT ENVIRONMENTAL RESPONSE OBLIGATIONS.—If the Institute does not undertake or complete environmental remediation as required by paragraph (7) and the United States is required to assume the responsibilities of the remediation, the Secretary of Energy shall be responsible for conducting any necessary environmental remediation or response actions with respect to the parcel conveyed under paragraph (1).

(9) NO ADDITIONAL COMPENSATION.—Except as otherwise provided in this section, no additional consideration shall be required for conveyance of the parcel to the Institute under paragraph (1).

(10) ACCESS AND UTILITIES.—On conveyance of the parcel under paragraph (1), the Secretary of the Air Force shall, on behalf of the United States and subject to any terms and conditions as the Secretary determines to be necessary (including conditions providing for the reimbursement of costs), provide the Institute with—

(A) access for employees and invitees of the Institute across Kirtland Air Force Base to the parcel conveyed under that paragraph; and

(B) access to utility services for the land and any improvements to the land conveyed under that paragraph.

(11) ADDITIONAL TERM AND CONDITIONS.—The Secretary of Energy, in consultation with the Secretary of the Interior and Secretary of the Air Force, may require any additional terms and conditions for the conveyance under paragraph (1) that the Secretaries determine to be appropriate to protect the interests of the United States.

(c) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—After the conveyance under subsection (b)(1) has been completed, the Secretary of Energy shall, on request of the Secretary of the Air Force, transfer to the Secretary of the Air Force administrative jurisdiction over the parcel of approximately 7 acres of land identified as ''Parcel B'' on the map, including any improvements to the parcel.

(2) REMOVAL OF IMPROVEMENTS.—In concurrence with the transfer under paragraph (1), the Secretary of Energy shall, on request of the Secretary of the Air Force, arrange and pay for removal of any improvements to the parcel transferred under that paragraph.

SEC. 12006. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL TROPICAL BOTANICAL GARDEN.

Chapter 1535 of title 36, United States Code, is amended by adding at the end the following:

''§ 153514. Authorization of appropriations

''(a) IN GENERAL.—Subject to subsection (b), there is authorized to be appropriated to the corporation for operation and maintenance expenses $500,000 for each of fiscal years 2008 through 2017.

''(b) LIMITATION.—Any Federal funds made available under subsection (a) shall be matched on a 1-to-1 basis by non-Federal funds.''.

SA 5663. Mr. WHITEHOUSE (for Mr. SHELBY) proposed an amendment to the bill H.R. 5350, to authorize the Secretary of Commerce to sell or exchange certain National Oceanic and Atmospheric Administration property located in Norfolk, Virginia, and for other purposes; as follows:

Notwithstanding any other provision of law, the Secretary of Commerce, through the Under Secretary and Administrator of the National Oceanic and Atmospheric Administration (NOAA), is authorized to enter into a land lease with Mobile County, Alabama for a period of not less than 40 years, on such terms and conditions as NOAA deems appropriate, for purposes of construction of a Gulf of Mexico Disaster Response Center facility, provided that the lease is at no cost to the government. NOAA may enter into agreements with state, local, or county governments for purposes of joint use, operations and occupancy of such facility.

SA 5664. Mr. WHITEHOUSE (for Mr. INOUYE) proposed an amendment to the bill S. 1492, to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—BROADBAND DATA IMPROVEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Broadband Data Improvement Act''.

SEC. 102 FINDINGS.

The Congress finds the following:

(1) The deployment and adoption of broadband technology has resulted in enhanced economic development and public safety for communities across the Nation, improved health care and educational opportunities, and a better quality of life for all Americans.

(2) Continued progress in the deployment and adoption of broadband technology is vital to ensuring that our Nation remains competitive and continues to create business and job growth.

(3) Improving Federal data on the deployment and adoption of broadband service will assist in the development of broadband technology across all regions of the Nation.

(4) The Federal Government should also recognize and encourage complementary State efforts to improve the quality and usefulness of broadband data and should encourage and support the partnership of the public and private sectors in the continued growth of broadband services and information technology for the residents and businesses of the Nation.

SEC. 103 IMPROVING FEDERAL DATA ON BROADBAND.

(a) IMPROVING SECTION 706 INQUIRY.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note) is amended—

(1) by striking ''regularly'' in subsection (b) and inserting ''annually'';

(2) by redesignating subsection (c) as subsection (d); and

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

''(c) DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—As part of the inquiry required by subsection (b), the Commission shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 note)) and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

''(1) the population;

''(2) the population density; and

''(3) the average per capita income.''.

(b) INTERNATIONAL COMPARISON.—

(1) IN GENERAL.—As part of the assessment and report required by section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note), the Federal Communications Commission shall include information comparing the extent of broadband service capability

(including data transmission speeds and price for broadband service capability) in a total of 75 communities in at least 25 countries abroad for each of the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers.

(2) CONTENTS.—The Commission shall choose communities for the comparison under this subsection in a manner that will offer, to the extent possible, communities of a population size, population density, topography, and demographic profile that are comparable to the population size, population density, topography, and demographic profile of various communities within the United States. The Commission shall include in the comparison under this subsection—

(A) a geographically diverse selection of countries; and

(B) communities including the capital cities of such countries.

(3) SIMILARITIES AND DIFFERENCES.—The Commission shall identify relevant similarities and differences in each community, including their market structures, the number of competitors, the number of facilities-based providers, the types of technologies deployed by such providers, the applications and services those technologies enable, the regulatory model under which broadband service capability is provided, the types of applications and services used, business and residential use of such services, and other media available to consumers.

(c) CONSUMER SURVEY OF BROADBAND SERVICE CAPABILITY.—

(1) IN GENERAL.—For the purpose of evaluating, on a statistically significant basis, the national characteristics of the use of broadband service capability, the Commission shall conduct and make public periodic surveys of consumers in urban, suburban, and rural areas in the large business, small business, and residential consumer markets to determine—

(A) the types of technology used to provide the broadband service capability to which consumers subscribe;

(B) the amounts consumers pay per month for such capability;

(C) the actual data transmission speeds of such capability;

(D) the types of applications and services consumers most frequently use in conjunction with such capability;

(E) for consumers who have declined to subscribe to broadband service capability, the reasons given by such consumers for declining such capability;

(F) other sources of broadband service capability which consumers regularly use or on which they rely; and

(G) any other information the Commission deems appropriate for such purpose.

(2) PUBLIC AVAILABILITY.—The Commission shall make publicly available the results of surveys conducted under this subsection at least once per year.

(d) IMPROVING CENSUS DATA ON BROADBAND.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

(e) PROPRIETARY INFORMATION.—Nothing in this title shall reduce or remove any obligation the Commission has to protect proprietary information, nor shall this title be construed to compel the Commission to make publicly available any proprietary information.

SEC. 104. STUDY ON ADDITIONAL BROADBAND METRICS AND STANDARDS.

(a) IN GENERAL.—The Comptroller General shall conduct a study to consider and evaluate additional broadband metrics or standards that may be used by industry and the Federal Government to provide users with more accurate information about the cost and capability of their broadband connection, and to better compare the deployment and penetration of broadband in the United States with other countries. At a minimum, such study shall consider potential standards or metrics that may be used—

(1) to calculate the average price per megabit per second of broadband offerings;

(2) to reflect the average actual speed of broadband offerings compared to advertised potential speeds and to consider factors affecting speed that may be outside the control of a broadband provider;

(3) to compare, using comparable metrics and standards, the availability and quality of broadband offerings in the United States with the availability and quality of broadband offerings in other industrialized nations, including countries that are members of the Organization for Economic Cooperation and Development; and

(4) to distinguish between complementary and substitutable broadband offerings in evaluating deployment and penetration.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the results of the study, with recommendations for how industry and the Federal Communications Commission can use such metrics and comparisons to improve the quality of broadband data and to better evaluate the deployment and penetration of comparable broadband service at comparable rates across all regions of the Nation.

SEC. 105. STUDY ON THE IMPACT OF BROADBAND SPEED AND PRICE ON SMALL BUSINESSES.

(a) IN GENERAL.—Subject to appropriations, the Small Business Administration Office of Advocacy shall conduct a study evaluating the impact of broadband speed and price on small businesses.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Office shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Small Business and Entrepreneurship, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Committee on Small Business on the results of the study, including—

(1) a survey of broadband speeds available to small businesses;

(2) a survey of the cost of broadband speeds available to small businesses;

(3) a survey of the type of broadband technology used by small businesses; and

(4) any policy recommendations that may improve small businesses access to comparable broadband services at comparable rates in all regions of the Nation.

SEC. 106. ENCOURAGING STATE INITIATIVES TO IMPROVE BROADBAND.

(a) PURPOSES.—The purposes of any grant under subsection (b) are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

(2) to achieve improved technology literacy, increased computer ownership, and broadband use among such citizens and businesses;

(3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and

(4) to establish and sustain an environment ripe for broadband services and information technology investment.

(b) ESTABLISHMENT OF STATE BROADBAND DATA AND DEVELOPMENT GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce shall award grants, taking into account the results of the peer review process under subsection (d), to eligible entities for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State.

(2) COMPETITIVE BASIS.—Any grant under subsection (b) shall be awarded on a competitive basis.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b), an eligible entity shall—

(1) submit an application to the Secretary of Commerce, at such time, in such manner, and containing such information as the Secretary may require;

(2) contribute matching non-Federal funds in an amount equal to not less than 20 percent of the total amount of the grant; and

(3) agree to comply with confidentiality requirements in subsection (h)(2) of this section.

(d) PEER REVIEW; NONDISCLOSURE.—

(1) IN GENERAL.—The Secretary shall by regulation require appropriate technical and scientific peer review of applications made for grants under this section.

(2) REVIEW PROCEDURES.—The regulations required under paragraph (1) shall require that any technical and scientific peer review group—

(A) be provided a written description of the grant to be reviewed;

(B) provide the results of any review by such group to the Secretary of Commerce; and

(C) certify that such group will enter into voluntary nondisclosure agreements as necessary to prevent the unauthorized disclosure of confidential and proprietary information provided by broadband service providers in connection with projects funded by any such grant.

(e) USE OF FUNDS.—A grant awarded to an eligible entity under subsection (b) shall be used—

(1) to provide a baseline assessment of broadband service deployment in each State;

(2) to identify and track—

(A) areas in each State that have low levels of broadband service deployment;

(B) the rate at which residential and business users adopt broadband service and other related information technology services; and

(C) possible suppliers of such services;

(3) to identify barriers to the adoption by individuals and businesses of broadband service and related information technology services, including whether or not—

(A) the demand for such services is absent; and

(B) the supply for such services is capable of meeting the demand for such services;

(4) to identify the speeds of broadband connections made available to individuals and businesses within the State, and, at a minimum, to rely on the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, to promote greater consistency of data among the States;

(5) to create and facilitate in each county or designated region in a State a local technology planning team—

(A) with members representing a cross section of the community, including representatives of business, telecommunications labor

organizations, K–12 education, health care, libraries, higher education, community-based organizations, local government, tourism, parks and recreation, and agriculture; and

(B) which shall—

(i) benchmark technology use across relevant community sectors;

(ii) set goals for improved technology use within each sector; and

(iii) develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation;

(6) to work collaboratively with broadband service providers and information technology companies to encourage deployment and use, especially in unserved areas and areas in which broadband penetration is significantly below the national average, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers to deploy;

(7) to establish programs to improve computer ownership and Internet access for unserved areas and areas in which broadband penetration is significantly below the national average;

(8) to collect and analyze detailed market data concerning the use and demand for broadband service and related information technology services;

(9) to facilitate information exchange regarding the use and demand for broadband services between public and private sectors; and

(10) to create within each State a geographic inventory map of broadband service, including the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, which shall—

(A) identify gaps in such service through a method of geographic information system mapping of service availability based on the geographic boundaries of where service is available or unavailable among residential or business customers; and

(B) provide a baseline assessment of statewide broadband deployment in terms of households with high-speed availability.

(f) PARTICIPATION LIMIT.—For each State, an eligible entity may not receive a new grant under this section to fund the activities described in subsection (d) within such State if such organization obtained prior grant awards under this section to fund the same activities in that State in each of the previous 4 consecutive years.

(g) REPORTING; BROADBAND INVENTORY MAP.—The Secretary of Commerce shall—

(1) require each recipient of a grant under subsection (b) to submit a report on the use of the funds provided by the grant; and

(2) create a web page on the Department of Commerce website that aggregates relevant information made available to the public by grant recipients, including, where appropriate, hypertext links to any geographic inventory maps created by grant recipients under subsection (e)(10).

(h) ACCESS TO AGGREGATE DATA.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall provide eligible entities access, in electronic form, to aggregate data collected by the Commission based on the Form 477 submissions of broadband service providers.

(2) LIMITATION.—Notwithstanding any provision of Federal or State law to the contrary, an eligible entity shall treat any matter that is a trade secret, commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except as otherwise mutually agreed to by the broadband service provider and the eligible entity. This paragraph applies only to information submitted by the Commission or a broadband provider to carry out the provisions of this title and shall not otherwise limit or affect the rules governing public disclosure of information collected by any Federal or State entity under any other Federal or State law or regulation.

(i) DEFINITIONS.—In this section:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) an entity that is either—

(i) an agency or instrumentality of a State, or a municipality or other subdivision (or agency or instrumentality of a municipality or other subdivision) of a State;

(ii) a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code; or

(iii) an independent agency or commission in which an office of a State is a member on behalf of the State; and

(B) is the single eligible entity in the State that has been designated by the State to receive a grant under this section.

(k) NO REGULATORY AUTHORITY.—Nothing in this section shall be construed as giving any public or private entity established or affected by this title any regulatory jurisdiction or oversight authority over providers of broadband services or information technology.

TITLE II—PROTECTING CHILDREN

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Protecting Children in the 21st Century Act''.

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

SUBTITLE A—PROMOTING A SAFE INTERNET FOR CHILDREN

SEC. 211. INTERNET SAFETY.

For the purposes of this title, the issue of Internet safety includes issues regarding the use of the Internet in a manner that promotes safe online activity for children, protects children from cybercrimes, including crimes by online predators, and helps parents shield their children from material that is inappropriate for minors.

SEC. 212. PUBLIC AWARENESS CAMPAIGN.

The Federal Trade Commission shall carry out a nationwide program to increase public awareness and provide education regarding strategies to promote the safe use of the Internet by children. The program shall utilize existing resources and efforts of the Federal Government, State and local governments, nonprofit organizations, private technology and financial companies, Internet service providers, World Wide Web-based resources, and other appropriate entities, that includes—

(1) identifying, promoting, and encouraging best practices for Internet safety;

(2) establishing and carrying out a national outreach and education campaign regarding Internet safety utilizing various media and Internet-based resources;

(3) facilitating access to, and the exchange of, information regarding Internet safety to promote up-to-date knowledge regarding current issues; and

(4) facilitating access to Internet safety education and public awareness efforts the Commission considers appropriate by States, units of local government, schools, police departments, nonprofit organizations, and other appropriate entities.

SEC. 213. ANNUAL REPORTS.

The Commission shall submit a report to the Senate Committee on Commerce, Science, and Transportation not later than March 31 of each year that describes the activities carried out under section 102 by the Commission during the preceding calendar year.

SEC. 214. ONLINE SAFETY AND TECHNOLOGY WORKING GROUP.

(a) ESTABLISHMENT.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall establish an Online Safety and Technology working group comprised of representatives of relevant sectors of the business community, public interest groups, and other appropriate groups and Federal agencies to review and evaluate—

(1) the status of industry efforts to promote online safety through educational efforts, parental control technology, blocking and filtering software, age-appropriate labels for content or other technologies or initiatives designed to promote a safe online environment for children;

(2) the status of industry efforts to promote online safety among providers of electronic communications services and remote computing services by reporting apparent child pornography under section 13032 of title 42, United States Code, including amendments made by this Act with respect to the content of such reports and any obstacles to such reporting;

(3) the practices of electronic communications service providers and remote computing service providers related to record retention in connection with crimes against children; and

(4) the development of technologies to help parents shield their children from inappropriate material on the Internet.

(b) REPORT.—Within 1 year after the working group is first convened, it shall submit a report to the Assistant Secretary and the Senate Committee on Commerce, Science, and Transportation that—

(1) describes in detail its findings, including any information related to the effectiveness of such strategies and technologies and any information about the prevalence within industry of educational campaigns, parental control technologies, blocking and filtering software, labeling, or other technologies to assist parents; and

(2) includes recommendations as to what types of incentives could be used or developed to increase the effectiveness and implementation of such strategies and technologies.

(c) FACA NOT TO APPLY TO WORKING GROUP.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group.

SEC. 215. PROMOTING ONLINE SAFETY IN SCHOOLS.

Section 254(h)(5)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(5)(b)) is amended—

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

(2) by striking ''minors.'' in clause (ii) and inserting ''minors; and''; and

(3) by adding at the end the following:

''(iii) as part of its Internet safety policy is educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.''.

SEC. 216. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor successor protocols to such protocol, to communicate information of all kinds by wire or radio.

TITLE II—ENHANCING CHILD PORNOGRAPHY ENFORCEMENT

SEC. 221. CHILD PORNOGRAPHY PREVENTION; FORFEITURES RELATED TO CHILD PORNOGRAPHY VIOLATIONS.

(a) IN GENERAL.—Section 503(b)(1) of the Communications Act of 1934 (47 U.S.C. 503(b)(1)) is amended—

(1) by striking ''or'' after the semicolon in subparagraph (C);

(2) by striking ''or 1464'' in subparagraph (D) and inserting ''1464, or 2252'';

(3) by inserting ''or'' after the semicolon in subparagraph (D); and

(4) by inserting after subparagraph (D) the following:

''(E) violated any provision of section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032);''.

SA 5665. Mr. WHITEHOUSE (for Mr. INOUYE (for himself, Mrs. HUTCHISON, and Mr. STEVENS)) proposed an amendment to amendment SA 5664 proposed by Mr. WHITEHOUSE (for Mr. INOUYE) to the bill S. 1492, to improve the quality of Federal and State data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation; as follows:

On page 19, line 19, strike ''102'' and insert ''212''.

On page 20, beginning on line 16, strike ''amendments made by this Act with respect to the content of such reports and''.

On page 23, line 7, beginning with ''amended—'' strike through line 18 and insert ''amended by striking 'or 1464' in subparagraph (D) and inserting '1464, or 2252' ''.

SA 5666. Mr. WHITEHOUSE (for Mr. LIEBERMAN) proposed an amendment to the bill S. 3477, to amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence; as follows:

At the end, add the following:

SEC. 7. ESTABLISHMENT OF NATIONAL DATABASE FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.

(a) IN GENERAL.—The Archivist of the United States may preserve relevant records and establish, as part of the National Archives and Records Administration, an electronically searchable national database consisting of historic records of servitude, emancipation, and post-Civil War reconstruction, including the Refugees, Freedman, and Abandoned Land Records, Southern Claims Commission Records, Records of the Freedmen's Bank, Slave Impressments Records, Slave Payroll Records, Slave Manifest, and others, contained within the agencies and departments of the Federal Government to assist African Americans and others in conducting genealogical and historical research.

(b) MAINTENANCE.—Any database established under this section shall be maintained by the National Archives and Records Administration or an entity within the National Archives and Records Administration designated by the Archivist of the United States.

SEC. 8. GRANTS FOR ESTABLISHMENT OF STATE AND LOCAL DATABASES FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.

(a) IN GENERAL.—The Executive Director of the National Historical Publications and Records Commission of the National Archives and Records Administration may make grants to States, colleges and universities, museums, libraries, and genealogical associations to preserve records and establish electronically searchable databases consisting of local records of servitude, emancipation, and post-Civil War reconstruction.

(b) MAINTENANCE.—Any database established using a grant under this section shall be maintained by appropriate agencies or institutions designated by the Executive Director of the National Historical Publications and Records Commission.

SA 5667. Mr. WHITEHOUSE (for Mr. INOUYE) proposed an amendment to the bill S. 1582, to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Hydrographic Services Improvement Act Amendments of 2008''.

SEC. 2. DEFINITIONS.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892) is amended by striking paragraphs (3), (4), and (5) and inserting the following:

''(3) HYDROGRAPHIC DATA.—The term 'hydrographic data' means information that—

''(A) is acquired through—

''(i) hydrographic, bathymetric, photogrammetric, lidar, radar, remote sensing, or shoreline and other ocean- and coastal-related surveying;

''(ii) geodetic, geospatial, or geomagnetic measurements;

''(iii) tide, water level, and current observations; or

''(iv) other methods; and

''(B) is used in providing hydrographic services.

''(4) HYDROGRAPHIC SERVICES.—The term 'hydrographic services' means——

''(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;

''(B) the development of nautical information systems; and

''(C) related activities.

''(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).''.

SEC. 3. FUNCTIONS OF THE ADMINISTRATOR.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a) is amended—

(1) by striking ''the Act of 1947,'' in subsection (a) and inserting ''the Coast and Geodetic Survey Act, promote safe, efficient and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,'';

(2) by striking ''data;'' in subsection (a)(1) and inserting ''data and provide hydrographic services;'' and

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

''(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations, the Administrator—

''(1) may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

''(2) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency; and

''(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

''(4) where appropriate, may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining mission assignments (as defined in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741));

''(5) may create, support, and maintain such joint centers with other Federal agencies and other entities as the Administrator deems appropriate or necessary to carry out the purposes of this Act; and

''(6) notwithstanding the existence of such joint centers, shall award contracts for the acquisition of hydrographic data in accordance with subchapter VI of chapter 10 of title 40, United States Code.''.

SEC. 4. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305(c)(1)(A) of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c(c)(1)(A)) is amended to read as follows: ''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in 1 or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d) is amended to read as follows:

''SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator the following:

''(1) To carry out nautical mapping and charting functions under sections 304 and 305, except for conducting hydrographic surveys—

''(A) $55,000,000 for fiscal year 2009;

''(B) $56,000,000 for fiscal year 2010;

''(C) $57,000,000 for fiscal year 2011; and

''(D) $58,000,000 for fiscal year 2012.

''(2) To contract for hydrographic surveys under section 304(b)(1), including the leasing or time chartering of vessels—

''(A) $32,130,000 for fiscal year 2009;

''(B) $32,760,000 for fiscal year 2010;

''(C) $33,390,000 for fiscal year 2011; and

''(D) $34,020,000 for fiscal year 2012.

''(3) To operate hydrographic survey vessels owned by the United States and operated by the Administration—

''(A) $25,900,000 for fiscal year 2009;

''(B) $26,400,000 for fiscal year 2010;

''(C) $26,900,000 for fiscal year 2011; and

''(D) $27,400,000 for fiscal year 2012.

''(4) To carry out geodetic functions under this title—

''(A) $32,640,000 for fiscal year 2009;

''(B) $33,280,000 for fiscal year 2010;

''(C) $33,920,000 for fiscal year 2011; and

''(D) $34,560,000 for fiscal year 2012.

''(5) To carry out tide and current measurement functions under this title—

''(A) $27,000,000 for fiscal year 2009;

''(B) $27,500,000 for fiscal year 2010;

''(C) $28,000,000 for fiscal year 2011; and

''(D) $28,500,000 for fiscal year 2012.

''(6) To acquire a replacement hydrographic survey vessel capable of staying at sea continuously for at least 30 days $75,000,000.''.

SEC. 6. AUTHORIZED NOAA CORPS STRENGTH.

Section 215 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3005) is amended to read as follows:

''SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

''Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

''(1) the Secretary has submitted to the Congress—

''(A) the Administration's ship recapitalization plan for fiscal years 2010 through 2024;

''(B) the Administration's aircraft remodernization plan; and

''(C) supporting workforce management plans;

''(2) appropriated funding is available; and

''(3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year.''

SA 5668. Mr. WHITEHOUSE (for Mr. INOUYE) proposed an amendment to the bill H.R. 5618, to reauthorize and amend the National Sea Grant College Program Act, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Sea Grant College Program Amendments Act of 2008''.

SEC. 2. REFERENCES.

Except as otherwise expressly provided therein, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 202(a) (33 U.S.C. 1121(a)) is amended—

(1) by striking subparagraphs (D) and (E) of paragraph (1) and inserting the following:

''(D) encourage the development of preparation, forecast, analysis, mitigation, response, and recovery systems for coastal hazards;

''(E) understand global environmental processes and their impacts on ocean, coastal, and Great Lakes resources; and'';

(2) by striking ''program of research, education,'' in paragraph (2) and inserting ''program of integrated research, education, extension,''; and

(3) by striking paragraph (6) and inserting the following:

''(6) The National Oceanic and Atmospheric Administration, through the national sea grant college program, offers the most suitable locus and means for such commitment and engagement through the promotion of activities that will result in greater such understanding, assessment, development, management, utilization, and conservation of ocean, coastal, and Great Lakes resources. The most cost-effective way to promote such activities is through continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions, including strong collaborations between Administration scientists and research and outreach personnel at academic institutions.''.

(b) PURPOSE.—Section 202(c) (33 U.S.C. 1121(c)) is amended by striking ''to promote research, education, training, and advisory service activities'' and inserting ''to promote integrated research, education, training, and extension services and activities''.

(c) TERMINOLOGY.—Subsections (a) and (b) of section 202 (15 U.S.C. 1121(a) and (b)) are amended by inserting ''management,'' after ''development,'' each place it appears.

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) in paragraph (4) by inserting ''management,'' after ''development,'';

(2) in paragraph (11) by striking ''advisory services'' and inserting ''extension services''; and

(3) in each of paragraphs (12) and (13) by striking ''(33 U.S.C. 1126)''.

(b) REPEAL.—Section 307 of the Act entitled ''An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary'' (Public Law 102–251; 106 Stat. 66) is repealed.

SEC. 5. NATIONAL SEA GRANT COLLEGE PROGRAM.

(a) PROGRAM ELEMENTS.—Section 204(b) (33 U.S.C. 1123(b)) is amended—

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

''(1) sea grant programs that comprise a national sea grant college program network, including international projects conducted within such programs and regional and national projects conducted among such programs;'';

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

''(2) administration of the national sea grant college program and this title by the national sea grant office and the Administration;''; and

(3) by amending paragraph (4) to read as follows:

''(4) any regional or national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed in consultation with the Board and with the approval of the sea grant colleges and the sea grant institutes.''.

(b) TECHNICAL CORRECTION.—Section 204(c)(2) (33 U.S.C. 1123(c)(2)) is amended by striking ''Within 6 months of the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, the'' and inserting ''The''.

(c) FUNCTIONS OF DIRECTOR OF NATIONAL SEA GRANT COLLEGE PROGRAM.—Section 204(d) (33 U.S.C. 1123(d)) is amended—

(1) in paragraph (2)(A), by striking ''long range'';

(2) in paragraph (3)(A)—

(A) by striking ''(A)(i) evaluate'' and inserting ''(A) evaluate and assess'';

(B) by striking ''activities; and'' and inserting ''activities;''; and

(C) by striking clause (ii); and

(3) in paragraph (3)(B)—

(A) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following:

''(ii) encourage collaborations among sea grant colleges and sea grant institutes to address regional and national priorities established under subsection (c)(1);'';

(B) in clause (iii) (as so redesignated) by striking ''encourage'' and inserting ''ensure'';

(C) in clause (iv) (as so redesignated) by striking ''and'' after the semicolon;

(D) by inserting after clause (v) (as so redesignated) the following:

''(vi) encourage cooperation with Minority Serving Institutions to enhance collaborative research opportunities and increase the number of such students graduating in NOAA science areas; and''.

SEC. 6. PROGRAM OR PROJECT GRANTS AND CONTRACTS.

Section 205 (33 U.S.C. 1124) is amended—

(1) by striking ''204(c)(4)(F).'' in subsection (a) and inserting ''204(c)(4)(F) or that are appropriated under section 208(b).''; and

(2) by striking the matter following paragraph (3) in subsection (b) and inserting the following:

''The total amount that may be provided for grants under this subsection during any fiscal year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year under section 212.''.

SEC. 7. EXTENSION SERVICES BY SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207(a) (33 U.S.C. 1126(a)) is amended in each of paragraphs (2)(B) and (3)(B) by striking ''advisory services'' and inserting ''extension services''.

SEC. 8. FELLOWSHIPS.

Section 208(a) (33 U.S.C. 1127) is amended—

(1) by striking ''Not later than 1 year after the date of the enactment of the National Sea Grant College Program Act Amendments of 2002, and every 2 years thereafter,'' in subsection (a) and inserting ''Every 2 years,''; and

(2) by adding at the end the following:

''(c) Restriction on Use of Funds.—Amounts available for fellowships under this section, including amounts accepted under section 204(c)(4)(F) or appropriated under section 212 to implement this section, shall be used only for award of such fellowships and administrative costs of implementing this section.''

SEC. 9. NATIONAL SEA GRANT ADVISORY BOARD.

(a) REDESIGNATION OF SEA GRANT REVIEW PANEL AS BOARD.—

(1) REDESIGNATION.—The sea grant review panel established by section 209 of the National Sea Grant College Program Act (33 U.S.C. 1128), as in effect before the date of the enactment of this Act, is redesignated as the National Sea Grant Advisory Board.

(2) MEMBERSHIP NOT AFFECTED.—An individual serving as a member of the sea grant

review panel immediately before date of the enactment of this Act may continue to serve as a member of the National Sea Grant Advisory Board until the expiration of such member's term under section 209(c) of such Act (33 U.S.C. 1128(c)).

(3) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to such sea grant review panel is deemed to be a reference to the National Sea Grant Advisory Board.

(4) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 209 (33 U.S.C. 1128) is amended by striking so much as precedes subsection (b) and inserting the following:

"SEC. 209. NATIONAL SEA GRANT ADVISORY BOARD.

''(a) ESTABLISHMENT.—There shall be an independent committee to be known as the National Sea Grant Advisory Board.''.

(B) DEFINITION.—Section 203(9) (33 U.S.C. 1122(9)) is amended to read as follows:

''(9) The term 'Board' means the National Sea Grant Advisory Board established under section 209.'';

(C) OTHER PROVISIONS.—The following provisions are each amended by striking ''panel'' each place it appears and inserting ''Board'':

(i) Section 204 (33 U.S.C. 1123).

(ii) Section 207 (33 U.S.C. 1126).

(iii) Section 209 (33 U.S.C. 1128).

(b) DUTIES.—Section 209(b) (33 U.S.C. 1128(b)) is amended to read as follows:

''(b) DUTIES.—

''(1) IN GENERAL.—The Board shall advise the Secretary and the Director concerning—

''(A) strategies for utilizing the sea grant college program to address the Nation's highest priorities regarding the understanding, assessment, development, management, utilization, and conservation of ocean, coastal, and Great Lakes resources;

''(B) the designation of sea grant colleges and sea grant institutes; and

''(C) such other matters as the Secretary refers to the Board for review and advice.

''(2) BIENNIAL REPORT.—The Board shall report to the Congress every two years on the state of the national sea grant college program. The Board shall indicate in each such report the progress made toward meeting the priorities identified in the strategic plan in effect under section 204(c). The Secretary shall make available to the Board such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties under this title.''.

(c) MEMBERSHIP, TERMS, AND POWERS.—Section 209(c)(1) (33 U.S.C. 1128(c)(1)) is amended—

(1) by inserting ''coastal management,'' after ''resource management,''; and

(2) by inserting ''management,'' after ''development,''.

(d) EXTENSION OF TERM.—Section 209(c)(3) (33 U.S.C. 1128(c)(3)) is amended by striking the second sentence and inserting the following: ''The Director may extend the term of office of a voting member of the Board once by up to 1 year.''.

(e) ESTABLISHMENT OF SUBCOMMITTEES.—Section 209(c) (33 U.S.C. 1128(c)) is amended by adding at the end the following:

''(8) The Board may establish such subcommittees as are reasonably necessary to carry out its duties under subsection (b). Such subcommittees may include individuals who are not Board members.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) is amended—

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

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

''(A) $72,000,000 for fiscal year 2009;

''(B) $75,600,000 for fiscal year 2010;

''(C) $79,380,000 for fiscal year 2011;

''(D) $83,350,000 for fiscal year 2012;

''(E) $87,520,000 for fiscal year 2013; and

''(F) $91,900,000 for fiscal year 2014.'';

(2) in subsection (a)(2)—

(A) by striking ''fiscal years 2003 through 2008—'' and inserting ''fiscal years 2009 through 2014—'';

(B) by striking ''biology and control of zebra mussels and other important aquatic'' in subparagraph (A) and inserting ''biology, prevention, and control of aquatic''; and

(C) by striking ''blooms, including Pfiesteria piscicida; and'' in subparagraph (C) and inserting ''blooms; and'';

(3) in subsection (c)(1) by striking ''rating under section 204(d)(3)(A)'' and inserting ''performance assessments''; and

(4) by striking subsection (c)(2) and inserting the following:

''(2) regional or national strategic investments authorized under section 204(b)(4);''.

SA 5669. Mr. WHITEHOUSE (for Mr. KYL) proposed an amendment to the bill S. 2913, to provide a limitation on judicial remedies in copyright infringement cases involving orphan works; as follows:

On page 19, line 21, strike all through page 20, line 12.

On page 20, line 13, strike ''(2)'' and insert ''(1)''.

On page 21, line 10, strike ''(3)'' and insert ''(2)''.

On page 21, line 16, strike ''(4)'' and insert ''(3)''.

On page 23, line 15, insert ''and'' at the end.

On page 23, strike lines 16 through 20.

On page 23, line 21, strike ''(vi)'' and insert ''(v)''.

On page 25, line 1, strike all through page 27, line 7 and insert the following:

''(i) IN GENERAL.—A search qualifies under paragraph (1)(A)(i)(I) if the infringer, a person acting on behalf of the infringer, or any person jointly and severally liable with the infringer for the infringement, undertakes a diligent effort that is reasonable under the circumstances to locate the owner of the infringed copyright prior to, and at a time reasonably proximate to, the infringement.

''(ii) DILIGENT EFFORT.—For purposes of clause (i), a diligent effort—

''(I) requires, at a minimum—

''(aa) a search of the records of the Copyright Office that are available to the public through the Internet and relevant to identifying and locating copyright owners, provided there is sufficient identifying information on which to construct a search;

''(bb) a search of reasonably available sources of copyright authorship and ownership information and, where appropriate, licensor information;

''(cc) use of appropriate technology tools, printed publications, and where reasonable, internal or external expert assistance; and

''(dd) use of appropriate databases, including databases that are available to the public through the Internet; and

''(II) shall include any actions that are reasonable and appropriate under the facts relevant to the search, including actions based on facts known at the start of the search and facts uncovered during the search, and including a review, as appropriate, of Copyright Office records not available to the public through the Internet that are reasonably likely to be useful in identifying and locating the copyright owner.

''(iii) CONSIDERATION OF RECOMMENDED PRACTICES.—A qualifying search under this subsection shall ordinarily be based on the applicable statement of Recommended Practices made available by the Copyright Office and additional appropriate best practices of authors, copyright owners, and users to the extent such best practices incorporate the expertise of persons with specialized knowledge with respect to the type of work for which the search is being conducted.

''(iv) LACK OF IDENTIFYING INFORMATION.—The fact that, in any given situation,—

''(I) a particular copy or phonorecord lacks identifying information pertaining to the owner of the infringed copyright; or

''(II) an owner of the infringed copyright fails to respond to any inquiry or other communication about the work,

shall not be deemed sufficient to meet the conditions under paragraph (1)(A)(i)(I).

''(v) USE OF RESOURCES FOR CHARGE.—A qualifying search under paragraph (1)(A)(i)(I) may require use of resources for which a charge or subscription is imposed to the extent reasonable under the circumstances.

''(B) INFORMATION TO GUIDE SEARCHES; RECOMMENDED PRACTICES.—

''(i) STATEMENTS OF RECOMMENDED PRACTICES.—The Register of Copyrights shall maintain and make available to the public and, from time to time, update at least one statement of Recommended Practices for each category, or, in the Register's discretion, subcategory of work under section 102(a) of this title, for conducting and documenting a search under this subsection. Such statement will ordinarily include reference to materials, resources, databases, and technology tools that are relevant to a search. The Register may maintain and make available more than one statement of Recommended Practices for each category or subcategory, as appropriate.

''(ii) CONSIDERATION OF RELEVANT MATERIALS.—In maintaining and making available and, from time to time, updating the Recommended Practices in clause (i), the Register of Copyrights shall, at the Register's discretion, consider materials, resources, databases, technology tools, and practices that are reasonable and relevant to the qualifying search. The Register shall consider any comments submitted to the Copyright Office by the Small Business Administration Office of Advocacy. The Register shall also, to the extent practicable, take the impact on copyright owners that are small businesses into consideration when modifying and updating best practices.

On page 30, strike lines 1 through 15 and insert the following:

''(C) LIMITATIONS.—The limitations on injunctive relief under subparagraphs (A) and (B) shall not be available to an infringer or a representative of the infringer acting in an official capacity if the infringer asserts that neither the infringer nor any representative of the infringer acting in an official capacity is subject to suit in the courts of the United States for an award of damages for the infringement, unless the court finds that the infringer—

''(i) has complied with the requirements of subsection (b); and

''(ii) pays reasonable compensation to the owner of the exclusive right under the infringed copyright in a reasonably timely manner after the amount of reasonable compensation has been agreed upon with the owner or determined by the court.

On page 31, line 23, insert ''commercial'' after ''other''.

On page 33, line 17, insert ''Prior to certifying that databases are available under this section, the Register shall determine, to the extent practicable, their impact on copyright owners that are small businesses and

consult with the Small Business Administration Office of Advocacy regarding those impacts. The Register shall consider the Office of Advocacy's comments and respond to any concerns.'' after the period.

SA 5670. Mr. WHITEHOUSE (for Mr. REID) proposed an amendment to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the end, add the following:

The provisions of this act shall become effective 2 days after enactment.

SA 5671. Mr. WHITEHOUSE (for Mr. REID) proposed an amendment to amendment SA 5670 proposed by Mr. WHITEHOUSE (for Mr. REID) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

In the amendment, strike ''2'' and insert ''1''.

SA 5672. Mr. WHITEHOUSE (for Mr. THUNE (for himself, Mr. CARDIN, and Mr. LAUTENBERG)) proposed an amendment to the bill S. 3109, to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hazardous Waste Electronic Manifest Establishment Act''.

SEC. 2. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.

(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following:

''SEC. 3024. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.

''(a) DEFINITIONS.—In this section:

''(1) BOARD.—The term 'Board' means the Hazardous Waste Electronic Manifest System Governing Board established under subsection (f).

''(2) FUND.—The term 'Fund' means the Hazardous Waste Electronic Manifest System Fund established by subsection (d).

''(3) PERSON.—The term 'person' includes an individual, corporation (including a Government corporation), company, association, firm, partnership, society, joint stock company, trust, municipality, commission, Federal agency, State, political subdivision of a State, or interstate body.

''(4) SYSTEM.—The term 'system' means the hazardous waste electronic manifest system established under subsection (b).

''(5) USER.—The term 'user' means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that—

''(A) is required to use a manifest to comply with any Federal or State requirement to track the shipment, transportation, and receipt of hazardous waste or other material that is shipped from the site of generation to an off-site facility for treatment, storage, disposal, or recycling; and

''(B)(i) elects to use the system to complete and transmit an electronic manifest format; or

''(ii) submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with such regulations as the Administrator may promulgate to require such a submission.

''(b) ESTABLISHMENT.—Not later than 3 years after the date of enactment of this section, the Administrator shall establish a hazardous waste electronic manifest system that may be used by any user.

''(c) USER FEES.—

''(1) IN GENERAL.—The Administrator may impose on users such reasonable service fees as the Administrator determines to be necessary to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system after the date on which the system enters operation.

''(2) COLLECTION OF FEES.—The Administrator shall—

''(A) collect the fees described in paragraph (1) from the users in advance of, or as reimbursement for, the provision by the Administrator of system-related services; and

''(B) deposit the fees in the Fund for use in accordance with this subsection.

''(3) FEE STRUCTURE.—

''(A) IN GENERAL.—The Administrator, in consultation with information technology vendors, shall determine through the contract award process described in subsection (e) the fee structure that is necessary to recover the full cost to the Administrator of providing system-related services, including costs relating to—

''(i) materials and supplies;

''(ii) contracting and consulting;

''(iii) overhead;

''(iv) information technology (including costs of hardware, software, and related services);

''(v) information management;

''(vi) collection of service fees;

''(vii) investment of any unused service fees;

''(viii) reporting and accounting;

''(ix) employment of direct and indirect Government personnel dedicated to establishing and maintaining the system; and

''(x) project management.

''(B) ADJUSTMENTS IN FEE AMOUNT.—

''(i) IN GENERAL.—The Administrator shall increase or decrease amount of a service fee determined under the fee structure described in subparagraph (A) to a level that will—

''(I) result in the collection of an aggregate amount for deposit in the Fund that is sufficient to cover current and projected system-related costs (including any necessary system upgrades); and

''(II) minimize, to the maximum extent practicable, the accumulation of unused amounts in the Fund.

''(ii) EXCEPTION FOR INITIAL PERIOD OF OPERATION.—The requirement described in clause (i)(II) shall not apply to any additional fees that accumulate in the Fund, in an amount that does not exceed $2,000,000, during the 3-year period beginning on the date on which the system enters operation.

''(iii) TIMING OF ADJUSTMENTS.—Adjustments to service fees described in clause (i) shall be made—

''(I) initially, at the time at which initial development costs of the system have been recovered by the Administrator such that the service fee may be reduced to reflect the elimination of the system development component of the fee; and

''(II) periodically thereafter, upon receipt and acceptance of the findings of any annual accounting or auditing report under subsection (d)(6), if the report discloses a significant disparity for a fiscal year between the funds collected from service fees under this subsection for the fiscal year and expenditures made for the fiscal year to provide system-related services.

''(d) HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the 'Hazardous Waste Electronic Manifest System Fund', consisting of—

''(A) such amounts as are appropriated to the Fund under paragraph (2); and

''(B) any interest earned on investment of amounts in the Fund under paragraph (4).

''(2) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to amounts collected as fees and received by the Administrator under subsection (c).

''(3) EXPENDITURES FROM FUND.—

''(A) IN GENERAL.—Subject to paragraph (2), on request by the Administrator, the Secretary of the Treasury shall transfer from the Fund to the Administrator such amounts as the Administrator determines to be necessary to pay costs incurred in developing, operating, maintaining, and upgrading the system under subsection (c).

''(B) USE OF FUNDS.—

''(i) IN GENERAL.—Fees collected by the Administrator and deposited in the Fund under this section shall be available to the Administrator for use in accordance with this section without fiscal year limitation and without further appropriation.

''(ii) OVERSIGHT.—The Administrator shall carry out all necessary measures to ensure that amounts in the Fund are used only to carry out the goals of establishing, operating, maintaining, upgrading, managing, supporting, and overseeing the system.

''(4) INVESTMENT OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury and the Administrator, required to meet current withdrawals.

''(B) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in—

''(i) interest-bearing obligations of the United States; or

''(ii) obligations, participations, or other instruments that are lawful investments for fiduciaries, trusts, or public funds, as determined by the Secretary of the Treasury.

''(C) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(i) on original issue at the issue price; or

''(ii) by purchase of outstanding obligations at the market price.

''(D) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(E) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

''(5) TRANSFERS OF AMOUNTS.—

''(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

''(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

''(6) ACCOUNTING AND AUDITING.—

''(A) ACCOUNTING.—For each 2-fiscal-year period, the Administrator shall prepare and submit to Congress a report that includes—

''(i) an accounting of the fees paid to the Administrator under subsection (c) and disbursed from the Fund for the period covered

by the report, as reflected by financial statements provided in accordance with—

''(I) the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838) and amendments made by that Act; and

''(II) the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410) and amendments made by that Act; and

''(ii) an accounting describing actual expenditures from the Fund for the period covered by the report for costs described in subsection (c)(1).

''(B) AUDITING.—

''(i) IN GENERAL.—For the purpose of section 3515(c) of title 31, United States Code, the Fund shall be considered a component of an Executive agency.

''(ii) COMPONENTS OF AUDIT.—The annual audit required in accordance with sections 3515(b) and 3521 of title 31, United States Code, of the financial statements of activities carried out using amounts from the Fund shall include an analysis of—

''(I) the fees collected and disbursed under this section;

''(II) the reasonableness of the fee structure in place as of the date of the audit to meet current and projected costs of the system;

''(III) the level of use of the system by users; and

''(IV) the success to date of the system in operating on a self-sustaining basis and improving the efficiency of tracking waste shipments and transmitting waste shipment data.

''(iii) FEDERAL RESPONSIBILITY.—The Inspector General of the Environmental Protection Agency shall—

''(I) conduct the annual audit described in clause (ii); and

''(II) submit to the Administrator a report that describes the findings and recommendations of the Inspector General resulting from the audit.

''(e) CONTRACTS.—

''(1) AUTHORITY TO ENTER INTO CONTRACTS FUNDED BY SERVICE FEES.—The Administrator may enter into 1 or more information technology contracts with entities determined to be appropriate by the Administrator (referred to in this subsection as 'contractors') under which—

''(A) the Administrator agrees to award a contract for the provision of system-related services; and

''(B) the contractor agrees to assume the initial risk of the information technology investment, and to obtain reimbursement for investment costs, operating costs, and other fees, by receiving as payment an agreed-upon share of the amounts collected as fees by the Administrator under subsection (c).

''(2) TERM OF CONTRACT.—A contract awarded under this subsection shall have a term of not more than 10 years.

''(3) ACHIEVEMENT OF GOALS.—The Administrator shall ensure, to the maximum extent practicable, that a contract awarded under this subsection—

''(A) is performance-based;

''(B) identifies objective outcomes; and

''(C) contains performance standards that may be used to measure achievement and goals to evaluate the success of a contractor in performing under the contract and the right of the contractor to payment for services under the contract, taking into consideration that a primary measure of successful performance shall be the development of a hazardous waste electronic manifest system that—

''(i) meets the needs of the user community (including States that rely on data contained in manifests); and

''(ii) attracts sufficient user participation and service fee revenues to ensure the viability of the system.

''(4) PAYMENT STRUCTURE.—Each contract awarded under this subsection shall include a provision that specifies—

''(A) the service fee structure of the contractor that will form the basis for payments to the contractor;

''(B) the fixed-share ratio of monthly service fee revenues from which the Administrator shall reimburse the contractor for system-related development, operation, and maintenance costs and provide an additional profit or fee commensurate with the risk undertaken by the contractor in performing in accordance with the contract;

''(C) the amount of additional transactional costs attributed to—

''(i) the ancillary costs of the Administrator in implementing and managing the system, including the costs of integrating the applications of the contractor with the central data exchange architecture of the Environmental Protection Agency;

''(ii) the direct and indirect personnel costs incurred by the Administrator to employ personnel dedicated to the implementation and management of the system; and

''(iii) expenses incurred in procuring any independent contractor services to assist staff of the Administrator in the preparation of financial statements and reports and the conduct of regular user group and governance meetings necessary for the oversight of the system.

''(5) CANCELLATION AND TERMINATION.—

''(A) IN GENERAL.—If the Administrator determines that sufficient funds are not made available for the continuation in a subsequent fiscal year of a contract entered into under this subsection, the Administrator shall cancel or terminate the contract.

''(B) COSTS.—The costs of cancellation or termination under subparagraph (A) may be paid using—

''(i) appropriations available for performance of the contract;

''(ii) unobligated appropriations available for acquisition of the information technology procured under the contract; or

''(iii) funds subsequently appropriated for payment of costs of the cancellation or termination.

''(C) NEGOTIATION OF AMOUNTS.—The amount payable in the event of cancellation or termination of a contract entered into under this subsection shall be negotiated with the contractor at the time at which the contract is awarded.

''(D) AUTHORITY TO ENTER INTO CONTRACTS.—The Administrator may enter into a contract under this subsection for any fiscal year, regardless of whether funds are made specifically available for the full costs of cancellation or termination of the contract, if—

''(i) funds are available at the time at which the contract is awarded to make payments with respect to a contingent liability in an amount equal to at least 100 percent of the estimated costs of a cancellation or termination during the first fiscal year of the contract, as determined by the Administrator; or

''(ii) funds described in clause (i) are not available as described in that clause, but the contractor—

''(I) is informed of the amount of any unfunded contingent liability; and

''(II) agrees to perform the contract despite the unfunded contingent liability.

''(6) NO EFFECT ON OWNERSHIP.—Regardless of whether the Administrator enters into a contract under this subsection, the system shall be owned by the Federal Government.

''(f) HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM GOVERNING BOARD.—

''(1) ESTABLISHMENT.—Not later than 3 years after the date of enactment of this section, the Administrator shall establish a board to be known as the 'Hazardous Waste Electronic Manifest System Governing Board'.

''(2) COMPOSITION.—The Board shall be composed of 7 members, of which—

''(A) 1 member shall be the Administrator (or a designee), who shall serve as Chairperson of the Board; and

''(B) 6 members shall be individuals appointed by the Administrator—

''(i) at least 1 of whom shall have expertise in information technology;

''(ii) at least 1 of whom shall have experience in using the manifest system to track the transportation of hazardous waste under this subtitle (or an equivalent State program); and

''(iii) at least 1 of whom shall be a State representative responsible for processing those manifests.

''(3) DUTIES.—The Board shall meet annually to discuss, evaluate the effectiveness of, and provide recommendations to the Administrator relating to, the system.

''(g) REGULATIONS.—

''(1) PROMULGATION.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall promulgate regulations to carry out this section.

''(B) INCLUSIONS.—The regulations promulgated pursuant to subparagraph (A) may include such requirements as the Administrator determines to be necessary to facilitate the transition from the use of paper manifests to the use of electronic manifests, or to accommodate the processing of data from paper manifests in the electronic manifest system, including a requirement that users of paper manifests submit to the system copies of the paper manifests for data processing purposes.

''(C) REQUIREMENTS.—The regulations promulgated pursuant to subparagraph (A) shall ensure that each electronic manifest provides, to the same extent as paper manifests under applicable Federal and State law, for—

''(i) the ability to track and maintain legal accountability of—

''(I) the person that certifies that the information provided in the manifest is accurately described; and

''(II) the person that acknowledges receipt of the manifest;

''(ii) if the manifest is electronically submitted, State authority to access paper copies of manifest; and

''(iii) access to all publicly-available information contained in the manifest.

''(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation promulgated by the Administrator under paragraph (1) and in accordance with section 3003 relating to electronic manifesting of hazardous waste shall take effect in each State as of the effective date specified in the regulation.

''(3) ADMINISTRATION.—The Administrator shall carry out regulations promulgated under this subsection in each State unless the State program is fully authorized to carry out those regulations in lieu of the Administrator.

''(h) REQUIREMENT OF COMPLIANCE WITH RESPECT TO CERTAIN STATES.—In any case in which the State in which waste is generated, or the State in which waste will be transported to a designated facility, requires that the waste be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the State in which the facility is located—

''(1) complete the facility portion of the applicable manifest;

''(2) sign and date the facility certification; and

''(3) submit to the system a final copy of the manifest for data processing purposes.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. 6901) is amended by inserting at the end of the items relating to subtitle C the following:

''Sec. 3024. Hazardous waste electronic manifest system.''.

SA 5673. Mr. WHITEHOUSE (for Mrs. BOXER) proposed an amendment to the bill S. 906, to prohibit the sale, distribution, transfer, and export of elemental mercury, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mercury Export Ban Act of 2008''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mercury is highly toxic to humans, ecosystems, and wildlife;

(2) as many as 10 percent of women in the United States of childbearing age have mercury in the blood at a level that could put a baby at risk;

(3) as many as 630,000 children born annually in the United States are at risk of neurological problems related to mercury;

(4) the most significant source of mercury exposure to people in the United States is ingestion of mercury-contaminated fish;

(5) the Environmental Protection Agency reports that, as of 2004—

(A) 44 States have fish advisories covering over 13,000,000 lake acres and over 750,000 river miles;

(B) in 21 States the freshwater advisories are statewide; and

(C) in 12 States the coastal advisories are statewide;

(6) the long-term solution to mercury pollution is to minimize global mercury use and releases to eventually achieve reduced contamination levels in the environment, rather than reducing fish consumption since uncontaminated fish represents a critical and healthy source of nutrition worldwide;

(7) mercury pollution is a transboundary pollutant, depositing locally, regionally, and globally, and affecting water bodies near industrial sources (including the Great Lakes) and remote areas (including the Arctic Circle);

(8) the free trade of elemental mercury on the world market, at relatively low prices and in ready supply, encourages the continued use of elemental mercury outside of the United States, often involving highly dispersive activities such as artisinal gold mining;

(9) the intentional use of mercury is declining in the United States as a consequence of process changes to manufactured products (including batteries, paints, switches, and measuring devices), but those uses remain substantial in the developing world where releases from the products are extremely likely due to the limited pollution control and waste management infrastructures in those countries;

(10) the member countries of the European Union collectively are the largest source of elemental mercury exports globally;

(11) the European Commission has proposed to the European Parliament and to the Council of the European Union a regulation to ban exports of elemental mercury from the European Union by 2011;

(12) the United States is a net exporter of elemental mercury and, according to the United States Geological Survey, exported 506 metric tons of elemental mercury more than the United States imported during the period of 2000 through 2004; and

(13) banning exports of elemental mercury from the United States will have a notable effect on the market availability of elemental mercury and switching to affordable mercury alternatives in the developing world.

SEC. 3. PROHIBITION ON SALE, DISTRIBUTION, OR TRANSFER OF ELEMENTAL MERCURY.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

''(f) MERCURY.—

''(1) PROHIBITION ON SALE, DISTRIBUTION, OR TRANSFER OF ELEMENTAL MERCURY BY FEDERAL AGENCIES.—Except as provided in paragraph (2), effective beginning on the date of enactment of this subsection, no Federal agency shall convey, sell, or distribute to any other Federal agency, any State or local government agency, or any private individual or entity any elemental mercury under the control or jurisdiction of the Federal agency.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) a transfer between Federal agencies of elemental mercury for the sole purpose of facilitating storage of mercury to carry out this Act; or

''(B) a conveyance, sale, distribution, or transfer of coal.

''(3) LEASES OF FEDERAL COAL.—Nothing in this subsection prohibits the leasing of coal.''.

SEC. 4. PROHIBITION ON EXPORT OF ELEMENTAL MERCURY.

Section 12 of the Toxic Substances Control Act (15 U.S.C. 2611) is amended—

(1) in subsection (a) by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c) PROHIBITION ON EXPORT OF ELEMENTAL MERCURY.—

''(1) PROHIBITION.—Effective January 1, 2013, the export of elemental mercury from the United States is prohibited.

''(2) INAPPLICABILITY OF SUBSECTION (a).—Subsection (a) shall not apply to this subsection.

''(3) REPORT TO CONGRESS ON MERCURY COMPOUNDS.—

''(A) REPORT.—Not later than one year after the date of enactment of the Mercury Export Ban Act of 2008, the Administrator shall publish and submit to Congress a report on mercuric chloride, mercurous chloride or calomel, mercuric oxide, and other mercury compounds, if any, that may currently be used in significant quantities in products or processes. Such report shall include an analysis of—

''(i) the sources and amounts of each of the mercury compounds imported into the United States or manufactured in the United States annually;

''(ii) the purposes for which each of these compounds are used domestically, the amount of these compounds currently consumed annually for each purpose, and the estimated amounts to be consumed for each purpose in 2010 and beyond;

''(iii) the sources and amounts of each mercury compound exported from the United States annually in each of the last three years;

''(iv) the potential for these compounds to be processed into elemental mercury after export from the United States; and

''(v) other relevant information that Congress should consider in determining whether to extend the export prohibition to include one or more of these mercury compounds.

''(B) PROCEDURE.—For the purpose of preparing the report under this paragraph, the Administrator may utilize the information gathering authorities of this title, including sections 10 and 11.

''(4) ESSENTIAL USE EXEMPTION.—(A) Any person residing in the United States may petition the Administrator for an exemption from the prohibition in paragraph (1), and the Administrator may grant by rule, after notice and opportunity for comment, an exemption for a specified use at an identified foreign facility if the Administrator finds that—

''(i) nonmercury alternatives for the specified use are not available in the country where the facility is located;

''(ii) there is no other source of elemental mercury available from domestic supplies (not including new mercury mines) in the country where the elemental mercury will be used;

''(iii) the country where the elemental mercury will be used certifies its support for the exemption;

''(iv) the export will be conducted in such a manner as to ensure the elemental mercury will be used at the identified facility as described in the petition, and not otherwise diverted for other uses for any reason;

''(v) the elemental mercury will be used in a manner that will protect human health and the environment, taking into account local, regional, and global human health and environmental impacts;

''(vi) the elemental mercury will be handled and managed in a manner that will protect human health and the environment, taking into account local, regional, and global human health and environmental impacts; and

''(vii) the export of elemental mercury for the specified use is consistent with international obligations of the United States intended to reduce global mercury supply, use, and pollution.

''(B) Each exemption issued by the Administrator pursuant to this paragraph shall contain such terms and conditions as are necessary to minimize the export of elemental mercury and ensure that the conditions for granting the exemption will be fully met, and shall contain such other terms and conditions as the Administrator may prescribe. No exemption granted pursuant to this paragraph shall exceed three years in duration and no such exemption shall exceed 10 metric tons of elemental mercury.

''(C) The Administrator may by order suspend or cancel an exemption under this paragraph in the case of a violation described in subparagraph (D).

''(D) A violation of this subsection or the terms and conditions of an exemption, or the submission of false information in connection therewith, shall be considered a prohibited act under section 15, and shall be subject to penalties under section 16, injunctive relief under section 17, and citizen suits under section 20.

''(5) CONSISTENCY WITH TRADE OBLIGATIONS.—Nothing in this subsection affects, replaces, or amends prior law relating to the need for consistency with international trade obligations.

''(6) EXPORT OF COAL.—Nothing in this subsection shall be construed to prohibit the export of coal.''.

SEC. 5. LONG-TERM STORAGE.

(a) DESIGNATION OF FACILITY.—

(1) IN GENERAL.—Not later than January 1, 2010, the Secretary of Energy (referred to in this section as the ''Secretary'') shall designate a facility or facilities of the Department of Energy, which shall not include the Y-12 National Security Complex or any other portion or facility of the Oak Ridge Reservation of the Department of Energy, for the purpose of long-term management and storage of elemental mercury generated within the United States.

(2) OPERATION OF FACILITY.—Not later than January 1, 2013, the facility designated in paragraph (1) shall be operational and shall accept custody, for the purpose of long-term management and storage, of elemental mercury generated within the United States and delivered to such facility.

(b) FEES.—

(1) IN GENERAL.—After consultation with persons who are likely to deliver elemental mercury to a designated facility for long-term management and storage under the program prescribed in subsection (a), and with other interested persons, the Secretary shall assess and collect a fee at the time of delivery for providing such management and storage, based on the pro rata cost of long-term management and storage of elemental mercury delivered to the facility. The amount of such fees—

(A) shall be made publically available not later than October 1, 2012;

(B) may be adjusted annually; and

(C) shall be set in an amount sufficient to cover the costs described in paragraph (2).

(2) COSTS.—The costs referred to in paragraph (1)(C) are the costs to the Department of Energy of providing such management and storage, including facility operation and maintenance, security, monitoring, reporting, personnel, administration, inspections, training, fire suppression, closure, and other costs required for compliance with applicable law. Such costs shall not include costs associated with land acquisition or permitting of a designated facility under the Solid Waste Disposal Act or other applicable law. Building design and building construction costs shall only be included to the extent that the Secretary finds that the management and storage of elemental mercury accepted under the program under this section cannot be accomplished without construction of a new building or buildings.

(c) REPORT.—Not later than 60 days after the end of each Federal fiscal year, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on all of the costs incurred in the previous fiscal year associated with the long-term management and storage of elemental mercury. Such report shall set forth separately the costs associated with activities taken under this section.

(d) MANAGEMENT STANDARDS FOR A FACILITY.—

(1) GUIDANCE.—Not later than October 1, 2009, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and all appropriate State agencies in affected States, shall make available, including to potential users of the long-term management and storage program established under subsection (a), guidance that establishes procedures and standards for the receipt, management, and long-term storage of elemental mercury at a designated facility or facilities, including requirements to ensure appropriate use of flasks or other suitable shipping containers. Such procedures and standards shall be protective of human health and the environment and shall ensure that the elemental mercury is stored in a safe, secure, and effective manner. In addition to such procedures and standards, elemental mercury managed and stored under this section at a designated facility shall be subject to the requirements of the Solid Waste Disposal Act, including the requirements of subtitle C of that Act, except as provided in subsection (g)(2) of this section. A designated facility in existence on or before January 1, 2013, is authorized to operate under interim status pursuant to section 3005(e) of the Solid Waste Disposal Act until a final decision on a permit application is made pursuant to section 3005(c) of the Solid Waste Disposal Act. Not later than January 1, 2015, the Administrator of the Environmental Protection Agency (or an authorized State) shall issue a final decision on the permit application.

(2) TRAINING.—The Secretary shall conduct operational training and emergency training for all staff that have responsibilities related to elemental mercury management, transfer, storage, monitoring, or response.

(3) EQUIPMENT.—The Secretary shall ensure that each designated facility has all equipment necessary for routine operations, emergencies, monitoring, checking inventory, loading, and storing elemental mercury at the facility.

(4) FIRE DETECTION AND SUPPRESSION SYSTEMS.—The Secretary shall—

(A) ensure the installation of fire detection systems at each designated facility, including smoke detectors and heat detectors; and

(B) ensure the installation of a permanent fire suppression system, unless the Secretary determines that a permanent fire suppression system is not necessary to protect human health and the environment.

(e) INDEMNIFICATION OF PERSONS DELIVERING ELEMENTAL MERCURY.—

(1) IN GENERAL.—(A) Except as provided in subparagraph (B) and subject to paragraph (2), the Secretary shall hold harmless, defend, and indemnify in full any person who delivers elemental mercury to a designated facility under the program established under subsection (a) from and against any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of elemental mercury as a result of acts or omissions occurring after such mercury is delivered to a designated facility described in subsection (a).

(B) To the extent that a person described in subparagraph (A) contributed to any such release or threatened release, subparagraph (A) shall not apply.

(2) CONDITIONS.—No indemnification may be afforded under this subsection unless the person seeking indemnification—

(A) notifies the Secretary in writing within 30 days after receiving written notice of the claim for which indemnification is sought;

(B) furnishes to the Secretary copies of pertinent papers the person receives;

(C) furnishes evidence or proof of any claim, loss, or damage covered by this subsection; and

(D) provides, upon request by the Secretary, access to the records and personnel of the person for purposes of defending or settling the claim or action.

(3) AUTHORITY OF SECRETARY.—(A) In any case in which the Secretary determines that the Department of Energy may be required to make indemnification payments to a person under this subsection for any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage referred to in paragraph (1)(A), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage.

(B) In any case described in subparagraph (A), if the person to whom the Department of Energy may be required to make indemnification payments does not allow the Secretary to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this subsection.

(f) TERMS, CONDITIONS, AND PROCEDURES.—The Secretary is authorized to establish such terms, conditions, and procedures as are necessary to carry out this section.

(g) EFFECT ON OTHER LAW.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section changes or affects any Federal, State, or local law or the obligation of any person to comply with such law.

(2) EXCEPTION.—(A) Elemental mercury that the Secretary is storing on a long-term basis shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)). For the purposes of section 3004(j) of the Solid Waste Disposal Act, a generator accumulating elemental mercury destined for a facility designated by the Secretary under subsection (a) for 90 days or less shall be deemed to be accumulating the mercury to facilitate proper treatment, recovery, or disposal.

(B) Elemental mercury may be stored at a facility with respect to which any permit has been issued under section 3005(c) of the Solid Waste Disposal Act (42 U.S.C. 6925(c)), and shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) if—

(i) the Secretary is unable to accept the mercury at a facility designated by the Secretary under subsection (a) for reasons beyond the control of the owner or operator of the permitted facility;

(ii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will ship the mercury to the designated facility when the Secretary is able to accept the mercury; and

(iii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will not sell, or otherwise place into commerce, the mercury.

This subparagraph shall not apply to mercury with respect to which the owner or operator of the permitted facility fails to comply with a certification provided under clause (ii) or (iii).

(h) STUDY.—Not later than July 1, 2014, the Secretary shall transmit to the Congress the results of a study, conducted in consultation with the Administrator of the Environmental Protection Agency, that—

(1) determines the impact of the long-term storage program under this section on mercury recycling; and

(2) includes proposals, if necessary, to mitigate any negative impact identified under paragraph (1).

SEC. 6. REPORT TO CONGRESS.

At least 3 years after the effective date of the prohibition on export of elemental mercury under section 12(c) of the Toxic Substances Control Act (15 U.S.C. 2611(c)), as added by section 4 of this Act, but not later than January 1, 2017, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the global supply and trade of elemental mercury, including but not limited to the amount of elemental mercury traded globally that originates from primary mining, where such primary mining is conducted, and whether additional primary mining has occurred as a consequence of this Act.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Kelcy Paulson and Alicia Marie Johnson be granted the privilege of the floor for today's debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that during

floor consideration of H.R. 2638 that Arex Avanni, a detailee to the Committee on Appropriations, be granted the privilege of the floor.

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

EXECUTIVE SESSION

INTERNATIONAL CONVENTION ON CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS, 2001

CCW PROTOCOL ON EXPLOSIVE REMNANTS OF WAR

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the Calendar Nos. 24 and 30, and that the treaties be considered as having advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee understandings, declarations, and conditions, if applicable, be agreed to; that any statements be printed in the RECORD as if read; and that the Senate take one vote on the resolution of ratification; further, that when the resolutions of ratification are voted on, the motions to reconsider be considered made and laid on the table; the President be immediately notified of the Senate's action, and the Senate resume legislative session, all without intervening action or debate.

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

Mr. WHITEHOUSE. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division vote was been requested. Senators in favor of ratification of these treaties will rise and remain standing until counted.

Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

TREATY DOC. 109–10(C) CCW PROTOCOL ON EXPLOSIVE REMNANTS OF WAR (PROTOCOL V)

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to an understanding and a declaration

The Senate advises and consents to the ratification of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol V), adopted at Geneva on November 28, 2003 (Treaty Doc. 109–10(C)), subject to the understanding of section 2 and the declaration of section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

It is the understanding of the United States of America that nothing in Protocol V would preclude future arrangements in connection with the settlement of armed conflicts, or assistance connected thereto, to allocate responsibilities under Article 3 in a manner that respects the essential spirit and purpose of Protocol V.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of Articles 7 and 8, this Protocol is self-executing. This Protocol does not confer private rights enforceable in United States courts.

TREATY DOC. 110–13 INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to two declarations.

The Senate advises and consents to the ratification of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, adopted on October 5, 2001 (Treaty Doc. 110–13), subject to the declaration of section 2 and the declaration of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

The United States of America declares that, pursuant to Article 16(2)(f)(ii)(3) of the Convention, amendments to Annex 1 of the Convention shall enter into force for the United States of America only after notification to the Secretary-General of its acceptance with respect to such amendments.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Convention is not self-executing.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

LEGISLATIVE SESSION

ACTION VITIATED—H.R. 2638

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the previous action with respect to the House Message to H.R. 2638 be vitiated.

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

CONSOLIDATED SECURITY, DISASTER ASSISTANCE, AND CONTINUING APPROPRIATIONS ACT, 2009

Mr. WHITEHOUSE. I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to H.R. 2638.

The PRESIDING OFFICER laid before the Senate the following message:

Resolved that the House agree to the amendment of the Senate, to the bill, H.R. 2638, an act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes, do pass with a House amendment to the Senate amendment.

CLOTURE MOTION

Mr. WHITEHOUSE. I move to concur in the House amendment to the Senate amendment to H.R. 2638 and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to H.R. 2638, the Department of Homeland Security Appropriations Act/Continuing Resolution for fiscal year 2009.

Evan Bayh, Debbie Stabenow, Benjamin L. Cardin, Byron L. Dorgan, Barbara A. Mikulski, Jeff Bingaman, John F. Kerry, Herb Kohl, Sherrod Brown, Jon Tester, E. Benjamin Nelson, Richard Durbin, Patrick J. Leahy, Amy Klobuchar, Robert P. Casey, Jr., Claire McCaskill, Bernard Sanders.

Mr. WHITEHOUSE: I ask unanimous consent that the mandatory quorum be waived.

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

AMENDMENT NO. 5670

Mr. WHITEHOUSE. I now move to concur in the House amendment to the Senate amendment to H.R. 2638 with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE] moves to concur in the House amendment to the Senate amendment to H.R. 2638, with an amendment numbered 5670.

Mr. WHITEHOUSE. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end, add the following:

The provisions of this Act shall become effective 2 days after enactment.

Mr. WHITEHOUSE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5671

Mr. WHITEHOUSE. I have a second-degree amendment at the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for Mr. REID, proposes an amendment numbered 5671 to amendment No. 5670.

Mr. WHITEHOUSE. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

In the amendment, strike ''2'' and insert ''1''.

Mr. WHITEHOUSE. I ask unanimous consent ask that no motion to refer be in order during the pendency of the message.

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

Mr. WHITEHOUSE. I ask unanimous consent that the cloture vote occur at 10 a.m. Saturday, September 27.

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

NOAA LAND TRANSFER

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5350 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5350) to authorize the Secretary of Commerce to sell or exchange certain National Oceanic and Atmospheric Administration property located in Norfolk, Virginia, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. I ask unanimous consent that the Shelby amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5663) was agreed to, as follows:

(Purpose: provide authority to NOAA to enter a no cost land lease for a NOAA facility)

Notwithstanding any other provision of law, the Secretary of Commerce, through the Under Secretary and Administrator of the National Oceanic and Atmospheric Administration (NOAA), is authorized to enter into a land lease with Mobile County, Alabama for a period of not less than 40 years, on such terms and conditions as NOAA deems appropriate, for purposes of construction of a Gulf of Mexico Disaster Response Center facility, provided that the lease is at no cost to the government. NOAA may enter into agreements with state, local, or county governments for purposes of joint use, operations and occupancy of such facility.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5350), as amended, was read the third time, and passed.

PECHANGA BAND OF LUISENO MISSION INDIANS LAND TRANSFER ACT OF 2007

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1081, H.R. 2963.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2963) to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with amendments, as follows:

[Omit the part within boldface brackets and insert the part printed in italic]

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 ''Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2007''.

SEC. 2. TRANSFER OF LAND IN TRUST FOR PECHANGA BAND OF LUISENO MISSION INDIANS.

(a) TRANSFER AND ADMINISTRATION.—

(1) TRANSFER.—Effective on the date of the enactment of this Act and subject to valid existing rights, all right, title, and interest of the United States in and to the Federal lands described in subsection (b) (including all improvements thereon, appurtenances thereto, and rights to all minerals thereon or therein, including oil and gas, water, and related resources) shall be held by the United States in trust for the Pechanga Band of Luiseno Mission Indians, a federally recognized Indian tribe. Such transfer shall not include the 12.82 acres of lands more or less, including the facilities, improvements, and appurtenances associated with the existing 230 kV transmission line in San Diego County and its 300 foot corridor, more particularly described as a portion of sec. 6, T. 9 S., R. 2 W., San Bernardino Base and Meridian, which shall be sold by the Bureau of Land Management for fair market value to San Diego Gas & Electric Company not later than 30 days after the completion of the cadastral survey described in subsection (c) and the appraisal described in subsection (d).

(2) ADMINISTRATION.—The land transferred under paragraph (1) shall be part of the Pechanga Indian Reservation and administered in accordance with—

(A) the laws and regulations generally applicable to property held in trust by the United States for an Indian tribe; and

(B) a memorandum of understanding entered into between the Pechanga Band of Luiseno Mission Indians [and the United States Fish and Wildlife Service *,] the Bureau of Land Management, and the United States Fish and Wildlife Service on November 11, 2005, which shall remain in effect until the date on which the Western Riverside County Multiple Species Habitat Conservation Plan expires.*

(3) NOTIFICATION.—At least 45 days before terminating the memorandum of understanding entered into under paragraph (2)(B), the Director of the Bureau of Land Management, the Director of the United States Fish and Wildlife Service, or the Pechanga Band of Luiseno Mission Indians, as applicable, shall submit notice of the termination to—

(A) the Committee on Natural Resources of the House of Representatives;

(B) the Committee on Indian Affairs of the Senate;

(C) the Assistant Secretary for Indian Affairs; and

(D) the members of Congress representing the area subject to the memorandum of understanding.

(4) TERMINATION OR VIOLATION OF THE MEMORANDUM OF UNDERSTANDING.—The Director of the Bureau of Land Management and the Pechanga Band of Luiseno Mission Indians shall submit to Congress notice of the termination or a violation of the memorandum of understanding entered into under paragraph (2)(B) unless the purpose for the termination or violation is the expiration or cancellation of the Western Riverside County Multiple Species Habitat Conservation Plan.

(b) DESCRIPTION OF LAND.—The lands referred to in subsection (a) consist of approximately 1,178 acres in Riverside County, California, and San Diego County, California, as referenced on the map titled, ''H.R. 28, the Pechanga Land Transfer Act'' and dated [January 12] *May 2*, 2007, which, before the transfer under such subsection, were administered by the Bureau of Land Management and are more particularly described as follows:

(1) Sections 24, 29, 31, and 32 of township 8 south, range 2 west, San Bernardino base and meridian.

(2) Section 6 of township 9 south, range 2 west, lots 2, 3, 5 and 6, San Bernardino Base and Meridian.

(3) Mineral Survey 3540, section 22 of township 5 south, range 4 west, San Bernardino base and meridian.

(c) SURVEY.—Not later than 180 days after the date of the enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall complete a survey of the lands transferred and to be sold under subsection (a) for the purpose of establishing the boundaries of the lands.

(d) CONVEYANCE OF UTILITY CORRIDOR.—

(1) IN GENERAL.—The Secretary shall convey to the San Diego Gas & Electric Company all right, title, and interest of the United States in and to the utility corridor upon—

(A) the completion of the survey required under subsection (c);

(B) the receipt by the Secretary of all rents and other fees that may be due to the United States for use of the utility corridor, if any; and

(C) the receipt of payment by United States from the San Diego Gas & Electric Company of consideration in an amount equal to the fair market value of the utility corridor, as determined by an appraisal conducted under paragraph (2).

(2) APPRAISAL.—

(A) IN GENERAL.—Not later than 90 days after the date on which the survey of the utility corridor is completed under subsection (c), the Secretary shall complete an appraisal of the utility corridor.

(B) APPLICABLE LAW.—The appraisal under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(3) COSTS.—The San Diego Gas & Electric Company shall pay the costs of carrying out the conveyance of the utility corridor under paragraph (1), including any associated survey and appraisal costs.

(4) DISPOSITION OF PROCEEDS.—The Secretary shall deposit any amounts received under paragraph (1)(C) of this section in the Federal Land Disposal Account established under section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)).

(e) MAP ON FILE.—The map referred to in subsection (b) shall be on file in the appropriate offices of the Bureau of Land Management.

(f) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval of the survey completed under subsection (c) by the duly elected tribal council of the Pechanga Band of Luiseno Mission Indians, the Secretary of the Interior shall publish in the Federal Register—

(A) a legal description of the boundary lines; and

(B) legal description of the lands transferred under subsection (a).

(2) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1), such legal descriptions shall be the official legal descriptions of the boundary lines and the lands transferred under subsection (a).

(g) RULES OF CONSTRUCTION.—Nothing in this Act shall—

(1) enlarge, impair, or otherwise affect any right or claim of the Pechanga Band of Luiseno Mission Indians to any land or interest in land that is in existence before the date of the enactment of this Act;

(2) affect any water right of the Pechanga Band of Luiseno Mission Indians in existence before the date of the enactment of this Act; or

(3) terminate any right-of-way or right-of-use issued, granted, or permitted before the date of enactment of this Act.

(h) RESTRICTED USE OF TRANSFERRED LANDS.—

(1) IN GENERAL.—The lands transferred under subsection (a) may be used only *as open space and* for the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources thereon.

(2) NO ROADS.—There shall be no roads other than for maintenance purposes constructed on the lands transferred under subsection (a).

(3) DEVELOPMENT PROHIBITED.—

(A) IN GENERAL.—There shall be no development of infrastructure or buildings on the land transferred under subsection (a).

(B) OPEN SPACE.—The land transferred under subsection (a) shall be—

(i) maintained as open space; and

(ii) used only for—

(I) purposes consistent with the maintenance of the land as open space; and

(II) the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources on the land transferred.

(C) EFFECT.—Nothing in this paragraph prohibits the construction or maintenance of utilities or structures that are—

(i) consistent with the maintenance of the land transferred under subsection (a) as open space; and

(ii) constructed for the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources on the land transferred.

(4) GAMING PROHIBITED.—The Pechanga Band of Luiseno Mission Indians may not conduct, on any land acquired by the Pechanga Band of Luiseno Mission Indians pursuant to this Act, gaming activities or activities conducted in conjunction with the operation of a casino—

(A) as a matter of claimed inherent authority; or

(B) under any Federal law (including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated by the Secretary or the National Indian Gaming Commission under that Act)).

Mr. WHITEHOUSE. I ask unanimous consent that the committee-reported amendments be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no interviewing action or debate, and any statements relating to this measure be printed in the RECORD.

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

The committee amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2963), as amended, was read the third time, and passed.

NUCLEAR FORENSICS AND ATTRIBUTION ACT

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1086, H.R. 2631.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2631) to strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

H.R. 2631

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) The threat of a nuclear terrorist attack on American interests, both domestic and abroad, is one of the most serious threats to the national security of the United States. In the wake of an attack, attribution of responsibility would be of utmost importance. Because of the destructive power of the weapon, there could be little forensic evidence except the radioactive material in the bomb itself.

(2) Through advanced nuclear forensics, using both existing techniques and those under development, it may be possible to identify the source and pathway of a weapon or material after it is interdicted or detonated. Though identifying intercepted smuggled material is now possible in some cases, pre-detonation forensics is a relatively undeveloped field. The post-detonation nuclear forensics field is also immature, and the challenges are compounded by the pressures and time constraints of performing forensics after a nuclear or radiological attack.

(3) A robust and well-known capability to identify the source of nuclear or radiological material intended for or used in an act of terror could also deter prospective proliferators. Furthermore, the threat of effective attribution could compel improved security at material storage facilities, preventing the unwitting transfer of nuclear or radiological materials.

(4)(A) In order to identify special nuclear material and other radioactive materials confidently, it is necessary to have a robust capability to acquire samples in a timely manner, analyze and characterize samples, and compare samples against known signatures of nuclear and radiological material.

(B) Many of the radioisotopes produced in the detonation of a nuclear device have short half-lives, so the timely acquisition of samples is of the utmost importance. Over the past several decades, the ability of the United States to gather atmospheric samples, often the preferred method of sample acquisition, has diminished. This ability must be restored and modern techniques that could complement or replace existing techniques should be pursued.

(C) The discipline of pre-detonation forensics is a relatively undeveloped field. The radiation associated with a nuclear or radiological device may affect traditional forensics techniques in unknown ways. In a post-detonation scenario, radiochemistry may provide the most useful tools for analysis and characterization of samples. The number of radiochemistry programs and radiochemists in United States National Laboratories and universities has dramatically declined over the past several decades. The narrowing pipeline of qualified people into this critical field is a serious impediment to maintaining a robust and credible nuclear forensics program.

(5) Once samples have been acquired and characterized, it is necessary to compare the results against samples of known material from reactors, weapons, and enrichment facilities, and from medical, academic, commercial, and other facilities containing such materials, throughout the world. Some of these samples are available to the International Atomic Energy Agency through safeguards agreements, and some countries maintain internal sample databases. Access to samples in many countries is limited by national security concerns.

(6) In order to create a sufficient deterrent, it is necessary to have the capability to positively identify the source of nuclear or radiological material, and potential traffickers in nuclear or radiological material must be aware of that capability. International cooperation may be essential to catalogue all existing sources of nuclear or radiological material.

SEC. 2. SENSE OF CONGRESS ON INTERNATIONAL AGREEMENTS FOR FORENSICS CO-OPERATION.

It is the sense of the Congress that the President should—

(1) pursue bilateral and multilateral international agreements to establish, or seek to establish under the auspices of existing bilateral or multilateral agreements, an international framework for determining—

(A) the source of any confiscated nuclear or radiological material or weapon; and

(B) the source of any detonated weapon and the nuclear or radiological material used in such a weapon;

(2) develop protocols for the data exchange and dissemination of sensitive information relating to nuclear or radiological materials and samples of controlled nuclear or radiological materials, to the extent required by the agreements entered into under paragraph (1); and

(3) develop expedited protocols for the data exchange and dissemination of sensitive information needed to publicly identify the source of a nuclear detonation.

SEC. 3. RESPONSIBILITIES OF DOMESTIC NUCLEAR DETECTION OFFICE.

(a) ADDITIONAL RESPONSIBILITIES.—Section 1902 of the Homeland Security Act of 2002 (6 U.S.C. 592) is amended—

(1) by striking ''(a) MISSION''

(2) in paragraph (9), by striking ''and'' at the end;

(3) by redesignating paragraph (10) as paragraph (14); and

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

''(10) develop and implement, with the approval of the Secretary, and in consultation with the Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Director of National Intelligence, and the heads of appropriate departments and agencies, a 'National Strategy and Five-Year Implementation Plan for Improving the Nuclear Forensic and Attribution Capabilities of the United States Government' and the methods, capabilities, and capacity for nuclear materials forensics and attribution, including—

''(A) an investment plan to support nuclear materials forensics and attribution;

''(B) the allocation of roles and responsibilities for pre-detonation, detonation, and post-detonation activities; and

''(C) the attribution of nuclear or radiological material to its source when such material is intercepted by the United States, foreign governments, or international bodies or is dispersed in the course of a terrorist attack or other nuclear or radiological explosion;

''(11) establish, within the Domestic Nuclear Detection Office, the National Technical Nuclear Forensics Center to provide centralized stewardship, planning, assessment, gap analysis, exercises, improvement, and integration for all Federal nuclear forensics and attribution activities—

''(A) to ensure an enduring national technical nuclear forensics capability to strengthen the collective response of the United States to nuclear terrorism or other nuclear attacks; and

''(B) to coordinate and implement the national strategic plan and 5-year plan to improve national forensics and attribution capabilities for all Federal nuclear and radiological forensics capabilities;

''(12) establish a National Nuclear Forensics Expertise Development Program, which—

''(A) is devoted to developing and maintaining a vibrant and enduring academic pathway from undergraduate to post-doctorate study in nuclear and geochemical science specialties directly relevant to technical nuclear forensics, including radiochemistry, geochemistry, nuclear physics, nuclear engineering, materials science, and analytical chemistry; and

''(B) shall—

''(i) make available for undergraduate study student scholarships, with a duration of up to 4 years per student, which shall include, if possible, at least 1 summer internship at a national laboratory or appropriate Federal agency in the field of technical nuclear forensics during the course of the student's undergraduate career;

''(ii) make available for graduate study student fellowships, with a duration of up to 5 years per student, which shall—

''(I) include, if possible, at least 2 summer internships at a national laboratory or appropriate Federal agency in the field of technical nuclear forensics during the course of the student's graduate career; and

''(II) require each recipient to commit to serve for 2 years in a post-doctoral position in a technical nuclear forensics-related specialty at a national laboratory or appropriate Federal agency after graduation;

''(iii) make available to faculty awards, with a duration of 3 to 5 years each, to ensure faculty and their graduate students have a sustained funding stream; and

''(iv) place a particular emphasis on reinvigorating technical nuclear forensics programs; and''.

(b) JOINT INTERAGENCY ANNUAL REPORTING REQUIREMENT TO CONGRESS AND THE PRESIDENT.—

(1) IN GENERAL.—Section 1907(a)(1) of the Homeland Security Act of 2002 (6 U.S.C. 596(a)(1)) is amended—

(A) in subparagraph (A)(ii), by striking ''and'' at the end;

(B) in subparagraph (B)(iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) the Director of the Domestic Nuclear Detection Office and each of the relevant Departments that are partners in the National Technical Forensics Center—

''(i) includes, as part of the assessments, evaluations, and reviews required under this paragraph, each relevant agency's activities and investments in support of nuclear forensics and attribution activities;

''(ii) attaches, as an appendix to the Joint Interagency Annual Review, the most current version of the plan required under section 1902(a)(10); and

''(iii) after March 31 of each year, funds allocated for activities authorized under section 1902 are not spent until the submission to Congress of the report required under subsection (b).''.

Mr. WHITEHOUSE. I ask unanimous consent that the committee-reported substitute be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2631), as amended, was read the third time and passed.

BROADBAND DATA IMPROVEMENT ACT

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 441, S. 1492.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1492) to improve the quality of Federal and State data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadband Data Improvement Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The deployment and adoption of broadband technology has resulted in enhanced economic development and public safety for communities across the Nation, improved health care and educational opportunities, and a better quality of life for all Americans.

(2) Continued progress in the deployment and adoption of broadband technology is vital to ensuring that our Nation remains competitive and continues to create business and job growth.

(3) Improving Federal data on the deployment and adoption of broadband service will assist in the development of broadband technology across all regions of the Nation.

(4) The Federal Government should also recognize and encourage complementary state efforts to improve the quality and usefulness of broadband data and should encourage and support the partnership of the public and private sectors in the continued growth of broadband services and information technology for the residents and businesses of the Nation.

SEC. 3. IMPROVING FEDERAL DATA ON BROADBAND.

(a) IMPROVING FCC BROADBAND DATA.—Within 120 days after the date of enactment of this Act, the Federal Communications Commission shall issue an order in WC docket No. 07–38 which shall, at a minimum—

(1) revise or update, if determined necessary, the existing definitions of advanced telecommunications capability, or broadband;

(2) establish a new definition of second generation broadband to reflect a data rate that is not less than the data rate required to reliably transmit full-motion, high-definition video; and

(3) revise its Form 477 reporting requirements to require filing entities to report broadband connections and second generation broadband connections by 5-digit postal zip code plus 4-digit location.

(b) EXCEPTION.—The Commission shall exempt an entity from the reporting requirements of subsection (a)(3) if the Commission determines that a compliance by that entity with the requirements is cost prohibitive, as defined by the Commission.

(c) IMPROVING SECTION 706 INQUIRY.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 nt) is amended—

(1) by striking ''regularly'' in subsection (b) and inserting ''annually'';

(2) by redesignating subsection (c) as subsection (e); and

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

''(c) MEASUREMENT OF EXTENT OF DEPLOYMENT.—In determining under subsection (b) whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion, the Commission shall consider data collected using 5-digit postal zip code plus 4-digit location.

''(d) DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—As part of the inquiry required by subsection (b), the Commission shall, using 5-digit postal zip code plus 4-digit location information, compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 nt)) and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

''(1) the population;

''(2) the population density; and

''(3) the average per capita income.'';

(4) by inserting ''an evolving level of'' after ''technology,'' in paragraph (1) of subsection (e), as redesignated.

(d) IMPROVING CENSUS DATA ON BROADBAND.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

SEC. 4. STUDY ON ADDITIONAL BROADBAND METRICS AND STANDARDS.

(a) IN GENERAL.—The Comptroller General shall conduct a study to consider and evaluate additional broadband metrics or standards that may be used by industry and the Federal Government to provide users with more accurate information about the cost and capability of their broadband connection, and to better compare the deployment and penetration of broadband in the United States with other countries. At a minimum, such study shall consider potential standards or metrics that may be used—

(1) to calculate the average price per megabyte of broadband offerings;

(2) to reflect the average actual speed of broadband offerings compared to advertised potential speeds;

(3) to compare the availability and quality of broadband offerings in the United States with the availability and quality of broadband offerings in other industrialized nations, including countries that are members of the Organization for Economic Cooperation and Development; and

(4) to distinguish between complementary and substitutable broadband offerings in evaluating deployment and penetration.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the results of the study, with recommendations for how industry and the Federal Communications

Commission can use such metrics and comparisons to improve the quality of broadband data and to better evaluate the deployment and penetration of comparable broadband service at comparable rates across all regions of the Nation.

SEC. 5. STUDY ON THE IMPACT OF BROADBAND SPEED AND PRICE ON SMALL BUSINESSES.

(a) IN GENERAL.—The Small Business Administration Office of Advocacy shall conduct a study evaluating the impact of broadband speed and price on small businesses.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Office shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Small Business and Entrepreneurship, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Committee on Small Business on the results of the study, including—

(1) a survey of broadband speeds available to small businesses;

(2) a survey of the cost of broadband speeds available to small businesses;

(3) a survey of the type of broadband technology used by small businesses; and

(4) any policy recommendations that may improve small businesses access to comparable broadband services at comparable rates in all regions of the Nation.

SEC. 6. ENCOURAGING STATE INITIATIVES TO IMPROVE BROADBAND.

(a) PURPOSES.—The purposes of any grant under subsection (b) are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

(2) to achieve improved technology literacy, increased computer ownership, and home broadband use among such citizens and businesses;

(3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and

(4) to establish and sustain an environment ripe for broadband services and information technology investment.

(b) ESTABLISHMENT OF STATE BROADBAND DATA AND DEVELOPMENT GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce shall award grants, taking into account the results of the peer review process under subsection (d), to eligible entities for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State.

(2) COMPETITIVE BASIS.—Any grant under subsection (b) shall be awarded on a competitive basis.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b), an eligible entity shall—

(1) submit an application to the Secretary of Commerce, at such time, in such manner, and containing such information as the Secretary may require; and

(2) contribute matching non-Federal funds in an amount equal to not less than 20 percent of the total amount of the grant.

(d) PEER REVIEW; NONDISCLOSURE.—

(1) IN GENERAL.—The Secretary shall by regulation require appropriate technical and scientific peer review of applications made for grants under this section.

(2) REVIEW PROCEDURES.—The regulations required under paragraph (1) shall require that any technical and scientific peer review group—

(A) be provided a written description of the grant to be reviewed;

(B) provide the results of any review by such group to the Secretary of Commerce; and

(C) certify that such group will enter into voluntary nondisclosure agreements as necessary to prevent the unauthorized disclosure of confidential and proprietary information provided by broadband service providers in connection with projects funded by any such grant.

(e) USE OF FUNDS.—A grant awarded to an eligible entity under subsection (b) shall be used—

(1) to provide a baseline assessment of broadband service deployment in each State;

(2) to identify and track—

(A) areas in each State that have low levels of broadband service deployment;

(B) the rate at which residential and business users adopt broadband service and other related information technology services; and

(C) possible suppliers of such services;

(3) to identify barriers to the adoption by individuals and businesses of broadband service and related information technology services, including whether or not—

(A) the demand for such services is absent; and

(B) the supply for such services is capable of meeting the demand for such services;

(4) to identify the speeds of broadband connections made available to individuals and businesses within the State, and, at a minimum, to rely on the data rate benchmarks for broadband and second generation broadband identified by the Federal Communications Commission to promote greater consistency of data among the States;

(5) to create and facilitate in each county or designated region in a State a local technology planning team—

(A) with members representing a cross section of the community, including representatives of business, telecommunications labor organizations, K–12 education, health care, libraries, higher education, community-based organizations, local government, tourism, parks and recreation, and agriculture; and

(B) which shall—

(i) benchmark technology use across relevant community sectors;

(ii) set goals for improved technology use within each sector; and

(iii) develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation;

(6) to work collaboratively with broadband service providers and information technology companies to encourage deployment and use, especially in unserved and underserved areas, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers to deploy;

(7) to establish programs to improve computer ownership and Internet access for unserved and underserved populations;

(8) to collect and analyze detailed market data concerning the use and demand for broadband service and related information technology services;

(9) to facilitate information exchange regarding the use and demand for broadband services between public and private sectors; and

(10) to create within each State a geographic inventory map of broadband service, and where feasible second generation broadband service, which shall—

(A) identify gaps in such service through a method of geographic information system mapping of service availability at the census block level; and

(B) provide a baseline assessment of statewide broadband deployment in terms of households with high-speed availability.

(f) PARTICIPATION LIMIT.—For each State, an eligible entity may not receive a new grant under this section to fund the activities described in subsection (d) within such State if such organization obtained prior grant awards under this section to fund the same activities in that State in each of the previous 4 consecutive years.

(g) REPORTING.—The Secretary of Commerce shall—

(1) require each recipient of a grant under subsection (b) to submit a report on the use of the funds provided by the grant; and

(2) create a web page on the Department of Commerce web site that aggregates relevant information made available to the public by grant recipients, including, where appropriate, hypertext links to any geographic inventory maps created by grant recipients under subsection (e)(10).

(h) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a non-profit organization that is selected by a State to work in partnership with State agencies and private sector partners in identifying and tracking the availability and adoption of broadband services within each State.

(2) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means an organization—

(A) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) that has an established competency and proven record of working with public and private sectors to accomplish widescale deployment and adoption of broadband services and information technology; and

(D) the board of directors of which is not composed of a majority of individuals who are also employed by, or otherwise associated with, any Federal, State, or local government or any Federal, State, or local agency.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2008 through 2012.

(j) NO REGULATORY AUTHORITY.—Nothing in this section shall be construed as giving any public or private entity established or affected by this Act any regulatory jurisdiction or oversight authority over providers of broadband services or information technology.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadband Data Improvement Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The deployment and adoption of broadband technology has resulted in enhanced economic development and public safety for communities across the Nation, improved health care and educational opportunities, and a better quality of life for all Americans.

(2) Continued progress in the deployment and adoption of broadband technology is vital to ensuring that our Nation remains competitive and continues to create business and job growth.

(3) Improving Federal data on the deployment and adoption of broadband service will assist in the development of broadband technology across all regions of the Nation.

(4) The Federal Government should also recognize and encourage complementary state efforts to improve the quality and usefulness of broadband data and should encourage and support the partnership of the public and private sectors in the continued growth of broadband services and information technology for the residents and businesses of the Nation.

SEC. 3. IMPROVING FEDERAL DATA ON BROADBAND.

(a) IMPROVING FCC BROADBAND DATA.—Within 120 days after the date of enactment of this Act, the Federal Communications Commission shall issue an order in WC docket No. 07–38 which shall, at a minimum—

(1) revise or update, if determined necessary, the existing definitions of advanced telecommunications capability, or broadband;

(2) identify tiers of broadband service, among those used by the Commission in collecting Form 477 data, in which a substantial majority of the connections in such tier provide consumers with an information transfer rate capable of reliably transmitting full-motion, high definition video; and

(3) revise its Form 477 reporting requirements as necessary to enable the Commission to identify actual numbers of broadband connections subscribed to by residential and business customers, separately, either within a relevant census tract from the most recent decennial census, a 9-digit postal zip code, or a 5-digit postal zip code, as the Commission deems appropriate.

(b) EXCEPTION.—The Commission shall exempt an entity from the reporting requirements of subsection (a)(3) if the Commission determines that a compliance by that entity with the requirements is cost prohibitive, as defined by the Commission.

(c) IMPROVING SECTION 706 INQUIRY.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 nt) is amended—

(1) by striking ''regularly'' in subsection (b) and inserting ''annually'';

(2) by redesignating subsection (c) as subsection (e);

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

''(c) MEASUREMENT OF EXTENT OF DEPLOYMENT.—In determining under subsection (b) whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion, the Commission shall consider data collected through Form 477 reporting requirements.

''(d) DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—As part of the inquiry required by subsection (b), the Commission shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 nt)) and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

''(1) the population;

''(2) the population density; and

''(3) the average per capita income.''; and

(4) by inserting ''an evolving level of'' after ''technology, as'' in paragraph (1) of subsection (e), as redesignated.

(d) IMPROVING CENSUS DATA ON BROADBAND.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

SEC. 4. STUDY ON ADDITIONAL BROADBAND METRICS AND STANDARDS.

(a) IN GENERAL.—The Comptroller General shall conduct a study to consider and evaluate additional broadband metrics or standards that may be used by industry and the Federal Government to provide users with more accurate information about the cost and capability of their broadband connection, and to better compare the deployment and penetration of broadband in the United States with other countries. At a minimum, such study shall consider potential standards or metrics that may be used—

(1) to calculate the average price per megabit per second of broadband offerings;

(2) to reflect the average actual speed of broadband offerings compared to advertised potential speeds and to consider factors affecting speed that may be outside the control of a broadband provider;

(3) to compare, using comparable metrics and standards, the availability and quality of broadband offerings in the United States with the availability and quality of broadband offerings in other industrialized nations, including countries that are members of the Organization for Economic Cooperation and Development; and

(4) to distinguish between complementary and substitutable broadband offerings in evaluating deployment and penetration.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the results of the study, with recommendations for how industry and the Federal Communications Commission can use such metrics and comparisons to improve the quality of broadband data and to better evaluate the deployment and penetration of comparable broadband service at comparable rates across all regions of the Nation.

SEC. 5. STUDY ON THE IMPACT OF BROADBAND SPEED AND PRICE ON SMALL BUSINESSES.

(a) IN GENERAL.—The Small Business Administration Office of Advocacy shall conduct a study evaluating the impact of broadband speed and price on small businesses.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Office shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Small Business and Entrepreneurship, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Committee on Small Business on the results of the study, including—

(1) a survey of broadband speeds available to small businesses;

(2) a survey of the cost of broadband speeds available to small businesses;

(3) a survey of the type of broadband technology used by small businesses; and

(4) any policy recommendations that may improve small businesses access to comparable broadband services at comparable rates in all regions of the Nation.

SEC. 6. ENCOURAGING STATE INITIATIVES TO IMPROVE BROADBAND.

(a) PURPOSES.—The purposes of any grant under subsection (b) are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

(2) to achieve improved technology literacy, increased computer ownership, and home broadband use among such citizens and businesses;

(3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and

(4) to establish and sustain an environment ripe for broadband services and information technology investment.

(b) ESTABLISHMENT OF STATE BROADBAND DATA AND DEVELOPMENT GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce shall award grants, taking into account the results of the peer review process under subsection (d), to eligible entities for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State.

(2) COMPETITIVE BASIS.—Any grant under subsection (b) shall be awarded on a competitive basis.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b), an eligible entity shall—

(1) submit an application to the Secretary of Commerce, at such time, in such manner, and containing such information as the Secretary may require;

(2) contribute matching non-Federal funds in an amount equal to not less than 20 percent of the total amount of the grant; and

(3) agree to comply with confidentiality requirements in subsection (h)(2) of this section.

(d) PEER REVIEW; NONDISCLOSURE.—

(1) IN GENERAL.—The Secretary shall by regulation require appropriate technical and scientific peer review of applications made for grants under this section.

(2) REVIEW PROCEDURES.—The regulations required under paragraph (1) shall require that any technical and scientific peer review group—

(A) be provided a written description of the grant to be reviewed; and

(B) provide the results of any review by such group to the Secretary of Commerce.

(C) certify that such group will enter into voluntary nondisclosure agreements as necessary to prevent the unauthorized disclosure of confidential and proprietary information provided by broadband service providers in connection with projects funded by any such grant.

(e) USE OF FUNDS.—A grant awarded to an eligible entity under subsection (b) shall be used—

(1) to provide a baseline assessment of broadband service deployment in each State;

(2) to identify and track—

(A) areas in each State that have low levels of broadband service deployment;

(B) the rate at which residential and business users adopt broadband service and other related information technology services; and

(C) possible suppliers of such services;

(3) to identify barriers to the adoption by individuals and businesses of broadband service and related information technology services, including whether or not—

(A) the demand for such services is absent; and

(B) the supply for such services is capable of meeting the demand for such services;

(4) to identify the speeds of broadband connections made available to individuals and businesses within the State, and, at a minimum, to rely on the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, including information transfer rates identified under section 3(a)(2) of this Act, to promote greater consistency of data among the States;

(5) to create and facilitate in each county or designated region in a State a local technology planning team—

(A) with members representing a cross section of the community, including representatives of business, telecommunications labor organizations, K–12 education, health care, libraries, higher education, community-based organizations, local government, tourism, parks and recreation, and agriculture; and

(B) which shall—

(i) benchmark technology use across relevant community sectors;

(ii) set goals for improved technology use within each sector; and

(iii) develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation;

(6) to work collaboratively with broadband service providers and information technology companies to encourage deployment and use, especially in unserved areas and areas in which broadband penetration is significantly below the national average, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers to deploy;

(7) to establish programs to improve computer ownership and Internet access for unserved areas and areas in which broadband penetration is significantly below the national average;

(8) to collect and analyze detailed market data concerning the use and demand for broadband service and related information technology services;

(9) to facilitate information exchange regarding the use and demand for broadband services between public and private sectors; and

(10) to create within each State a geographic inventory map of broadband service, including the availability of broadband service connections meeting information transfer rates identified by the Commission under section 3(a)(2) of this Act, which shall—

(A) identify gaps in such service through a method of geographic information system mapping of service availability at the census block

level among residential or business customers; and

(B) provide a baseline assessment of statewide broadband deployment in terms of households with high-speed availability.

(f) PARTICIPATION LIMIT.—For each State, an eligible entity may not receive a new grant under this section to fund the activities described in subsection (d) within such State if such organization obtained prior grant awards under this section to fund the same activities in that State in each of the previous 4 consecutive years.

(g) REPORTING.—The Secretary of Commerce shall—

(1) require each recipient of a grant under subsection (b) to submit a report on the use of the funds provided by the grant; and

(2) create a web page on the Department of Commerce web site that aggregates relevant information made available to the public by grant recipients, including, where appropriate, hypertext links to any geographic inventory maps created by grant recipients under subsection (e)(10).

(h) ACCESS TO AGGREGATE DATA.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall provide eligible entities access, in electronic form, to aggregate data collected by the Commission based on the Form 477 submissions of broadband service providers.

(2) LIMITATION.—Notwithstanding any provision of Federal or State law to the contrary, an eligible entity shall treat any matter that is a trade secret, commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except as otherwise mutually agreed to by the broadband service provider and the eligible entity. This paragraph applies only to information submitted by the Commission or a broadband provider to carry out the provisions of this Act and shall not otherwise limit or affect the rules governing public disclosure of information collected by any Federal or State entity under any other Federal or State law or regulation.

(i) DEFINITIONS.—In this section:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means a non-profit organization that is selected by a State to work in partnership with State agencies and private sector partners in identifying and tracking the availability and adoption of broadband services within each State.

(3) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means an organization—

(A) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) that has an established competency and proven record of working with public and private sectors to accomplish widescale deployment and adoption of broadband services and information technology;

(D) that has a board of directors a majority of which is not composed of individuals who are also employed by, or otherwise associated with, any Federal, State, or local government or any Federal, State, or local agency; and

(E) that has a board of directors which does not include any member that is employed either by a broadband service provider or by any other company in which a broadband service provider owns a controlling or attributable interest.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2008 through 2012.

(k) NO REGULATORY AUTHORITY.—Nothing in this section shall be construed as giving any public or private entity established or affected by this Act any regulatory jurisdiction or oversight authority over providers of broadband services or information technology.

Mr. WHITEHOUSE. I ask unanimous consent that an Inouye amendment which is at the desk be considered; that an Inouye second-degree amendment be considered and agreed to; the Inouye amendment, as amended, be agreed to; the committee substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 5664) is printed in today's RECORD under ''Text of Amendments.''

The amendment (No. 5665 to amendment No. 5664) was agreed to, as follows:

(Purpose: To make technical and minor changes to the substitute amendment)

On page 19, line 19, strike ''102'' and insert ''212''.

On page 20, beginning on line 16, strike ''amendments made by this Act with respect to the content of such reports and''.

On page 23, line 7, beginning with ''amended—'' strike through line 18 and insert ''amended by striking 'or 1464' in subparagraph (D) and inserting '1464, or 2252' ''.

The amendment (No. 5664), as amended, was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1492), as amended, was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1492

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

TITLE I—BROADBAND DATA IMPROVEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Broadband Data Improvement Act''.

SEC. 102 FINDINGS.

The Congress finds the following:

(1) The deployment and adoption of broadband technology has resulted in enhanced economic development and public safety for communities across the Nation, improved health care and educational opportunities, and a better quality of life for all Americans.

(2) Continued progress in the deployment and adoption of broadband technology is vital to ensuring that our Nation remains competitive and continues to create business and job growth.

(3) Improving Federal data on the deployment and adoption of broadband service will assist in the development of broadband technology across all regions of the Nation.

(4) The Federal Government should also recognize and encourage complementary State efforts to improve the quality and usefulness of broadband data and should encourage and support the partnership of the public and private sectors in the continued growth of broadband services and information technology for the residents and businesses of the Nation.

SEC. 103 IMPROVING FEDERAL DATA ON BROADBAND.

(a) IMPROVING SECTION 706 INQUIRY.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note) is amended—

(1) by striking ''regularly'' in subsection (b) and inserting ''annually'';

(2) by redesignating subsection (c) as subsection (d); and

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

''(c) DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—As part of the inquiry required by subsection (b), the Commission shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 note)) and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

''(1) the population;

''(2) the population density; and

''(3) the average per capita income.''.

(b) INTERNATIONAL COMPARISON.—

(1) IN GENERAL.—As part of the assessment and report required by section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 note), the Federal Communications Commission shall include information comparing the extent of broadband service capability (including data transmission speeds and price for broadband service capability) in a total of 75 communities in at least 25 countries abroad for each of the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers.

(2) CONTENTS.—The Commission shall choose communities for the comparison under this subsection in a manner that will offer, to the extent possible, communities of a population size, population density, topography, and demographic profile that are comparable to the population size, population density, topography, and demographic profile of various communities within the United States. The Commission shall include in the comparison under this subsection—

(A) a geographically diverse selection of countries; and

(B) communities including the capital cities of such countries.

(3) SIMILARITIES AND DIFFERENCES.—The Commission shall identify relevant similarities and differences in each community, including their market structures, the number of competitors, the number of facilities-based providers, the types of technologies deployed by such providers, the applications and services those technologies enable, the regulatory model under which broadband service capability is provided, the types of applications and services used, business and residential use of such services, and other media available to consumers.

(c) CONSUMER SURVEY OF BROADBAND SERVICE CAPABILITY.—

(1) IN GENERAL.—For the purpose of evaluating, on a statistically significant basis, the national characteristics of the use of broadband service capability, the Commission shall conduct and make public periodic surveys of consumers in urban, suburban, and rural areas in the large business, small business, and residential consumer markets to determine—

(A) the types of technology used to provide the broadband service capability to which consumers subscribe;

(B) the amounts consumers pay per month for such capability;

(C) the actual data transmission speeds of such capability;

(D) the types of applications and services consumers most frequently use in conjunction with such capability;

(E) for consumers who have declined to subscribe to broadband service capability, the reasons given by such consumers for declining such capability;

(F) other sources of broadband service capability which consumers regularly use or on which they rely; and

(G) any other information the Commission deems appropriate for such purpose.

(2) PUBLIC AVAILABILITY.—The Commission shall make publicly available the results of surveys conducted under this subsection at least once per year.

(d) IMPROVING CENSUS DATA ON BROADBAND.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

(e) PROPRIETARY INFORMATION.—Nothing in this title shall reduce or remove any obligation the Commission has to protect proprietary information, nor shall this title be construed to compel the Commission to make publicly available any proprietary information.

SEC. 104. STUDY ON ADDITIONAL BROADBAND METRICS AND STANDARDS.

(a) IN GENERAL.—The Comptroller General shall conduct a study to consider and evaluate additional broadband metrics or standards that may be used by industry and the Federal Government to provide users with more accurate information about the cost and capability of their broadband connection, and to better compare the deployment and penetration of broadband in the United States with other countries. At a minimum, such study shall consider potential standards or metrics that may be used—

(1) to calculate the average price per megabit per second of broadband offerings;

(2) to reflect the average actual speed of broadband offerings compared to advertised potential speeds and to consider factors affecting speed that may be outside the control of a broadband provider;

(3) to compare, using comparable metrics and standards, the availability and quality of broadband offerings in the United States with the availability and quality of broadband offerings in other industrialized nations, including countries that are members of the Organization for Economic Cooperation and Development; and

(4) to distinguish between complementary and substitutable broadband offerings in evaluating deployment and penetration.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the results of the study, with recommendations for how industry and the Federal Communications Commission can use such metrics and comparisons to improve the quality of broadband data and to better evaluate the deployment and penetration of comparable broadband service at comparable rates across all regions of the Nation.

SEC. 105. STUDY ON THE IMPACT OF BROADBAND SPEED AND PRICE ON SMALL BUSINESSES.

(a) IN GENERAL.—Subject to appropriations, the Small Business Administration Office of Advocacy shall conduct a study evaluating the impact of broadband speed and price on small businesses.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Office shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Small Business and Entrepreneurship, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Committee on Small Business on the results of the study, including—

(1) a survey of broadband speeds available to small businesses;

(2) a survey of the cost of broadband speeds available to small businesses;

(3) a survey of the type of broadband technology used by small businesses; and

(4) any policy recommendations that may improve small businesses access to comparable broadband services at comparable rates in all regions of the Nation.

SEC. 106. ENCOURAGING STATE INITIATIVES TO IMPROVE BROADBAND.

(a) PURPOSES.—The purposes of any grant under subsection (b) are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

(2) to achieve improved technology literacy, increased computer ownership, and broadband use among such citizens and businesses;

(3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and

(4) to establish and sustain an environment ripe for broadband services and information technology investment.

(b) ESTABLISHMENT OF STATE BROADBAND DATA AND DEVELOPMENT GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce shall award grants, taking into account the results of the peer review process under subsection (d), to eligible entities for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State.

(2) COMPETITIVE BASIS.—Any grant under subsection (b) shall be awarded on a competitive basis.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b), an eligible entity shall—

(1) submit an application to the Secretary of Commerce, at such time, in such manner, and containing such information as the Secretary may require;

(2) contribute matching non-Federal funds in an amount equal to not less than 20 percent of the total amount of the grant; and

(3) agree to comply with confidentiality requirements in subsection (h)(2) of this section.

(d) PEER REVIEW; NONDISCLOSURE.—

(1) IN GENERAL.—The Secretary shall by regulation require appropriate technical and scientific peer review of applications made for grants under this section.

(2) REVIEW PROCEDURES.—The regulations required under paragraph (1) shall require that any technical and scientific peer review group—

(A) be provided a written description of the grant to be reviewed;

(B) provide the results of any review by such group to the Secretary of Commerce; and

(C) certify that such group will enter into voluntary nondisclosure agreements as necessary to prevent the unauthorized disclosure of confidential and proprietary information provided by broadband service providers in connection with projects funded by any such grant.

(e) USE OF FUNDS.—A grant awarded to an eligible entity under subsection (b) shall be used—

(1) to provide a baseline assessment of broadband service deployment in each State;

(2) to identify and track—

(A) areas in each State that have low levels of broadband service deployment;

(B) the rate at which residential and business users adopt broadband service and other related information technology services; and

(C) possible suppliers of such services;

(3) to identify barriers to the adoption by individuals and businesses of broadband service and related information technology services, including whether or not—

(A) the demand for such services is absent; and

(B) the supply for such services is capable of meeting the demand for such services;

(4) to identify the speeds of broadband connections made available to individuals and businesses within the State, and, at a minimum, to rely on the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, to promote greater consistency of data among the States;

(5) to create and facilitate in each county or designated region in a State a local technology planning team—

(A) with members representing a cross section of the community, including representatives of business, telecommunications labor organizations, K–12 education, health care, libraries, higher education, community-based organizations, local government, tourism, parks and recreation, and agriculture; and

(B) which shall—

(i) benchmark technology use across relevant community sectors;

(ii) set goals for improved technology use within each sector; and

(iii) develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation;

(6) to work collaboratively with broadband service providers and information technology companies to encourage deployment and use, especially in unserved areas and areas in which broadband penetration is significantly below the national average, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers to deploy;

(7) to establish programs to improve computer ownership and Internet access for unserved areas and areas in which broadband penetration is significantly below the national average;

(8) to collect and analyze detailed market data concerning the use and demand for broadband service and related information technology services;

(9) to facilitate information exchange regarding the use and demand for broadband services between public and private sectors; and

(10) to create within each State a geographic inventory map of broadband service, including the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, which shall—

(A) identify gaps in such service through a method of geographic information system mapping of service availability based on the geographic boundaries of where service is available or unavailable among residential or business customers; and

(B) provide a baseline assessment of statewide broadband deployment in terms of households with high-speed availability.

(f) PARTICIPATION LIMIT.—For each State, an eligible entity may not receive a new grant under this section to fund the activities described in subsection (d) within such State if such organization obtained prior

grant awards under this section to fund the same activities in that State in each of the previous 4 consecutive years.

(g) REPORTING; BROADBAND INVENTORY MAP.—The Secretary of Commerce shall—

(1) require each recipient of a grant under subsection (b) to submit a report on the use of the funds provided by the grant; and

(2) create a web page on the Department of Commerce website that aggregates relevant information made available to the public by grant recipients, including, where appropriate, hypertext links to any geographic inventory maps created by grant recipients under subsection (e)(10).

(h) ACCESS TO AGGREGATE DATA.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall provide eligible entities access, in electronic form, to aggregate data collected by the Commission based on the Form 477 submissions of broadband service providers.

(2) LIMITATION.—Notwithstanding any provision of Federal or State law to the contrary, an eligible entity shall treat any matter that is a trade secret, commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except as otherwise mutually agreed to by the broadband service provider and the eligible entity. This paragraph applies only to information submitted by the Commission or a broadband provider to carry out the provisions of this title and shall not otherwise limit or affect the rules governing public disclosure of information collected by any Federal or State entity under any other Federal or State law or regulation.

(i) DEFINITIONS.—In this section:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) an entity that is either—

(i) an agency or instrumentality of a State, or a municipality or other subdivision (or agency or instrumentality of a municipality or other subdivision) of a State;

(ii) a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code; or

(iii) an independent agency or commission in which an office of a State is a member on behalf of the State; and

(B) is the single eligible entity in the State that has been designated by the State to receive a grant under this section.

(j) NO REGULATORY AUTHORITY.—Nothing in this section shall be construed as giving any public or private entity established or affected by this title any regulatory jurisdiction or oversight authority over providers of broadband services or information technology.

TITLE II—PROTECTING CHILDREN

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Protecting Children in the 21st Century Act''.

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

SUBTITLE A—PROMOTING A SAFE INTERNET FOR CHILDREN

SEC. 211. INTERNET SAFETY.

For the purposes of this title, the issue of Internet safety includes issues regarding the use of the Internet in a manner that promotes safe online activity for children, protects children from cybercrimes, including crimes by online predators, and helps parents shield their children from material that is inappropriate for minors.

SEC. 212. PUBLIC AWARENESS CAMPAIGN.

The Federal Trade Commission shall carry out a nationwide program to increase public awareness and provide education regarding strategies to promote the safe use of the Internet by children. The program shall utilize existing resources and efforts of the Federal Government, State and local governments, nonprofit organizations, private technology and financial companies, Internet service providers, World Wide Web-based resources, and other appropriate entities, that includes—

(1) identifying, promoting, and encouraging best practices for Internet safety;

(2) establishing and carrying out a national outreach and education campaign regarding Internet safety utilizing various media and Internet-based resources;

(3) facilitating access to, and the exchange of, information regarding Internet safety to promote up-to-date knowledge regarding current issues; and

(4) facilitating access to Internet safety education and public awareness efforts the Commission considers appropriate by States, units of local government, schools, police departments, nonprofit organizations, and other appropriate entities.

SEC. 213. ANNUAL REPORTS.

The Commission shall submit a report to the Senate Committee on Commerce, Science, and Transportation not later than March 31 of each year that describes the activities carried out under section 103 by the Commission during the preceding calendar year.

SEC. 214. ONLINE SAFETY AND TECHNOLOGY WORKING GROUP.

(a) ESTABLISHMENT.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall establish an Online Safety and Technology working group comprised of representatives of relevant sectors of the business community, public interest groups, and other appropriate groups and Federal agencies to review and evaluate—

(1) the status of industry efforts to promote online safety through educational efforts, parental control technology, blocking and filtering software, age-appropriate labels for content or other technologies or initiatives designed to promote a safe online environment for children;

(2) the status of industry efforts to promote online safety among providers of electronic communications services and remote computing services by reporting apparent child pornography under section 13032 of title 42, United States Code, including any obstacles to such reporting;

(3) the practices of electronic communications service providers and remote computing service providers related to record retention in connection with crimes against children; and

(4) the development of technologies to help parents shield their children from inappropriate material on the Internet.

(b) REPORT.—Within 1 year after the working group is first convened, it shall submit a report to the Assistant Secretary and the Senate Committee on Commerce, Science, and Transportation that—

(1) describes in detail its findings, including any information related to the effectiveness of such strategies and technologies and any information about the prevalence within industry of educational campaigns, parental control technologies, blocking and filtering software, labeling, or other technologies to assist parents; and

(2) includes recommendations as to what types of incentives could be used or developed to increase the effectiveness and implementation of such strategies and technologies.

(c) FACA NOT TO APPLY TO WORKING GROUP.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group.

SEC. 215. PROMOTING ONLINE SAFETY IN SCHOOLS.

Section 254(h)(5)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(5)(b)) is amended—

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

(2) by striking ''minors.'' in clause (ii) and inserting ''minors; and''; and

(3) by adding at the end the following:

''(iii) as part of its Internet safety policy is educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.''.

SEC. 216. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor successor protocols to such protocol, to communicate information of all kinds by wire or radio.

TITLE II—ENHANCING CHILD PORNOGRAPHY ENFORCEMENT

SEC. 221. CHILD PORNOGRAPHY PREVENTION; FORFEITURES RELATED TO CHILD PORNOGRAPHY VIOLATIONS.

(a) IN GENERAL.—Section 503(b)(1) of the Communications Act of 1934 (47 U.S.C. 503(b)(1)) is amended by striking ''or 1464'' in subparagraph (D) and inserting ''1464, or 2252''.

INDIAN LEASE ACT

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1041, S. 3192.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3192) to amend the Act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Tribe of Indians, the Coquille Indian Tribe, and the Confederated Tribes of the Siletz Indians of Oregon to obtain 99-year lease authority for trust land.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. LEASES OF RESTRICTED LAND.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence—

(1) by inserting ''; land held in trust for the Cow Creek Band of Umpqua Indians of Oregon, land held in trust for the Coquille Tribe of Oregon, and land held in trust for the Confederated Tribes of the Siletz Reservation, Oregon'' after ''Devils Lake Sioux Reservation''; and

(2) by inserting ''and except leases of land held in trust for the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California, which may be for a term not to exceed 50 years,'' before ''and except''.

Amend the title so as to read: ''A bill to amend the Act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Indians of Oregon, the Coquille Tribe of Oregon, and the Confederated Tribes of the Siletz Reservation, Oregon, to obtain 99-year lease authority for trust land, and to authorize the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California, to obtain 50-year lease authority for trust land.''.

Mr. WHITEHOUSE. I ask unanimous consent that the committee-reported substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the title amendment be agreed to; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to this measure be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 3192), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

''A bill to amend the Act of August 9, 1955, to authorize the Cow Creek Band of Umpqua Indians of Oregon, the Coquille Tribe of Oregon, and the Confederated Tribes of the Siletz Reservation, Oregon, to obtain 99-year lease authority for trust land, and to authorize the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California, to obtain 50-year lease authority for trust, land.''.

PRESIDENTIAL HISTORICAL RECORDS PRESERVATION ACT OF 2008

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1088, S. 3477.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3477) to amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence.

There being no objection, the Senate proceed to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs with amendments, as follows:

[Omit the part within boldface brackets and insert the part printed in italic]

S. 3477

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 ''Presidential Historical Records Preservation Act of 2008''.

SEC. 2. GRANT PROGRAM.

Section 2504 of title 44, United States Code, is amended by—

(1) redesignating subsection (f) as subsection (g); *and*

[(2) amending subsection (g)(1) (as so redesignated by paragraph (1))—

[(A) in subparagraph (R), by striking ''and'';

[(B) in subparagraph (S), by striking the period and inserting ''; and''; and

[(C) by adding at the end the following:

[''(T) $15,000,000 for fiscal year 2010.''; and

[(3) inserting after subsection (e), the following:**]**

(2) inserting after subsection (e) the following:

''(f) GRANTS FOR PRESIDENTIAL CENTERS OF HISTORICAL EXCELLENCE.—

''(1) IN GENERAL.—The Archivist, with the recommendation of the Commission, **[***shall***]** *may* make grants, on a competitive basis and in accordance with this subsection, to eligible entities to promote the historical preservation of, and public access to, historical records and documents relating to any *former* President who does not have a Presidential archival depository currently managed and maintained by the Federal Government pursuant to section 2112 (commonly known as the 'Presidential Libraries Act of 1955').

''(2) ELIGIBLE ENTITY.—For purposes of this subsection, an eligible entity is—

''(A) an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code; or

''(B) a State or local government of the United States.

''(3) USE OF FUNDS.—Amounts received by an eligible entity under paragraph (1) shall be used to promote the historical preservation of, and public access to, historical records or historical documents relating to any *former* President covered under paragraph (1).

''(4) PROHIBITION ON USE OF FUNDS.—Amounts received by an eligible entity under paragraph (1) may not be used for the maintenance, operating costs, or construction of any facility to house the historical records or historical documents relating to any *former* President covered under paragraph (1).

''(5) APPLICATION.—

''(A) IN GENERAL.—An eligible entity seeking a grant under this subsection shall submit to the Commission an application at such time, in such manner, and containing or accompanied by such information as the Commission may require, including a description of the activities for which a grant under this subsection is sought.

''(B) APPROVAL OF APPLICATION.—The Commission shall not consider or recommend a grant application submitted under subparagraph (A) unless an eligible entity establishes that such entity—

''(i) possesses, with respect to any *former* President covered under paragraph (1), historical works and collections of historical sources that the Commission considers appropriate for preserving, publishing, or otherwise recording at the public expense;

''(ii) has appropriate facilities and space for preservation of, and public access to, the historical works and collections of historical sources;

''(iii) shall ensure preservation of, and public access to, such historical works and collections of historical sources at no charge to the public;

''(iv) has educational programs that make the use of such documents part of the mission of such entity;

''(v) has raised funds from non-Federal sources in support of the efforts of the entity to promote the historical preservation of, and public access to, such historical works and collections of historical sources in an amount equal to the amount of the grant the entity seeks under this subsection;

''(vi) shall coordinate with any relevant Federal program or activity, including programs and activities relating to Presidential archival depositories;

''(vii) shall coordinate with any relevant non-Federal program or activity, including programs and activities conducted by State and local governments and private educational historical entities; and

''(viii) has a workable plan for preserving and providing public access to such historical works and collections of historical sources.''.

SEC. 3. TERM LIMITS FOR COMMISSION MEMBERS; RECUSAL.

(a) TERM LIMITS.—

(1) IN GENERAL.—Section 2501(b)(1) of title 44, United States Code, is amended—

(A) by inserting ''not more than 2'' after ''subsection (a) shall be appointed for''; and

(B) in subparagraph (A), by striking ''a term'' and inserting ''not more than 4 terms''.

(2) EFFECTIVE DATE.—The restrictions on the terms of members of the National Historical Publications and Records Commission provided in the amendments made by paragraph (1) shall apply to members serving on or after the date of enactment of this Act.

(b) RECUSAL.—

(1) IN GENERAL.—Section 2501 of title 44, United States Code, is amended by adding at the end the following:

''(d) RECUSAL.—Members of the Commission shall recuse themselves from voting on any matter that poses, or could potentially pose, a conflict of interest, including a matter that could benefit them or an entity they represent.''.

(2) EFFECTIVE DATE.—The requirement of recusal provided in the amendment made by paragraph (1) shall apply to members of the National Historical Publications and Records Commission serving on or after the date of enactment of this Act.

SEC. 4. ONLINE ACCESS OF FOUNDING FATHERS DOCUMENTS; TRANSFER OF FUNDS.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after section 2119 the following:

''§2120. Online access of founding fathers documents

''The Archivist may enter into a cooperative agreement to provide online access to the published volumes of the papers of—

''(1) George Washington;

''(2) Alexander Hamilton;

''(3) Thomas Jefferson;

''(4) Benjamin Franklin;

''(5) John Adams;

''(6) James Madison; and

''(7) other prominent historical figures, as determined appropriate by the Archivist of the United States.''.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Archivist of the United States, in the role as chairman of the National Historical Publications and Records Commission may enter into cooperative agreements pursuant to section 6305 of title 31, United States Code, that involve the transfer of funds from the National Historical Publications and Records Commission to State and local governments, tribal governments, other public entities, educational institutions, or private nonprofit organizations for the public purpose of carrying out section 2120 of title 44, United States Codes.

(2) REPORT.—Not later than December 31st of each year, the Archivist of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the provisions, amount, and duration

of each cooperative agreement entered into as authorized by paragraph (1) during the preceding fiscal year.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 21 of title 44, United States Code, is amended by adding after the item relating to section 2119 the following:

''2120. Online access of founding fathers documents.''.

SEC. 5. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Archivist of the United States may establish an advisory committee to—

(1) review the progress of the Founding Fathers editorial projects funded by the National Historical Publications and Records Commission;

(2) develop, in consultation with the various Founding Fathers editorial projects, appropriate completion goals for the projects described in paragraph (1);

(3) annually review such goals and report to the Archivist on the progress of the various projects in meeting the goals; and

(4) recommend to the Archivist measures that would aid or encourage the projects in meeting such goals.

(b) REPORTS TO THE ADVISORY COMMITTEE.—Each of the projects described in subsection (a)(1) shall provide annually to the advisory committee established under subsection (a) a report on the progress of the project toward accomplishing the completion goals and any assistance needed to achieve such goals, including the following:

(1) The proportion of total project funding for the funding year in which the report is submitted from—

(A) Federal, State, and local government sources;

(B) the host institution for the project;

(C) private or public foundations; and

(D) individuals.

(2) Information on all activities carried out using nongovernmental funding.

(3) Any and all information related to performance goals for the funding year in which the report is submitted.

(c) COMPOSITION; MEETINGS; REPORT; SUNSET; ACTION.—The advisory committee established under subsection (a) shall—

(1) be comprised of 3 nationally recognized historians appointed for not more than 2 consecutive 4-year terms;

(2) meet not less frequently than once a year;

(3) provide a report on the information obtained under subsection (b) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives not later than 1 year after the date of enactment of this Act and annually thereafter;

(4) terminate on the date that is 8 years after the date of enactment of this Act; and

(5) recommend legislative or executive action that would facilitate completion of the performance goals for the Founding Fathers editorial projects.

SEC. 6. CAPITAL IMPROVEMENT PLAN FOR PRESIDENTIAL ARCHIVAL DEPOSITORIES; REPORT.

(a) IN GENERAL.—

(1) PROVISION OF PLAN.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a 10-year capital improvement plan, in accordance with paragraph (2), for all Presidential archival depositories (as defined in section 2101 of title 44, United States Code), which shall include—

(A) a prioritization of all capital projects at Presidential archival depositories that cost more than $1,000,000;

(B) the current estimate of the cost of each capital project; and

(C) the basis upon which each cost estimate was developed.

(2) PROVIDED TO CONGRESS.—The capital improvement plan shall be provided to the committees, as described in paragraph (1), at the same time as the first Budget of the United States Government after the date of enactment of this Act is submitted to Congress.

(3) ANNUAL UPDATES AND EXPLANATION OF CHANGES IN COST ESTIMATES.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives—

(A) annual updates to the capital improvement plan described in paragraph (1) at the same time as each subsequent Budget of the United States Government is submitted to Congress; and

(B) an explanation for any changes in cost estimates.

(b) AMENDMENT TO MINIMUM AMOUNT OF ENDOWMENT.—Section 2112(g)(5)(B) of title 44, United States Code, is amended by striking ''40'' and inserting ''60''.

(c) REPORT.—Not later than 270 days after the date of enactment of this Act, the Archivist of the United States shall provide a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives, that provides 1 or more alternative models for presidential archival depositories that—

(1) reduce the financial burden on the Federal Government;

(2) improve the preservation of presidential records; and

(3) reduce the delay in public access to all presidential records.

Mr. WHITEHOUSE. I ask unanimous consent that the committee amendments be agreed to; the Lieberman amendment which is at the desk be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

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

The committee amendments were agreed to.

The amendment (No. 5666) was agreed to, as follows:

(Purpose: To authorize the establishment of databases)

At the end, add the following:

SEC. 7. ESTABLISHMENT OF NATIONAL DATABASE FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.

(a) IN GENERAL.—The Archivist of the United States may preserve relevant records and establish, as part of the National Archives and Records Administration, an electronically searchable national database consisting of historic records of servitude, emancipation, and post-Civil War reconstruction, including the Refugees, Freedman, and Abandoned Land Records, Southern Claims Commission Records, Records of the Freedmen's Bank, Slave Impressments Records, Slave Payroll Records, Slave Manifest, and others, contained within the agencies and departments of the Federal Government to assist African Americans and others in conducting genealogical and historical research.

(b) MAINTENANCE.—Any database established under this section shall be maintained by the National Archives and Records Administration or an entity within the National Archives and Records Administration designated by the Archivist of the United States.

SEC. 8. GRANTS FOR ESTABLISHMENT OF STATE AND LOCAL DATABASES FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.

(a) IN GENERAL.—The Executive Director of the National Historical Publications and Records Commission of the National Archives and Records Administration may make grants to States, colleges and universities, museums, libraries, and genealogical associations to preserve records and establish electronically searchable databases consisting of local records of servitude, emancipation, and post-Civil War reconstruction.

(b) MAINTENANCE.—Any database established using a grant under this section shall be maintained by appropriate agencies or institutions designated by the Executive Director of the National Historical Publications and Records Commission.

The bill (S. 3477), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3477

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 ''Presidential Historical Records Preservation Act of 2008''.

SEC. 2. GRANT PROGRAM.

Section 2504 of title 44, United States Code, is amended by—

(1) redesignating subsection (f) as subsection (g); and

(2) inserting after subsection (e) the following:

''(f) GRANTS FOR PRESIDENTIAL CENTERS OF HISTORICAL EXCELLENCE.—

''(1) IN GENERAL.—The Archivist, with the recommendation of the Commission, may make grants, on a competitive basis and in accordance with this subsection, to eligible entities to promote the historical preservation of, and public access to, historical records and documents relating to any former President who does not have a Presidential archival depository currently managed and maintained by the Federal Government pursuant to section 2112 (commonly known as the 'Presidential Libraries Act of 1955').

''(2) ELIGIBLE ENTITY.—For purposes of this subsection, an eligible entity is—

''(A) an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code; or

''(B) a State or local government of the United States.

''(3) USE OF FUNDS.—Amounts received by an eligible entity under paragraph (1) shall be used to promote the historical preservation of, and public access to, historical records or historical documents relating to any former President covered under paragraph (1).

''(4) PROHIBITION ON USE OF FUNDS.—Amounts received by an eligible entity under paragraph (1) may not be used for the maintenance, operating costs, or construction of any facility to house the historical records or historical documents relating to any former President covered under paragraph (1).

''(5) APPLICATION.—

''(A) IN GENERAL.—An eligible entity seeking a grant under this subsection shall submit to the Commission an application at such time, in such manner, and containing or accompanied by such information as the

Commission may require, including a description of the activities for which a grant under this subsection is sought.

''(B) APPROVAL OF APPLICATION.—The Commission shall not consider or recommend a grant application submitted under subparagraph (A) unless an eligible entity establishes that such entity—

''(i) possesses, with respect to any former President covered under paragraph (1), historical works and collections of historical sources that the Commission considers appropriate for preserving, publishing, or otherwise recording at the public expense;

''(ii) has appropriate facilities and space for preservation of, and public access to, the historical works and collections of historical sources;

''(iii) shall ensure preservation of, and public access to, such historical works and collections of historical sources at no charge to the public;

''(iv) has educational programs that make the use of such documents part of the mission of such entity;

''(v) has raised funds from non-Federal sources in support of the efforts of the entity to promote the historical preservation of, and public access to, such historical works and collections of historical sources in an amount equal to the amount of the grant the entity seeks under this subsection;

''(vi) shall coordinate with any relevant Federal program or activity, including programs and activities relating to Presidential archival depositories;

''(vii) shall coordinate with any relevant non-Federal program or activity, including programs and activities conducted by State and local governments and private educational historical entities; and

''(viii) has a workable plan for preserving and providing public access to such historical works and collections of historical sources.''.

SEC. 3. TERM LIMITS FOR COMMISSION MEMBERS; RECUSAL.

(a) TERM LIMITS.—

(1) IN GENERAL.—Section 2501(b)(1) of title 44, United States Code, is amended—

(A) by inserting ''not more than 2'' after ''subsection (a) shall be appointed for''; and

(B) in subparagraph (A), by striking ''a term'' and inserting ''not more than 4 terms''.

(2) EFFECTIVE DATE.—The restrictions on the terms of members of the National Historical Publications and Records Commission provided in the amendments made by paragraph (1) shall apply to members serving on or after the date of enactment of this Act.

(b) RECUSAL.—

(1) IN GENERAL.—Section 2501 of title 44, United States Code, is amended by adding at the end the following:

''(d) RECUSAL.—Members of the Commission shall recuse themselves from voting on any matter that poses, or could potentially pose, a conflict of interest, including a matter that could benefit them or an entity they represent.''.

(2) EFFECTIVE DATE.—The requirement of recusal provided in the amendment made by paragraph (1) shall apply to members of the National Historical Publications and Records Commission serving on or after the date of enactment of this Act.

SEC. 4. ONLINE ACCESS OF FOUNDING FATHERS DOCUMENTS; TRANSFER OF FUNDS.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after section 2119 the following:

''§ 2120. Online access of founding fathers documents

''The Archivist may enter into a cooperative agreement to provide online access to the published volumes of the papers of—

''(1) George Washington;

''(2) Alexander Hamilton;

''(3) Thomas Jefferson;

''(4) Benjamin Franklin;

''(5) John Adams;

''(6) James Madison; and

''(7) other prominent historical figures, as determined appropriate by the Archivist of the United States.''.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Archivist of the United States, in the role as chairman of the National Historical Publications and Records Commission may enter into cooperative agreements pursuant to section 6305 of title 31, United States Code, that involve the transfer of funds from the National Historical Publications and Records Commission to State and local governments, tribal governments, other public entities, educational institutions, or private nonprofit organizations for the public purpose of carrying out section 2120 of title 44, United States Codes.

(2) REPORT.—Not later than December 31st of each year, the Archivist of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the provisions, amount, and duration of each cooperative agreement entered into as authorized by paragraph (1) during the preceding fiscal year.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 21 of title 44, United States Code, is amended by adding after the item relating to section 2119 the following:

''2120. Online access of founding fathers documents.''.

SEC. 5. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Archivist of the United States may establish an advisory committee to—

(1) review the progress of the Founding Fathers editorial projects funded by the National Historical Publications and Records Commission;

(2) develop, in consultation with the various Founding Fathers editorial projects, appropriate completion goals for the projects described in paragraph (1);

(3) annually review such goals and report to the Archivist on the progress of the various projects in meeting the goals; and

(4) recommend to the Archivist measures that would aid or encourage the projects in meeting such goals.

(b) REPORTS TO THE ADVISORY COMMITTEE.—Each of the projects described in subsection (a)(1) shall provide annually to the advisory committee established under subsection (a) a report on the progress of the project toward accomplishing the completion goals and any assistance needed to achieve such goals, including the following:

(1) The proportion of total project funding for the funding year in which the report is submitted from—

(A) Federal, State, and local government sources;

(B) the host institution for the project;

(C) private or public foundations; and

(D) individuals.

(2) Information on all activities carried out using nongovernmental funding.

(3) Any and all information related to performance goals for the funding year in which the report is submitted.

(c) COMPOSITION; MEETINGS; REPORT; SUNSET; ACTION.—The advisory committee established under subsection (a) shall—

(1) be comprised of 3 nationally recognized historians appointed for not more than 2 consecutive 4-year terms;

(2) meet not less frequently than once a year;

(3) provide a report on the information obtained under subsection (b) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives not later than 1 year after the date of enactment of this Act and annually thereafter;

(4) terminate on the date that is 8 years after the date of enactment of this Act; and

(5) recommend legislative or executive action that would facilitate completion of the performance goals for the Founding Fathers editorial projects.

SEC. 6. CAPITAL IMPROVEMENT PLAN FOR PRESIDENTIAL ARCHIVAL DEPOSITORIES; REPORT.

(a) IN GENERAL.—

(1) PROVISION OF PLAN.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a 10-year capital improvement plan, in accordance with paragraph (2), for all Presidential archival depositories (as defined in section 2101 of title 44, United States Code), which shall include—

(A) a prioritization of all capital projects at Presidential archival depositories that cost more than $1,000,000;

(B) the current estimate of the cost of each capital project; and

(C) the basis upon which each cost estimate was developed.

(2) PROVIDED TO CONGRESS.—The capital improvement plan shall be provided to the committees, as described in paragraph (1), at the same time as the first Budget of the United States Government after the date of enactment of this Act is submitted to Congress.

(3) ANNUAL UPDATES AND EXPLANATION OF CHANGES IN COST ESTIMATES.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives—

(A) annual updates to the capital improvement plan described in paragraph (1) at the same time as each subsequent Budget of the United States Government is submitted to Congress; and

(B) an explanation for any changes in cost estimates.

(b) AMENDMENT TO MINIMUM AMOUNT OF ENDOWMENT.—Section 2112(g)(5)(B) of title 44, United States Code, is amended by striking ''40'' and inserting ''60''.

(c) REPORT.—Not later than 270 days after the date of enactment of this Act, the Archivist of the United States shall provide a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives, that provides 1 or more alternative models for presidential archival depositories that—

(1) reduce the financial burden on the Federal Government;

(2) improve the preservation of presidential records; and

(3) reduce the delay in public access to all presidential records.

SEC. 7. ESTABLISHMENT OF NATIONAL DATABASE FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.

(a) IN GENERAL.—The Archivist of the United States may preserve relevant records and establish, as part of the National Archives and Records Administration, an electronically searchable national database consisting of historic records of servitude, emancipation, and post-Civil War reconstruction, including the Refugees, Freedman, and Abandoned Land Records, Southern

Claims Commission Records, Records of the Freedmen's Bank, Slave Impressments Records, Slave Payroll Records, Slave Manifest, and others, contained within the agencies and departments of the Federal Government to assist African Americans and others in conducting genealogical and historical research.

(b) MAINTENANCE.—Any database established under this section shall be maintained by the National Archives and Records Administration or an entity within the National Archives and Records Administration designated by the Archivist of the United States.

SEC. 8. GRANTS FOR ESTABLISHMENT OF STATE AND LOCAL DATABASES FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION.

(a) IN GENERAL.—The Executive Director of the National Historical Publications and Records Commission of the National Archives and Records Administration may make grants to States, colleges and universities, museums, libraries, and genealogical associations to preserve records and establish electronically searchable databases consisting of local records of servitude, emancipation, and post-Civil War reconstruction.

(b) MAINTENANCE.—Any database established using a grant under this section shall be maintained by appropriate agencies or institutions designated by the Executive Director of the National Historical Publications and Records Commission.

HYDROGRAPHIC SERVICES IMPROVEMENT ACT AMENDMENTS of 2007

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 467, S. 1582.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1582) to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1582

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 ''Hydrographic Services Improvement Act Amendments of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

The Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.) is amended—

(1) by redesignating sections 302 through 306 as sections 303 through 307, respectively; and

(2) by inserting after section 301 the following:

''SEC. 302. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds the following:

''(1) In 2007, the Nation celebrates the 200th anniversary of its oldest scientific agency, the Survey of the Coast, which was authorized by Congress and created by President Thomas Jefferson in 1807 to conduct surveys of the coast and provide nautical charts for safe passage through the Nation's ports and along its extensive coastline.

''(2) These mission requirements and capabilities, which today are located in the National Oceanic and Atmospheric Administration, evolved over time to include—

''(A) research, development, operations, products, and services associated with hydrographic, geodetic, shoreline, and baseline surveying;

''(B) cartography, mapping, and charting;

''(C) tides, currents, and water level observations;

''(D) maintenance of a national spatial reference system; and

''(E) associated products and services.

''(3) There is a need to maintain Federal expertise and capability in hydrographic data and services to support a safe and efficient marine transportation system for the enhancement and promotion of international trade and interstate commerce vital to the Nation's economic prosperity and for myriad other commercial and recreational activities.

''(4) The Nation's marine transportation system is becoming increasingly congested, the volume of international maritime commerce is expected to double within the next 20 years, and nearly half of the cargo transiting United States waters is oil, refined petroleum products, or other hazardous substances.

''(5) In addition to commerce, hydrographic data and services support other national needs for the Great Lakes and coastal waters, the territorial sea, the Exclusive Economic Zone, and the continental shelf of the United States, including—

''(A) emergency response;

''(B) homeland security;

''(C) marine resource conservation;

''(D) coastal resiliency to sea-level rise, coastal inundation, and other hazards;

''(E) ocean and coastal science advancement; and

''(F) improved and integrated ocean and coastal mapping and observations for an integrated ocean observing system.

''(6) The National Oceanic and Atmospheric Administration, in cooperation with other agencies and the States, serves as the Nation's leading civil authority for establishing and maintaining national standards and datums for hydrographic data and services.

''(7) The Director of the National Oceanic and Atmospheric Administration's Office of Coast Survey serves as the National Hydrographer and the primary United States representative to the international hydrographic community, including the International Hydrographic Organization.

''(8) The hydrographic expertise, data, and services of the National Oceanic and Atmospheric Administration provide the underlying and authoritative basis for baseline and boundary demarcation, including the establishment of marine and coastal territorial limits and jurisdiction, such as the Exclusive Economic Zone.

''(9) Research, development and application of new technologies will further increase efficiency, promote the Nation's competitiveness, provide social and economic benefits, enhance safety and environmental protection, and reduce risks.

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

''(1) to augment the ability of the National Oceanic and Atmospheric Administration to fulfill its responsibilities under this and other authorities;

''(2) to provide more accurate and up-to-date hydrographic data and services in support of safe and efficient international trade and interstate commerce, including—

''(A) hydrographic surveys;

''(B) electronic navigational charts;

''(C) real-time tide, water level, and current information and forecasting;

''(D) shoreline surveys; and

''(E) geodesy and 3-dimensional positioning data;

''(3) to support homeland security, emergency response, ecosystem approaches to marine management, and coastal resiliency by providing hydrographic data and services with many other useful operational, scientific, engineering, and management applications, including—

''(A) storm surge, tsunami, coastal flooding, erosion, and pollution trajectory monitoring, predictions, and warnings;

''(B) marine and coastal geographic information systems;

''(C) habitat restoration;

''(D) long-term sea-level trends; and

''(E) more accurate environmental assessments and monitoring;

''(4) to promote improved integrated ocean and coastal mapping and observations through increased coordination and cooperation;

''(5) to provide for and support research and development in hydrographic data, services and related technologies to enhance the efficiency, accuracy and availability of hydrographic data and services and thereby promote the Nation's scientific and technological competitiveness; [and]

''(6) to provide training in acquisition and application of hydrographic data; and

''[(6)] *(7)* to provide national and international leadership for hydrographic and related services, sciences, and technologies.''.

SEC. 3. DEFINITIONS.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892), as redesignated by section 2, is amended—

(1) by [amending paragraph (3) to read as follows:] *striking paragraph (3) and inserting the following:*

''(3) HYDROGRAPHIC DATA.—The term ''hydrographic data'' means information acquired through hydrographic, bathymetric, or shoreline surveying; geodetic, geospatial, or geomagnetic measurements; tide, water level, and current observations, or other methods, that is used in providing hydrographic services.'';

(2) by striking paragraph (4)(A) and inserting the following:

''(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;''; and

(3) by striking paragraph (5) and inserting the following:

''(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).''.

SEC. 4. FUNCTIONS OF THE ADMINISTRATOR.

Section 304 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a), as redesignated by section 2, is amended—

(1) by striking ''the Act of 1947,'' in subsection (a) and inserting ''the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,'';

(2) by striking ''data;'' in subsection [(a)1)] *(a)(1)* and inserting ''data and provide hydrographic services;''; and

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

''(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations—

''(1) the Administrator may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

''(2) the Administrator shall design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency;

''(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Administrator may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

''(4) where appropriate, the Administrator may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining Mission Assignments as defined in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741);

''(5) the Administrator may create, support, and maintain such joint centers, and enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act; and

''(6) notwithstanding paragraph (5), the Administrator shall award contracts for the acquisition of hydrographic data in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 1101 et seq.).''.

SEC. 5. QUALITY ASSURANCE PROGRAM.

Subsection (b) of section 305 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892b), as redesignated by section 2, is amended by striking ''303(a)(3)'' each place it appears and inserting ''304(a)(3)''.

SEC. 6. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c), as redesignated by section 2, is amended—

(1) by striking ''303'' in subsection (b)(1) and inserting ''304'';

(2) by striking subsection (c)(1)(A) and inserting ''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the [Joint Hydrographic Institute] *Center for Coastal and Ocean Mapping/Joint Hydrographic Center* and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in 1 or more of the disciplines and fields relating to hydrographic data and hydrographic [services,] *services, marine transportation, port administration, vessel pilotage, coastal and fishery management,* and other disciplines as determined appropriate by the Administrator.'';

(3) by striking ''Secretary'' in subsections (c)(1)(C), (c)(3), and (e) and inserting ''Administrator''; and

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

''(d) COMPENSATION.—Voting members of the panel shall be reimbursed for actual and reasonable expenses, such as travel and per diem, incurred in the performance of such duties.''.

SEC. 7. AUTHORIZED COMMISSION OFFICERS.

Section 215 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3005) is amended to read as follows:

''SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

''(a) IN GENERAL.—The total number of authorized commissioned officers in the NOAA Corps shall not exceed 428.

''(b) FISCAL YEAR STRENGTH.—The Secretary shall establish the strength for the NOAA Corps each fiscal year. The actual number of authorized officers will be based on organizational needs and available appropriated funding.

''(c) CERTAIN OFFICERS.—Officers serving under section 228 and officers recalled from retired status shall not be counted in determining authorized strength under subsection (a) and shall not count against that strength.''.

[SEC. 7. AUTHORIZATION OF APPROPRIATIONS.]

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 307 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), as redesignated by section 2, is amended to read as follows:

''SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator sums as may be necessary for each of fiscal years 2008 through 2012 for the purposes of carrying out this Act.''.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the committee-reported amendments be withdrawn, that an Inouye substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5667) was agreed to, as follow:

(Purpose: In the nature of a substitute)

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hydrographic Services Improvement Act Amendments of 2008''.

SEC. 2. DEFINITIONS.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892) is amended by striking paragraphs (3), (4), and (5) and inserting the following:

''(3) HYDROGRAPHIC DATA.—The term 'hydrographic data' means information that—

''(A) is acquired through—

''(i) hydrographic, bathymetric, photogrammetric, lidar, radar, remote sensing, or shoreline and other ocean- and coastal-related surveying;

''(ii) geodetic, geospatial, or geomagnetic measurements;

''(iii) tide, water level, and current observations; or

''(iv) other methods; and

''(B) is used in providing hydrographic services.

''(4) HYDROGRAPHIC SERVICES.—The term 'hydrographic services' means——

''(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;

''(B) the development of nautical information systems; and

''(C) related activities.

''(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).''.

SEC. 3. FUNCTIONS OF THE ADMINISTRATOR.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a) is amended—

(1) by striking ''the Act of 1947,'' in subsection (a) and inserting ''the Coast and Geodetic Survey Act, promote safe, efficient and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,'';

(2) by striking ''data;'' in subsection (a)(1) and inserting ''data and provide hydrographic services;'' and

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

''(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations, the Administrator—

''(1) may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

''(2) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency; and

''(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

''(4) where appropriate, may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining mission assignments (as defined in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741));

''(5) may create, support, and maintain such joint centers with other Federal agencies and other entities as the Administrator deems appropriate or necessary to carry out the purposes of this Act; and

''(6) notwithstanding the existence of such joint centers, shall award contracts for the acquisition of hydrographic data in accordance with subchapter VI of chapter 10 of title 40, United States Code.''.

SEC. 4. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305(c)(1)(A) of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c(c)(1)(A)) is amended to read as follows: ''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of

the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in 1 or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d) is amended to read as follows:

''SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator the following:

''(1) To carry out nautical mapping and charting functions under sections 304 and 305, except for conducting hydrographic surveys—

''(A) $55,000,000 for fiscal year 2009;

''(B) $56,000,000 for fiscal year 2010;

''(C) $57,000,000 for fiscal year 2011; and

''(D) $58,000,000 for fiscal year 2012.

''(2) To contract for hydrographic surveys under section 304(b)(1), including the leasing or time chartering of vessels—

''(A) $32,130,000 for fiscal year 2009;

''(B) $32,760,000 for fiscal year 2010;

''(C) $33,390,000 for fiscal year 2011; and

''(D) $34,020,000 for fiscal year 2012.

''(3) To operate hydrographic survey vessels owned by the United States and operated by the Administration—

''(A) $25,900,000 for fiscal year 2009;

''(B) $26,400,000 for fiscal year 2010;

''(C) $26,900,000 for fiscal year 2011; and

''(D) $27,400,000 for fiscal year 2012.

''(4) To carry out geodetic functions under this title—

''(A) $32,640,000 for fiscal year 2009;

''(B) $33,280,000 for fiscal year 2010;

''(C) $33,920,000 for fiscal year 2011; and

''(D) $34,560,000 for fiscal year 2012.

''(5) To carry out tide and current measurement functions under this title—

''(A) $27,000,000 for fiscal year 2009;

''(B) $27,500,000 for fiscal year 2010;

''(C) $28,000,000 for fiscal year 2011; and

''(D) $28,500,000 for fiscal year 2012.

''(6) To acquire a replacement hydrographic survey vessel capable of staying at sea continuously for at least 30 days $75,000,000.''.

SEC. 6. AUTHORIZED NOAA CORPS STRENGTH.

Section 215 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3005) is amended to read as follows:

''SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

''Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

''(1) the Secretary has submitted to the Congress—

''(A) the Administration's ship recapitalization plan for fiscal years 2010 through 2024;

''(B) the Administration's aircraft remodernization plan; and

''(C) supporting workforce management plans;

''(2) appropriated funding is available; and

''(3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year.''

The bill (S. 1582), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

REAUTHORIZING AND AMENDING THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 5618, and the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5618) to reauthorize and amend the National Sea Grant College Program Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I further ask unanimous consent that the substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

The amendment (No. 5668) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Sea Grant College Program Amendments Act of 2008''.

SEC. 2. REFERENCES.

Except as otherwise expressly provided therein, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 202(a) (33 U.S.C. 1121(a)) is amended—

(1) by striking subparagraphs (D) and (E) of paragraph (1) and inserting the following:

''(D) encourage the development of preparation, forecast, analysis, mitigation, response, and recovery systems for coastal hazards;

''(E) understand global environmental processes and their impacts on ocean, coastal, and Great Lakes resources; and'';

(2) by striking ''program of research, education,'' in paragraph (2) and inserting ''program of integrated research, education, extension,''; and

(3) by striking paragraph (6) and inserting the following:

''(6) The National Oceanic and Atmospheric Administration, through the national sea grant college program, offers the most suitable locus and means for such commitment and engagement through the promotion of activities that will result in greater such understanding, assessment, development, management, utilization, and conservation of ocean, coastal, and Great Lakes resources. The most cost-effective way to promote such activities is through continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions, including strong collaborations between Administration scientists and research and outreach personnel at academic institutions.''.

(b) PURPOSE.—Section 202(c) (33 U.S.C. 1121(c)) is amended by striking ''to promote research, education, training, and advisory service activities'' and inserting ''to promote integrated research, education, training, and extension services and activities''.

(c) TERMINOLOGY.—Subsections (a) and (b) of section 202 (15 U.S.C. 1121(a) and (b)) are amended by inserting ''management,'' after ''development,'' each place it appears.

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) in paragraph (4) by inserting ''management,'' after ''development,'';

(2) in paragraph (11) by striking ''advisory services'' and inserting ''extension services''; and

(3) in each of paragraphs (12) and (13) by striking ''(33 U.S.C. 1126)''.

(b) REPEAL.—Section 307 of the Act entitled ''An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary'' (Public Law 102–251; 106 Stat. 66) is repealed.

SEC. 5. NATIONAL SEA GRANT COLLEGE PROGRAM.

(a) PROGRAM ELEMENTS.—Section 204(b) (33 U.S.C. 1123(b)) is amended—

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

''(1) sea grant programs that comprise a national sea grant college program network, including international projects conducted within such programs and regional and national projects conducted among such programs;'';

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

''(2) administration of the national sea grant college program and this title by the national sea grant office and the Administration;''; and

(3) by amending paragraph (4) to read as follows:

''(4) any regional or national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed in consultation with the Board and with the approval of the sea grant colleges and the sea grant institutes.''.

(b) TECHNICAL CORRECTION.—Section 204(c)(2) (33 U.S.C. 1123(c)(2)) is amended by striking ''Within 6 months of the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, the'' and inserting ''The''.

(c) FUNCTIONS OF DIRECTOR OF NATIONAL SEA GRANT COLLEGE PROGRAM.—Section 204(d) (33 U.S.C. 1123(d)) is amended—

(1) in paragraph (2)(A), by striking ''long range'';

(2) in paragraph (3)(A)—

(A) by striking ''(A)(i) evaluate'' and inserting ''(A) evaluate and assess'';

(B) by striking ''activities; and'' and inserting ''activities;''; and

(C) by striking clause (ii); and

(3) in paragraph (3)(B)—

(A) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following:

''(ii) encourage collaborations among sea grant colleges and sea grant institutes to address regional and national priorities established under subsection (c)(1);'';

(B) in clause (iii) (as so redesignated) by striking ''encourage'' and inserting ''ensure'';

(C) in clause (iv) (as so redesignated) by striking ''and'' after the semicolon;

(D) by inserting after clause (v) (as so redesignated) the following:

''(vi) encourage cooperation with Minority Serving Institutions to enhance collaborative research opportunities and increase

the number of such students graduating in NOAA science areas; and''.

SEC. 6. PROGRAM OR PROJECT GRANTS AND CONTRACTS.

Section 205 (33 U.S.C. 1124) is amended—

(1) by striking ''204(c)(4)(F).'' in subsection (a) and inserting ''204(c)(4)(F) or that are appropriated under section 208(b).''; and

(2) by striking the matter following paragraph (3) in subsection (b) and inserting the following:

''The total amount that may be provided for grants under this subsection during any fiscal year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year under section 212.''.

SEC. 7. EXTENSION SERVICES BY SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207(a) (33 U.S.C. 1126(a)) is amended in each of paragraphs (2)(B) and (3)(B) by striking ''advisory services'' and inserting ''extension services''.

SEC. 8. FELLOWSHIPS.

Section 208(a) (33 U.S.C. 1127) is amended—

(1) by striking ''Not later than 1 year after the date of the enactment of the National Sea Grant College Program Act Amendments of 2002, and every 2 years thereafter,'' in subsection (a) and inserting ''Every 2 years,''; and

(2) by adding at the end the following:

''(c) Restriction on Use of Funds.—Amounts available for fellowships under this section, including amounts accepted under section 204(c)(4)(F) or appropriated under section 212 to implement this section, shall be used only for award of such fellowships and administrative costs of implementing this section.''

SEC. 9. NATIONAL SEA GRANT ADVISORY BOARD.

(a) REDESIGNATION OF SEA GRANT REVIEW PANEL AS BOARD.—

(1) REDESIGNATION.—The sea grant review panel established by section 209 of the National Sea Grant College Program Act (33 U.S.C. 1128), as in effect before the date of the enactment of this Act, is redesignated as the National Sea Grant Advisory Board.

(2) MEMBERSHIP NOT AFFECTED.—An individual serving as a member of the sea grant review panel immediately before date of the enactment of this Act may continue to serve as a member of the National Sea Grant Advisory Board until the expiration of such member's term under section 209(c) of such Act (33 U.S.C. 1128(c)).

(3) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to such sea grant review panel is deemed to be a reference to the National Sea Grant Advisory Board.

(4) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 209 (33 U.S.C. 1128) is amended by striking so much as precedes subsection (b) and inserting the following:

''SEC. 209. NATIONAL SEA GRANT ADVISORY BOARD.

''(a) ESTABLISHMENT.—There shall be an independent committee to be known as the National Sea Grant Advisory Board.''.

(B) DEFINITION.—Section 203(9) (33 U.S.C. 1122(9)) is amended to read as follows:

''(9) The term 'Board' means the National Sea Grant Advisory Board established under section 209.'';

(C) OTHER PROVISIONS.—The following provisions are each amended by striking ''panel'' each place it appears and inserting ''Board'':

(i) Section 204 (33 U.S.C. 1123).

(ii) Section 207 (33 U.S.C. 1126).

(iii) Section 209 (33 U.S.C. 1128).

(b) DUTIES.—Section 209(b) (33 U.S.C. 1128(b)) is amended to read as follows:

''(b) DUTIES.—

''(1) IN GENERAL.—The Board shall advise the Secretary and the Director concerning—

''(A) strategies for utilizing the sea grant college program to address the Nation's highest priorities regarding the understanding, assessment, development, management, utilization, and conservation of ocean, coastal, and Great Lakes resources;

''(B) the designation of sea grant colleges and sea grant institutes; and

''(C) such other matters as the Secretary refers to the Board for review and advice.

''(2) BIENNIAL REPORT.—The Board shall report to the Congress every two years on the state of the national sea grant college program. The Board shall indicate in each such report the progress made toward meeting the priorities identified in the strategic plan in effect under section 204(c). The Secretary shall make available to the Board such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties under this title.''.

(c) MEMBERSHIP, TERMS, AND POWERS.—Section 209(c)(1) (33 U.S.C. 1128(c)(1)) is amended—

(1) by inserting ''coastal management,'' after ''resource management,''; and

(2) by inserting ''management,'' after ''development,''.

(d) EXTENSION OF TERM.—Section 209(c)(3) (33 U.S.C. 1128(c)(3)) is amended by striking the second sentence and inserting the following: ''The Director may extend the term of office of a voting member of the Board once by up to 1 year.''.

(e) ESTABLISHMENT OF SUBCOMMITTEES.—Section 209(c) (33 U.S.C. 1128(c)) is amended by adding at the end the following:

''(8) The Board may establish such subcommittees as are reasonably necessary to carry out its duties under subsection (b). Such subcommittees may include individuals who are not Board members.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) is amended—

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

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

''(A) $72,000,000 for fiscal year 2009;

''(B) $75,600,000 for fiscal year 2010;

''(C) $79,380,000 for fiscal year 2011;

''(D) $83,350,000 for fiscal year 2012;

''(E) $87,520,000 for fiscal year 2013; and

''(F) $91,900,000 for fiscal year 2014.'';

(2) in subsection (a)(2)—

(A) by striking ''fiscal years 2003 through 2008—'' and inserting ''fiscal years 2009 through 2014—'';

(B) by striking ''biology and control of zebra mussels and other important aquatic'' in subparagraph (A) and inserting ''biology, prevention, and control of aquatic''; and

(C) by striking ''blooms, including Pfiesteria piscicida; and'' in subparagraph (C) and inserting ''blooms; and'';

(3) in subsection (c)(1) by striking ''rating under section 204(d)(3)(A)'' and inserting ''performance assessments''; and

(4) by striking subsection (c)(2) and inserting the following:

''(2) regional or national strategic investments authorized under section 204(b)(4);''.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5618), as amended, was read the third time, and passed.

AIR CARRIAGE OF INTERNATIONAL MAIL ACT

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of S. 3536 and that the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3536) to amend section 5402 of title 39, United States Code, to modify the authority relating to United States Postal Service air transportation contracts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

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

The bill (S. 3536) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3536

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 ''Air Carriage of International Mail Act''.

SEC. 2. AIR CARRIAGE OF INTERNATIONAL MAIL.

(a) CONTRACTING AUTHORITY.—Section 5402 of title 39, United States Code, is amended by striking subsections (b) and (c) and inserting the following:

''(b) INTERNATIONAL MAIL.—

''(1) IN GENERAL.—

''(A) Except as otherwise provided in this subsection, the Postal Service may contract for the transportation of mail by aircraft between any of the points in foreign air transportation only with certificated air carriers. A contract may be awarded to a certificated air carrier to transport mail by air between any of the points in foreign air transportation that the Secretary of Transportation has authorized the carrier to serve either directly or through a code-share relationship with one or more foreign air carriers.

''(B) If the Postal Service has sought offers or proposals from certificated air carriers to transport mail in foreign air transportation between points, or pairs of points within a geographic region or regions, and has not received offers or proposals that meet Postal Service requirements at a fair and reasonable price from at least 2 such carriers, the Postal Service may seek offers or proposals from foreign air carriers. Where service in foreign air transportation meeting the Postal Service's requirements is unavailable at a fair and reasonable price from at least 2 certificated air carriers, either directly or through a code-share relationship with one or more foreign air carriers, the Postal Service may contract with foreign air carriers to provide the service sought if, when the Postal Service seeks offers or proposals from foreign air carriers, it also seeks an offer or proposal to provide that service from any certificated air carrier providing service between those points, or pairs of points within a geographic region or regions, on the same

terms and conditions that are being sought from foreign air carriers.

''(C) For purposes of this subsection, the Postal Service shall use a methodology for determining fair and reasonable prices for the Postal Service designated region or regions developed in consultation with, and with the concurrence of, certificated air carriers representing at least 51 percent of available ton miles in the markets of interest.

''(D) For purposes of this subsection, ceiling prices determined pursuant to the methodology used under subparagraph (C) shall be presumed to be fair and reasonable if they do not exceed the ceiling prices derived from—

''(i) a weighted average based on market rate data furnished by the International Air Transport Association or a subsidiary unit thereof; or

''(ii) if such data are not available from those sources, such other neutral, regularly updated set of weighted average market rates as the Postal Service, with the concurrence of certificated air carriers representing at least 51 percent of available ton miles in the markets of interest, may designate.

''(E) If, for purposes of subparagraph (D)(ii), concurrence cannot be attained, then the most recently available market rate data described in this subparagraph shall continue to apply for the relevant market or markets.

''(2) CONTRACT PROCESS.—The Postal Service shall contract for foreign air transportation as set forth in paragraph (1) through an open procurement process that will provide—

''(A) potential offerors with timely notice of business opportunities in sufficient detail to allow them to make a proposal;

''(B) requirements, proposed terms and conditions, and evaluation criteria to potential offerors; and

''(C) an opportunity for unsuccessful offerors to receive prompt feedback upon request.

''(3) EMERGENCY OR UNANTICIPATED CONDITIONS; INADEQUATE LIFT SPACE.—The Postal Service may enter into contracts to transport mail by air in foreign air transportation with a certificated air carrier or a foreign air carrier without complying with the requirements of paragraphs (b)(1) and (2) if—

''(A) emergency or unanticipated conditions exist that make it impractical for the Postal Service to comply with such requirements; or

''(B) its demand for lift exceeds the space available to it under existing contracts and—

''(i) there is insufficient time available to seek additional lift using procedures that comply with those requirements without compromising the Postal Service's service commitments to its own customers; and

''(ii) the Postal Service first offers any certificated air carrier holding a contract to carry mail between the relevant points the opportunity to carry such excess volumes under the terms of its existing contract.

''(c) GOOD FAITH EFFORT REQUIRED.—The Postal Service and potential offerors shall put a good-faith effort into resolving disputes concerning the award of contracts made under subsection (b).''.

(b) CONFORMING AMENDMENTS TO TITLE 49.—

(1) Section 41901(a) is amended by striking ''39.'' and inserting ''39, and in foreign air transportation under section 5402(b) and (c) of title 39.''.

(2) Section 41901(b)(1) is amended by striking ''in foreign air transportation or''.

(3) Section 41902 is amended—

(A) by striking ''in foreign air transportation or'' in subsection (a);

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

''(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the United States Postal Service a statement showing—

''(1) the places between which the carrier is authorized to transport mail in Alaska;

''(2) every schedule of aircraft regularly operated by the carrier between places described in paragraph (1) and every change in each schedule; and

''(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each such place.'';

(C) by striking ''subsection (b)(3)'' each place it appears in subsections (c)(1) and (d) and inserting ''subsection (b)(2)''; and

(D) by striking subsections (e) and (f).

(4) Section 41903 is amended by striking ''in foreign air transportation or'' each place it appears.

(5) Section 41904 is amended—

(A) by striking ''**to or in foreign countries**'' in the section heading;

(B) by striking ''to or in a foreign country'' and inserting ''between two points outside the United States''; and

(C) by inserrting after ''transportation.'' the following: ''Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.''.

(6) Section 41910 is amended by striking the first sentence and inserting ''The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and –administrative computations necessary in the interest of mail service.''.

(7) Chapter 419 is amended—

(A) by striking sections 41905, 41907, 41908, and 41911; and

(B) redesignating sections 41906, 41909, 41910, and 49112 as sections 41905, 41906, 41907, and 41908, respectively.

(8) The chapter analysis for chapter 419 is amended by redesignating the items relating to sections 41906, 41909, 41910, and 49112 as relating to sections 41905, 41906, 41907, and 41908, respectively.

(9) Section 101(f) of title 39, United States Code, is amended by striking ''mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service.'' and inserting ''mail.''.

(10) Subsections (b) and (c) of section 3401 of title 39, United States Code, are amended—

(A) by striking ''at rates fixed and determined by the Secretary of Transportation in accordance with section 41901 of title 49'' and inserting ''or, for carriage of mail in foreign air transportation, other air carriers, air taxi operators or foreign air carriers as permitted by section 5402 of this title'';

(B) by striking ''at rates not to exceed those so fixed and determined for scheduled United States air carriers'';

(C) by striking ''scheduled'' each place it appears and inserting ''certificated''; and

(D) by striking the last sentence in each such subsection.

(11) Section 5402(a) of title 39, United States Code, is amended—

(A) by inserting '' 'foreign air carrier'.'' after '' 'interstate air transportation','' in paragraph (2);

(B) by redesignating paragraphs (7) through (23) as paragraphs (8) through (24) and inserting after paragraph (6) the following:

''(7) the term 'certificated air carrier' means an air carrier that holds a certificate of public convenience and necessity issued under section 41102(a) of title 49;'';

(C) by redesignating paragraphs (9) through (24), as redesignated, as paragraphs (10) through (25), respectively, and inserting after paragraph (8) the following:

''(9) the term 'code-share relationship' means a relationship pursuant to which any certificated air carrier or foreign air carrier's designation code is used to identify a flight operated by another air carrier or foreign air carrier;''; and

(D) by inserting ''foreign air carrier,'' after ''terms'' in paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008.

AUTHORIZING THE PRODUCTION OF RECORDS

AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of S. Res. 686 and S. Res. 687, which were submitted earlier today.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the measures en bloc.

Thereupon, the Senate proceeded to consider the resolutions en bloc.

S. RES. 686

Mr. REID. Mr. President, the office of Senator CHRISTOPHER S. BOND has received a U.S. request from the U.S. Department of Justice for records regarding a former employee that may be relevant to its investigation into improper activities by lobbyists. The Justice Department has advised that its request arises from its belief that Senator BOND himself was an innocent victim of potentially improper conduct by lobbyists and former staff. Senator BOND seeks to comply with this request. Accordingly, in keeping with Senate rules and practice, this resolution would authorize the office of Senator BOND to produce documents for use in this investigation.

S. RES. 687

Mr. REID. Mr. President, this resolution concerns a request for testimony and representation in a criminal action pending before the Sixth Judicial Circuit Court, Oakland County, MI, in which the defendant is charged with two counts: malicious use of telecommunications services and possession of a firearm by a felon. The first count arises out of a threatening telephone conversation the defendant had with a member of Senator STABENOW's staff. The prosecuting attorney has subpoenaed that staff member for the trial, which is likely to be held in the first week of November 2008. Senator STABENOW would like to cooperate by providing testimony from that staff member. This resolution would authorize that staff member, and any other employee of Senator STABENOW's office from whom evidence may be required, to testify in connection with this action, with representation by the Senate Legal Counsel.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolutions be agreed to, the preambles be

agreed to en bloc, and the motions to reconsider be laid upon the table.

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

The resolutions (S. Res. 686 and 687) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 686

Whereas, the United States Department of Justice is conducting an investigation into improper activities by lobbyists and related matters;

Whereas, the Office of Senator Christopher S. Bond has received a request for records from the Department of Justice for use in the investigation of a former employee;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possesion of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now therefore, be it

Resolved, That the Office of Senator Christopher S. Bond is authorized to provide to the United States Department of Justice records requested for use in legal and investigatory proceedings, except where a privilege should be asserted.

S. RES. 687

Whereas, in the case of People of the State of Michigan v. Sereal Leonard Gravlin (Case No. 08–007750), pending in, the Sixth Judicial Circuit Court (Oakland County, Michigan), the prosecuting attorney has subpoenaedtestimony from Ruth Gallop, an employee in the office of Senator Debbie Stabenow;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Ruth Gallop and any other employee of Senator Stabenow's office from whom testimony may be required are authorized to testify in the case of People of the State of Michigan v. Sereal Leonard Gravlin, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Ruth Gallop and any other employee of the Senator from whom evidence may be required in the action referenced in section one of this resolution.

AUTHORIZING TESTIMONY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 688 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 688) to authorize testimony in United States v. Max Obuszewski, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a request for testimony in a criminal misdemeanor action in Superior Court for the District of Columbia. In this action, protesters have been charged with disruption of Congress for loudly chanting slogans during Senate debate on or about the afternoon of March 12, 2008. A trial is scheduled to commence on September 29, 2008. The prosecution has subpoenaed a doorkeeper of the Senate who witnessed the charged conduct. The Senate Sergeant at Arms would like to cooperate by providing testimony from that employee. This resolution would authorize that employee to testify in connection with this action.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The resolution (S. Res. 688) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 688

Whereas, in the case of United States v. Max Obuszewski, et al., Case No. 2008–CMD–5824, pending in the Superior Court for the District of Columbia, the prosecution has subpoenaed testimony from Justin Beller, an employee in the Office of the Senate Sergeant at Arms;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Justin Beller is authorized to testify in the case of United States v. Max Obuszewski, et al., except concerning matters for which a privilege should be asserted.

AUTHORIZING THE PRINTING OF A REVISED EDITION OF THE SENATE RULES AND MANUAL

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 689 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 689) to authorize the printing of a revised edition of the Senate Rules and Manual.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the motions to reconsider be laid upon the table, and that any statements related to this item be printed in the RECORD.

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

The resolution (S. Res. 689) was agreed to, as follows:

S. RES. 689

Resolved, That—

(1) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 110th Congress;

(2) the manual shall be printed as a Senate document; and

(3) in addition to the usual number of documents, 1,500 additional copies of the manual shall be bound, of which—

(A) 500 paperbound copies shall be for the use of the Senate; and

(B) 1,000 copies shall be bound (550 paperbound; 250 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

SHAWN BENTLEY ORPHAN WORKS ACT OF 2008

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 738, S. 2913.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2913) to provide a limitation on judicial remedies in copyright infringement cases involving orphan works.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Shawn Bentley Orphan Works Act of 2008''.

SEC. 2. LIMITATION ON REMEDIES IN CASES INVOLVING ORPHAN WORKS.

(a) LIMITATION ON REMEDIES.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

''§514. Limitation on remedies in cases involving orphan works

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) MATERIALS.—The term 'materials' includes—

''(A) the records of the Copyright Office that are relevant to identifying and locating copyright owners;

''(B) sources of copyright ownership information and, where appropriate, licensor information, reasonably available to users, including private databases;

''(C) technology tools and expert assistance; and

''(D) electronic databases, including databases that are available to the public through the Internet, that allow for searches of copyrighted works and for the copyright owners of works,

including through text, sound, and image recognition tools.

''(2) NOTICE OF CLAIM OF INFRINGEMENT.—The term 'notice of claim of infringement' means, with respect to a claim of copyright infringement, a written notice sent from the owner of the infringed copyright or a person acting on the owner's behalf to the infringer or a person acting on the infringer's behalf, that includes at a minimum—

''(A) the name of the owner of the infringed copyright;

''(B) the title of the infringed work, any alternative titles of the infringed work known to the owner of the infringed copyright, or if the work has no title, a description in detail sufficient to identify that work;

''(C) an address and telephone number at which the owner of the infringed copyright or a person acting on behalf of the owner may be contacted; and

''(D) information reasonably sufficient to permit the infringer to locate the infringer's material in which the infringed work resides.

''(3) OWNER OF THE INFRINGED COPYRIGHT.—The 'owner of the infringed copyright' is the owner of any particular exclusive right under section 106 that is applicable to the infringement, or any person or entity with the authority to grant or license such right on an exclusive or nonexclusive basis.

''(4) REASONABLE COMPENSATION.—The term 'reasonable compensation' means, with respect to a claim of infringement, the amount on which a willing buyer and willing seller in the positions of the infringer and the owner of the infringed copyright would have agreed with respect to the infringing use of the work immediately before the infringement began.

''(b) CONDITIONS FOR ELIGIBILITY.—

''(1) CONDITIONS.—

''(A) IN GENERAL.—Notwithstanding sections 502 through 506, and subject to subparagraph (B), in an action brought under this title for infringement of copyright in a work, the remedies for infringement shall be limited in accordance with subsection (c) if the infringer—

''(i) proves by a preponderance of the evidence that before the infringement began, the infringer, a person acting on behalf of the infringer, or any person jointly and severally liable with the infringer for the infringement—

''(I) performed and documented a qualifying search, in good faith, to locate and identify the owner of the infringed copyright; and

''(II) was unable to locate and identify an owner of the infringed copyright;

''(ii) provided attribution, in a manner that is reasonable under the circumstances, to the legal owner of the infringed copyright, if such legal owner was known with a reasonable degree of certainty, based on information obtained in performing the qualifying search;

''(iii) included with the public distribution, display, or performance of the infringing work a symbol or other notice of the use of the infringing work, the form and manner of which shall be prescribed by the Register of Copyrights, which may be in the footnotes, endnotes, bottom margin, end credits, or in any other such manner as to give notice that the infringed work has been used under this section;

''(iv) asserts in the initial pleading to the civil action eligibility for such limitations;

''(v) consents to the jurisdiction of United States district court, or, in the absence of such consent, if such court holds that the infringer is within the jurisdiction of the court; and

''(vi) at the time of making the initial discovery disclosures required under rule 26 of the Federal Rules of Civil Procedure, states with particularity the basis for eligibility for the limitations, including a detailed description and documentation of the search undertaken in accordance with paragraph (2)(A) and produces documentation of the search.

''(B) EXCEPTION.—Subparagraph (A) does not apply if the infringer or a person acting on behalf of the infringer receives a notice of claim of infringement and, after receiving such notice and having an opportunity to conduct an expeditious good faith investigation of the claim, the infringer—

''(i) fails to engage in negotiation in good faith regarding reasonable compensation with the owner of the infringed copyright; or

''(ii) fails to render payment of reasonable compensation in a reasonably timely manner after reaching an agreement with the owner of the infringed copyright or under an order described in subsection (c)(1)(A).

''(2) REQUIREMENTS FOR SEARCHES.—

''(A) REQUIREMENTS FOR QUALIFYING SEARCHES.—

''(i) IN GENERAL.—A search ordinarily qualifies under paragraph (1)(A)(i)(I) if the infringer, a person acting on behalf of the infringer, or any person jointly and severally liable with the infringer for the infringement, makes use of the materials and otherwise undertakes a diligent effort to locate the owner of the infringed work. A diligent effort will ordinarily be based on best practices, as applicable, and any other actions reasonable and appropriate under the facts relevant to that search, including further actions based on facts uncovered during the initial search, and be performed before, and at a time reasonably proximate to, the infringement.

''(ii) LACK OF IDENTIFYING INFORMATION.—The fact that a particular copy or phonorecord lacks identifying information pertaining to the owner of the infringed copyright is not sufficient to meet the conditions under paragraph (1)(A)(i)(I).

''(iii) USE OF RESOURCES FOR CHARGE.—A qualifying search under paragraph (1)(A)(i)(I) may include use of resources for which a charge or subscription fee is imposed, to the extent that the use of such resources is reasonable for, and relevant to, the scope of the intended use.

''(B) INFORMATION TO GUIDE SEARCHES; BEST PRACTICES.—

''(i) STATEMENTS OF BEST PRACTICES.—The Register of Copyrights shall maintain and make available to the public, including through the Internet, at least 1 statement of best practices for each category, or, in the Register's discretion, subcategory of work under section 102(a) of this title, for conducting and documenting a search under this subsection, which will ordinarily include reference to materials relevant to a search. The Register may maintain more than 1 statement for each category or subcategory, as appropriate.

''(ii) CONSIDERATION OF RELEVANT MATERIALS.—The Register of Copyrights shall, from time to time, update or modify each statement of best practices at the Register's discretion and should, in maintaining and updating such statements, consider materials and any relevant guidelines submitted to the Register that, in the Register's discretion, are reasonable and relevant to the requirements of a qualifying search, and databases for pictorial, graphical, and sculptural works, where appropriate and reasonably available for a given use.

''(3) PENALTY FOR FAILURE TO COMPLY.—If an infringer fails to comply with any requirement under this subsection, the infringer is not eligible for a limitation on remedies under this section.

''(c) LIMITATIONS ON REMEDIES.—The limitations on remedies in an action for infringement of a copyright to which this section applies are the following:

''(1) MONETARY RELIEF.—

''(A) GENERAL RULE.—Subject to subparagraph (B), an award for monetary relief (including actual damages, statutory damages, costs, and attorney's fees) may not be made other than an order requiring the infringer to pay reasonable compensation to the owner of the exclusive right under the infringed copyright for the use of the infringed work.

''(B) FURTHER LIMITATIONS.—An order requiring the infringer to pay reasonable compensation for the use of the infringed work may not be made under subparagraph (A) if the infringer is a nonprofit educational institution, museum, library, archives, or a public broadcasting entity (as defined in subsection (f) of section 118), or any of such entities' employees acting within the scope of their employment, and the infringer proves by a preponderance of the evidence that—

''(i) the infringement was performed without any purpose of direct or indirect commercial advantage;

''(ii) the infringement was primarily educational, religious, or charitable in nature; and

''(iii) after receiving a notice of claim of infringement, and having an opportunity to conduct an expeditious good faith investigation of the claim, the infringer promptly ceased the infringement.

''(2) INJUNCTIVE RELIEF.—

''(A) GENERAL RULE.—Subject to subparagraph (B), the court may impose injunctive relief to prevent or restrain any infringement alleged in the civil action. If the infringer has met the requirements of subsection (b), the relief shall, to the extent practicable and subject to applicable law, account for any harm that the relief would cause the infringer due to its reliance on subsection (b).

''(B) EXCEPTION.—In a case in which the infringer has prepared or commenced preparation of a new work of authorship that recasts, transforms, adapts, or integrates the infringed work with a significant amount of original expression, any injunctive relief ordered by the court may not restrain the infringer's continued preparation or use of that new work, if—

''(i) the infringer pays reasonable compensation in a reasonably timely manner after the amount of such compensation has been agreed upon with the owner of the infringed copyright or determined by the court; and

''(ii) the court also requires that the infringer provide attribution, in a manner that is reasonable under the circumstances, to the legal owner of the infringed copyright, if requested by such owner.

''(C) LIMITATIONS.—The limitations on injunctive relief under subparagraphs (A) and (B) shall not be available to an infringer if the infringer asserts in the action that neither the infringer nor any representative of the infringer acting in an official capacity is subject to suit in the courts of the United States for an award of damages for the infringement, unless the court finds that the infringer—

''(i) has complied with the requirements of subsection (b); and

''(ii) has made an enforceable promise to pay reasonable compensation to the owner of the exclusive right under the infringed copyright.

''(D) RULE OF CONSTRUCTION.—Nothing in subparagraph (C) shall be construed to authorize or require, and no action taken under such subparagraph shall be deemed to constitute, either an award of damages by the court against the infringer or an authorization to sue a State.

''(E) RIGHTS AND PRIVILEGES NOT WAIVED.—No action taken by an infringer under subparagraph (C) shall be deemed to waive any right or privilege that, as a matter of law, protects the infringer from being subject to suit in the courts of the United States for an award of damages.

''(d) PRESERVATION OF OTHER RIGHTS, LIMITATIONS, AND DEFENSES.—This section does not affect any right, or any limitation or defense to copyright infringement, including fair use, under this title. If another provision of this title provides for a statutory license that would permit the use contemplated by the infringer, that provision applies instead of this section.

''(e) COPYRIGHT FOR DERIVATIVE WORKS AND COMPILATIONS.—Notwithstanding section 103(a), an infringer who qualifies for the limitation on remedies afforded by this section shall not be denied copyright protection in a compilation or derivative work on the basis that such compilation or derivative work employs preexisting material

that has been used unlawfully under this section.

''(f) EXCLUSION FOR FIXATIONS IN OR ON USEFUL ARTICLES.—The limitations on remedies under this section shall not be available to an infringer for infringements resulting from fixation of a pictorial, graphic, or sculptural work in or on a useful article that is offered for sale or other distribution to the public.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

''514. Limitation on remedies in cases involving orphan works.''.

(c) EFFECTIVE DATE.—

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

(A) take effect on the later of—

(i) January 1, 2009; or

(ii) the date which is the earlier of—

(I) 30 days after the date on which the Copyright Office publishes notice in the Federal Register that it has certified under section 3 that there exist and are available at least 2 separate and independent searchable, electronic databases, that allow for searches of copyrighted works that are pictorial, graphic, and sculptural works, and are available to the public; or

(II) January 1, 2013; and

(B) apply to infringing uses that commence on or after that effective date.

(2) DEFINITION.—In this subsection, the term ''pictorial, graphic, and sculptural works'' has the meaning given that term in section 101 of title 17, United States Code.

SEC. 3. DATABASES OF PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS.

The Register of Copyrights shall undertake a process to certify that there exist and are available databases that facilitate a user's search for pictorial, graphic, and sculptural works that are subject to copyright protection under title 17, United States Code. The Register shall only certify that databases are available under this section if such databases are determined to be effective and not prohibitively expensive and include the capability to be searched using 1 or more mechanisms that allow for the search and identification of a work by both text and image and have sufficient information regarding the works to enable a potential user of a work to identify or locate the copyright owner or authorized agent.

SEC. 4. REPORT TO CONGRESS.

Not later than December 12, 2014, the Register of Copyrights shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the implementation and effects of the amendments made by section 2, including any recommendations for legislative changes that the Register considers appropriate.

SEC. 5. STUDY ON REMEDIES FOR SMALL COPYRIGHT CLAIMS.

(a) IN GENERAL.—The Register of Copyrights shall conduct a study with respect to remedies for copyright infringement claims by an individual copyright owner or a related group of copyright owners seeking small amounts of monetary relief, including consideration of alternative means of resolving disputes currently heard in the United States district courts. The study shall cover the infringement claims to which section 514 of title 17, United States Code, apply, and other infringement claims under that title.

(b) PROCEDURES.—The Register of Copyrights shall publish notice of the study required under subsection (a), providing a period during which interested persons may submit comments on the study, and an opportunity for interested persons to participate in public roundtables on the study. The Register shall hold any such public roundtables at such times as the Register considers appropriate.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Register of Copyrights shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the study conducted under this section, including such administrative, regulatory, or legislative recommendations that the Register considers appropriate.

SEC. 6. STUDY ON COPYRIGHT DEPOSITS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study examining the function of the deposit requirement in the copyright registration system under section 408 of title 17, United States Code, including—

(1) the historical purpose of the deposit requirement;

(2) the degree to which deposits are made available to the public currently;

(3) the feasibility of making deposits, particularly visual arts deposits, electronically searchable by the public for the purpose of locating copyright owners; and

(4) the impact any change in the deposit requirement would have on the collection of the Library of Congress.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the study conducted under this section, including such administrative, regulatory, or legislative recommendations that the Comptroller General considers appropriate.

Mr. LEAHY. Mr. President, in January 2005, Senator HATCH and I wrote to the Register of Copyrights out of a concern that the length of copyright terms was having an unintended consequence of creating a class of ''orphan works''—works that may be protected by copyright, but whose owners cannot be identified or located. Creative works are collecting dust because those who would like to bring them to light are respectful of the copyright laws and will not use those works if they cannot locate the owners. This unfortunate situation is keeping creative and cultural works from the public, and does not advance the purpose of the copyright laws.

Today, the Senate completes work on legislation I introduced along with Senator HATCH to remedy this situation. The Shawn Bentley Orphan Works Act of 2008 is designed to enable use of works whose copyright status and ownership is uncertain without the user facing prohibitive statutory damages.

The act does not dramatically restructure current copyright law—it does not impose new registration requirements, nor does it provide for a transfer of copyright ownership or rights. The bill simply provides for a limitation on remedies in discrete, limited circumstances in which, among other things, the owner of the work is not locatable. Any infringer who wishes to use an orphan works limitation on remedies must perform a diligent search in good faith, document that search, and, in the event that the owner emerges, negotiate with the copyright owner in good faith regarding reasonable compensation. If any of these conditions, or others set forth in the bill, is not met, the limitation on remedies is unavailable and an infringer faces the full statutory damages as well as costs and attorney's fees.

At its core, the bill seeks to unite users and copyright owners, and to ensure that copyright owners are compensated for the use of their works. It does not create any orphans, and it does not create a license to infringe. By providing an incentive to search, in the form of a limitation on remedies, more users will find more owners; more works otherwise hidden will be used; and more copyright owners will receive compensation. The Shawn Bentley Orphan Works Act will thus allow the public to enjoy works that are currently left unseen and unused. I hope the House can take up this measure, and send it to the President for signature.

Mr. HATCH. Mr. President, I rise today to express my continued support for the Shawn Bentley Orphan Works Act of 2008, S. 2913, which I introduced with Senate Judiciary Committee chairman PATRICK LEAHY. This bill represents years of hard work and collaboration by the Senate, industry stakeholders, and U.S. Copyright Office officials. Passing S. 2913 is long overdue.

I want to thank Chairman LEAHY for naming S. 2913 as the Shawn Bentley Orphan Works Act of 2008. It honors my long-time staffer and former colleague, Shawn Bentley. As many of you may remember, Shawn worked for the Judiciary Committee for a decade and worked on several important pieces of landmark intellectual property legislation. In fact, he initiated what we have now introduced as an orphan works bill. Many in this body were greatly saddened by Shawn's untimely death at 41. He was a one-of-a-kind individual. I believe this bill is a fitting way to acknowledge his continuing contributions to intellectual property law.

Countless artistic creations around the country are effectively locked away in a proverbial attic and unavailable for the general public to enjoy because the owner of the copyright for the work is unknown. These are generally referred to as orphan works.

Unfortunately, it is not always easy to identify an owner of a copyrighted work, and in many cases, information about the copyright holder is not publicly known. To make matters worse, many are discouraged from using these works for fear of being sued should the owner eventually step forward.

Many libraries, museums, State and local historical societies, and archives across the country that have significant amounts of orphan works, which are not currently available publicly.

Think of the new educational opportunities that will be opened to students, scholars, and the public alike when these works become accessible. The potential for learning, scholarship, and enjoyment of the works of previous generations are unlimited.

Without doubt, passage of S. 2913 addresses the orphan works problem.

Yesterday, Marybeth Peters, Register of the Copyrights, wrote the following about the importance of orphan works legislation:

The legislation is sensible: it would ease the orphan problem by reducing, but not eliminating, the exposure of good faith users. But there are clear conditions designed to protect copyright owners. A user must take all reasonable steps, employ all reasonable technology, and execute the applicable search practices to be submitted to the Copyright Office by authors, associations, and other experts.

The user must meet other hurdles, including attaching an orphan symbol to the use, to increase transparency and the possibility that an owner may emerge. If an owner does emerge, the user must pay 'reasonable compensation' or face full liability. Reasonable compensation will be mutually agreed by the owner and the user or, failing that, be decided by a court; but it must also reflect objective market values for the work and the use. This framework would facilitate projects that are global (think rare text in the hands of a book publisher) as well as local (think family portraits in the hands of a photo finisher), while preserving the purpose and potential of copyright law. It would not inject orphan works prematurely into the public domain, create an automatic exception for all uses, or create a permanent class of orphan works. Nor would it minimize the value of any one orphan work by mandating a government license and statutory rate.

Ms. Peters continues by stating:

Some critics believe that the legislation is unfair because it will deprive copyright owners of injunctive relief, statutory damages, and actual damages. I do not agree.

Let me repeat, The Register of Copyrights does not believe the legislation is unfair, or that it will deprive copyright owners of injunctive relief, statutory damages, and actual damages.

With 43 years of experience working in the Copyright Office, 14 of them as the Register, I trust that Ms. Peters knows a few things about copyright law. And I want to take this opportunity to thank her and her staff and the many other stakeholders for their tremendous assistance in crafting this important legislation.

I also want to thank my counsel Matt Sandgren and Aaron Cooper, Senator LEAHY's counsel, for their perseverance and hard work on this initiative.

In my view, a solution to the orphan works problem is achievable and the pending legislation is both fair and responsible. I urge my colleagues to pass S. 2913 without further delay.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Kyl amendment at the desk be agreed to; the committee-reported amendment, as amended, be agreed to; the bill, as amended, be read the third time and passed; the motions to reconsider be laid upon the table; and that any statements be printed in the RECORD.

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

The amendment (No. 5669) was agreed to, as follows:

(Purpose: To modify provisions relating to diligent efforts, guide searches, recommend practices, imitations on injunctive relief, and for other purposes)

On page 19, line 21, strike all through page 20, line 12.

On page 20, line 13, strike ''(2)'' and insert ''(1)''.

On page 21, line 10, strike ''(3)'' and insert ''(2)''.

On page 21, line 16, strike ''(4)'' and insert ''(3)''.

On page 23, line 15, insert ''and'' at the end.

On page 23, strike lines 16 through 20.

On page 23, line 21, strike ''(vi)'' and insert ''(v)''.

On page 25, line 1, strike all through page 27, line 7 and insert the following:

''(i) IN GENERAL.—A search qualifies under paragraph (1)(A)(i)(I) if the infringer, a person acting on behalf of the infringer, or any person jointly and severally liable with the infringer for the infringement, undertakes a diligent effort that is reasonable under the circumstances to locate the owner of the infringed copyright prior to, and at a time reasonably proximate to, the infringement.

''(ii) DILIGENT EFFORT.—For purposes of clause (i), a diligent effort—

''(I) requires, at a minimum—

''(aa) a search of the records of the Copyright Office that are available to the public through the Internet and relevant to identifying and locating copyright owners, provided there is sufficient identifying information on which to construct a search;

''(bb) a search of reasonably available sources of copyright authorship and ownership information and, where appropriate, licensor information;

''(cc) use of appropriate technology tools, printed publications, and where reasonable, internal or external expert assistance; and

''(dd) use of appropriate databases, including databases that are available to the public through the Internet; and

''(II) shall include any actions that are reasonable and appropriate under the facts relevant to the search, including actions based on facts known at the start of the search and facts uncovered during the search, and including a review, as appropriate, of Copyright Office records not available to the public through the Internet that are reasonably likely to be useful in identifying and locating the copyright owner.

''(iii) CONSIDERATION OF RECOMMENDED PRACTICES.—A qualifying search under this subsection shall ordinarily be based on the applicable statement of Recommended Practices made available by the Copyright Office and additional appropriate best practices of authors, copyright owners, and users to the extent such best practices incorporate the expertise of persons with specialized knowledge with respect to the type of work for which the search is being conducted.

''(iv) LACK OF IDENTIFYING INFORMATION.—The fact that, in any given situation,—

''(I) a particular copy or phonorecord lacks identifying information pertaining to the owner of the infringed copyright; or

''(II) an owner of the infringed copyright fails to respond to any inquiry or other communication about the work,

shall not be deemed sufficient to meet the conditions under paragraph (1)(A)(i)(I).

''(v) USE OF RESOURCES FOR CHARGE.—A qualifying search under paragraph (1)(A)(i)(I) may require use of resources for which a charge or subscription is imposed to the extent reasonable under the circumstances.

''(B) INFORMATION TO GUIDE SEARCHES; RECOMMENDED PRACTICES.—

''(i) STATEMENTS OF RECOMMENDED PRACTICES.—The Register of Copyrights shall maintain and make available to the public and, from time to time, update at least one statement of Recommended Practices for each category, or, in the Register's discretion, subcategory of work under section 102(a) of this title, for conducting and documenting a search under this subsection. Such statement will ordinarily include reference to materials, resources, databases, and technology tools that are relevant to a search. The Register may maintain and make available more than one statement of Recommended Practices for each category or subcategory, as appropriate.

''(ii) CONSIDERATION OF RELEVANT MATERIALS.—In maintaining and making available and, from time to time, updating the Recommended Practices in clause (i), the Register of Copyrights shall, at the Register's discretion, consider materials, resources, databases, technology tools, and practices that are reasonable and relevant to the qualifying search. The Register shall consider any comments submitted to the Copyright Office by the Small Business Administration Office of Advocacy. The Register shall also, to the extent practicable, take the impact on copyright owners that are small businesses into consideration when modifying and updating best practices.

On page 30, strike lines 1 through 15 and insert the following:

''(C) LIMITATIONS.—The limitations on injunctive relief under subparagraphs (A) and (B) shall not be available to an infringer or a representative of the infringer acting in an official capacity if the infringer asserts that neither the infringer nor any representative of the infringer acting in an official capacity is subject to suit in the courts of the United States for an award of damages for the infringement, unless the court finds that the infringer—

''(i) has complied with the requirements of subsection (b); and

''(ii) pays reasonable compensation to the owner of the exclusive right under the infringed copyright in a reasonably timely manner after the amount of reasonable compensation has been agreed upon with the owner or determined by the court.

On page 31, line 23, insert ''commercial'' after ''other''.

On page 33, line 17, insert ''Prior to certifying that databases are available under this section, the Register shall determine, to the extent practicable, their impact on copyright owners that are small businesses and consult with the Small Business Administration Office of Advocacy regarding those impacts. The Register shall consider the Office of Advocacy's comments and respond to any concerns.'' after the period.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2913), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2913

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 ''Shawn Bentley Orphan Works Act of 2008''.

SEC. 2. LIMITATION ON REMEDIES IN CASES INVOLVING ORPHAN WORKS.

(a) LIMITATION ON REMEDIES.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

''§ 514. Limitation on remedies in cases involving orphan works

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) NOTICE OF CLAIM OF INFRINGEMENT.—The term 'notice of claim of infringement' means, with respect to a claim of copyright infringement, a written notice sent from the owner of the infringed copyright or a person acting on the owner's behalf to the infringer or a person acting on the infringer's behalf, that includes at a minimum—

''(A) the name of the owner of the infringed copyright;

''(B) the title of the infringed work, any alternative titles of the infringed work known to the owner of the infringed copyright, or if the work has no title, a description in detail sufficient to identify that work;

''(C) an address and telephone number at which the owner of the infringed copyright or a person acting on behalf of the owner may be contacted; and

''(D) information reasonably sufficient to permit the infringer to locate the infringer's material in which the infringed work resides.

''(2) OWNER OF THE INFRINGED COPYRIGHT.—The 'owner of the infringed copyright' is the owner of any particular exclusive right under section 106 that is applicable to the infringement, or any person or entity with the authority to grant or license such right on an exclusive or nonexclusive basis.

''(3) REASONABLE COMPENSATION.—The term 'reasonable compensation' means, with respect to a claim of infringement, the amount on which a willing buyer and willing seller in the positions of the infringer and the owner of the infringed copyright would have agreed with respect to the infringing use of the work immediately before the infringement began.

''(b) CONDITIONS FOR ELIGIBILITY.—

''(1) CONDITIONS.—

''(A) IN GENERAL.—Notwithstanding sections 502 through 506, and subject to subparagraph (B), in an action brought under this title for infringement of copyright in a work, the remedies for infringement shall be limited in accordance with subsection (c) if the infringer—

''(i) proves by a preponderance of the evidence that before the infringement began, the infringer, a person acting on behalf of the infringer, or any person jointly and severally liable with the infringer for the infringement—

''(I) performed and documented a qualifying search, in good faith, to locate and identify the owner of the infringed copyright; and

''(II) was unable to locate and identify an owner of the infringed copyright;

''(ii) provided attribution, in a manner that is reasonable under the circumstances, to the legal owner of the infringed copyright, if such legal owner was known with a reasonable degree of certainty, based on information obtained in performing the qualifying search;

''(iii) included with the public distribution, display, or performance of the infringing work a symbol or other notice of the use of the infringing work, the form and manner of which shall be prescribed by the Register of Copyrights, which may be in the footnotes, endnotes, bottom margin, end credits, or in any other such manner as to give notice that the infringed work has been used under this section;

''(iv) asserts in the initial pleading to the civil action eligibility for such limitations; and

''(v) at the time of making the initial discovery disclosures required under rule 26 of the Federal Rules of Civil Procedure, states with particularity the basis for eligibility for the limitations, including a detailed description and documentation of the search undertaken in accordance with paragraph (2)(A) and produces documentation of the search.

''(B) EXCEPTION.—Subparagraph (A) does not apply if the infringer or a person acting on behalf of the infringer receives a notice of claim of infringement and, after receiving such notice and having an opportunity to conduct an expeditious good faith investigation of the claim, the infringer—

''(i) fails to engage in negotiation in good faith regarding reasonable compensation with the owner of the infringed copyright; or

''(ii) fails to render payment of reasonable compensation in a reasonably timely manner after reaching an agreement with the owner of the infringed copyright or under an order described in subsection (c)(1)(A).

''(2) REQUIREMENTS FOR SEARCHES.—

''(A) REQUIREMENTS FOR QUALIFYING SEARCHES.—

''(i) IN GENERAL.—A search qualifies under paragraph (1)(A)(i)(I) if the infringer, a person acting on behalf of the infringer, or any person jointly and severally liable with the infringer for the infringement, undertakes a diligent effort that is reasonable under the circumstances to locate the owner of the infringed copyright prior to, and at a time reasonably proximate to, the infringement.

''(ii) DILIGENT EFFORT.—For purposes of clause (i), a diligent effort—

''(I) requires, at a minimum—

''(aa) a search of the records of the Copyright Office that are available to the public through the Internet and relevant to identifying and locating copyright owners, provided there is sufficient identifying information on which to construct a search;

''(bb) a search of reasonably available sources of copyright authorship and ownership information and, where appropriate, licensor information;

''(cc) use of appropriate technology tools, printed publications, and where reasonable, internal or external expert assistance; and

''(dd) use of appropriate databases, including databases that are available to the public through the Internet; and

''(II) shall include any actions that are reasonable and appropriate under the facts relevant to the search, including actions based on facts known at the start of the search and facts uncovered during the search, and including a review, as appropriate, of Copyright Office records not available to the public through the Internet that are reasonably likely to be useful in identifying and locating the copyright owner.

''(iii) CONSIDERATION OF RECOMMENDED PRACTICES.—A qualifying search under this subsection shall ordinarily be based on the applicable statement of Recommended Practices made available by the Copyright Office and additional appropriate best practices of authors, copyright owners, and users to the extent such best practices incorporate the expertise of persons with specialized knowledge with respect to the type of work for which the search is being conducted.

''(iv) LACK OF IDENTIFYING INFORMATION.—The fact that, in any given situation,—

''(I) a particular copy or phonorecord lacks identifying information pertaining to the owner of the infringed copyright; or

''(II) an owner of the infringed copyright fails to respond to any inquiry or other communication about the work,

shall not be deemed sufficient to meet the conditions under paragraph (1)(A)(i)(I).

''(v) USE OF RESOURCES FOR CHARGE.—A qualifying search under paragraph (1)(A)(i)(I) may require use of resources for which a charge or subscription is imposed to the extent reasonable under the circumstances.

''(B) INFORMATION TO GUIDE SEARCHES; RECOMMENDED PRACTICES.—

''(i) STATEMENTS OF RECOMMENDED PRACTICES.—The Register of Copyrights shall maintain and make available to the public and, from time to time, update at least one statement of Recommended Practices for each category, or, in the Register's discretion, subcategory of work under section 102(a) of this title, for conducting and documenting a search under this subsection. Such statement will ordinarily include reference to materials, resources, databases, and technology tools that are relevant to a search. The Register may maintain and make available more than one statement of Recommended Practices for each category or subcategory, as appropriate.

''(ii) CONSIDERATION OF RELEVANT MATERIALS.—In maintaining and making available and, from time to time, updating the Recommended Practices in clause (i), the Register of Copyrights shall, at the Register's discretion, consider materials, resources, databases, technology tools, and practices that are reasonable and relevant to the qualifying search. The Register shall consider any comments submitted to the Copyright Office by the Small Business Administration Office of Advocacy. The Register shall also, to the extent practicable, take the impact on copyright owners that are small businesses into consideration when modifying and updating best practices.

''(3) PENALTY FOR FAILURE TO COMPLY.—If an infringer fails to comply with any requirement under this subsection, the infringer is not eligible for a limitation on remedies under this section.

''(c) LIMITATIONS ON REMEDIES.—The limitations on remedies in an action for infringement of a copyright to which this section applies are the following:

''(1) MONETARY RELIEF.—

''(A) GENERAL RULE.—Subject to subparagraph (B), an award for monetary relief (including actual damages, statutory damages, costs, and attorney's fees) may not be made other than an order requiring the infringer to pay reasonable compensation to the owner of the exclusive right under the infringed copyright for the use of the infringed work.

''(B) FURTHER LIMITATIONS.—An order requiring the infringer to pay reasonable compensation for the use of the infringed work may not be made under subparagraph (A) if the infringer is a nonprofit educational institution, museum, library, archives, or a public broadcasting entity (as defined in subsection (f) of section 118), or any of such entities' employees acting within the scope of their employment, and the infringer proves by a preponderance of the evidence that—

''(i) the infringement was performed without any purpose of direct or indirect commercial advantage;

''(ii) the infringement was primarily educational, religious, or charitable in nature; and

''(iii) after receiving a notice of claim of infringement, and having an opportunity to conduct an expeditious good faith investigation of the claim, the infringer promptly ceased the infringement.

''(2) INJUNCTIVE RELIEF.—

''(A) GENERAL RULE.—Subject to subparagraph (B), the court may impose injunctive relief to prevent or restrain any infringement alleged in the civil action. If the infringer has met the requirements of subsection (b), the relief shall, to the extent practicable and subject to applicable law, account for any harm that the relief would cause the infringer due to its reliance on subsection (b).

''(B) EXCEPTION.—In a case in which the infringer has prepared or commenced preparation of a new work of authorship that recasts, transforms, adapts, or integrates the infringed work with a significant amount of original expression, any injunctive relief ordered by the court may not restrain the infringer's continued preparation or use of that new work, if—

''(i) the infringer pays reasonable compensation in a reasonably timely manner after the amount of such compensation has been agreed upon with the owner of the infringed copyright or determined by the court; and

''(ii) the court also requires that the infringer provide attribution, in a manner that is reasonable under the circumstances, to the legal owner of the infringed copyright, if requested by such owner.

''(C) LIMITATIONS.—The limitations on injunctive relief under subparagraphs (A) and (B) shall not be available to an infringer or a representative of the infringer acting in an official capacity if the infringer asserts that neither the infringer nor any representative of the infringer acting in an official capacity is subject to suit in the courts of the United States for an award of damages for the infringement, unless the court finds that the infringer—

''(i) has complied with the requirements of subsection (b); and

''(ii) pays reasonable compensation to the owner of the exclusive right under the infringed copyright in a reasonably timely manner after the amount of reasonable compensation has been agreed upon with the owner or determined by the court.

''(D) RULE OF CONSTRUCTION.—Nothing in subparagraph (C) shall be construed to authorize or require, and no action taken under such subparagraph shall be deemed to constitute, either an award of damages by the court against the infringer or an authorization to sue a State.

''(E) RIGHTS AND PRIVILEGES NOT WAIVED.—No action taken by an infringer under subparagraph (C) shall be deemed to waive any right or privilege that, as a matter of law, protects the infringer from being subject to suit in the courts of the United States for an award of damages.

''(d) PRESERVATION OF OTHER RIGHTS, LIMITATIONS, AND DEFENSES.—This section does not affect any right, or any limitation or defense to copyright infringement, including fair use, under this title. If another provision of this title provides for a statutory license that would permit the use contemplated by the infringer, that provision applies instead of this section.

''(e) COPYRIGHT FOR DERIVATIVE WORKS AND COMPILATIONS.—Notwithstanding section 103(a), an infringer who qualifies for the limitation on remedies afforded by this section shall not be denied copyright protection in a compilation or derivative work on the basis that such compilation or derivative work employs preexisting material that has been used unlawfully under this section.

''(f) EXCLUSION FOR FIXATIONS IN OR ON USEFUL ARTICLES.—The limitations on remedies under this section shall not be available to an infringer for infringements resulting from fixation of a pictorial, graphic, or sculptural work in or on a useful article that is offered for sale or other commercial distribution to the public.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

''514. Limitation on remedies in cases involving orphan works.''.

(c) EFFECTIVE DATE.—

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

(A) take effect on the later of—

(i) January 1, 2009; or

(ii) the date which is the earlier of—

(I) 30 days after the date on which the Copyright Office publishes notice in the Federal Register that it has certified under section 3 that there exist and are available at least 2 separate and independent searchable, electronic databases, that allow for searches of copyrighted works that are pictorial, graphic, and sculptural works, and are available to the public; or

(II) January 1, 2013; and

(B) apply to infringing uses that commence on or after that effective date.

(2) DEFINITION.—In this subsection, the term ''pictorial, graphic, and sculptural works'' has the meaning given that term in section 101 of title 17, United States Code.

SEC. 3. DATABASES OF PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS.

The Register of Copyrights shall undertake a process to certify that there exist and are available databases that facilitate a user's search for pictorial, graphic, and sculptural works that are subject to copyright protection under title 17, United States Code. The Register shall only certify that databases are available under this section if such databases are determined to be effective and not prohibitively expensive and include the capability to be searched using 1 or more mechanisms that allow for the search and identification of a work by both text and image and have sufficient information regarding the works to enable a potential user of a work to identify or locate the copyright owner or authorized agent. Prior to certifying that databases are available under this section, the Register shall determine, to the extent practicable, their impact on copyright owners that are small businesses and consult with the Small Business Administration Office of Advocacy regarding those impacts. The Register shall consider the Office of Advocacy's comments and respond to any concerns.

SEC. 4. REPORT TO CONGRESS.

Not later than December 12, 2014, the Register of Copyrights shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the implementation and effects of the amendments made by section 2, including any recommendations for legislative changes that the Register considers appropriate.

SEC. 5. STUDY ON REMEDIES FOR SMALL COPYRIGHT CLAIMS.

(a) IN GENERAL.—The Register of Copyrights shall conduct a study with respect to remedies for copyright infringement claims by an individual copyright owner or a related group of copyright owners seeking small amounts of monetary relief, including consideration of alternative means of resolving disputes currently heard in the United States district courts. The study shall cover the infringement claims to which section 514 of title 17, United States Code, apply, and other infringement claims under that title.

(b) PROCEDURES.—The Register of Copyrights shall publish notice of the study required under subsection (a), providing a period during which interested persons may submit comments on the study, and an opportunity for interested persons to participate in public roundtables on the study. The Register shall hold any such public roundtables at such times as the Register considers appropriate.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Register of Copyrights shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the study conducted under this section, including such administrative, regulatory, or legislative recommendations that the Register considers appropriate.

SEC. 6. STUDY ON COPYRIGHT DEPOSITS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study examining the function of the deposit requirement in the copyright registration system under section 408 of title 17, United States Code, including—

(1) the historical purpose of the deposit requirement;

(2) the degree to which deposits are made available to the public currently;

(3) the feasibility of making deposits, particularly visual arts deposits, electronically searchable by the public for the purpose of locating copyright owners; and

(4) the impact any change in the deposit requirement would have on the collection of the Library of Congress.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the study conducted under this section, including such administrative, regulatory, or legislative recommendations that the Comptroller General considers appropriate.

OLD POST OFFICE BUILDING REDEVELOPMENT ACT OF 2008

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1079, H.R. 5001.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5001) to authorize the Administrator of General Services to provide for the redevelopment of the Old Post Office Building located in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 5001) was ordered to a third reading, was read the third time, and passed.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 2008

Mr. WHITEHOUSE. Mr. President, I ask that the Chair lay before the Senate a message from the House with respect to S. 496.

The Presiding Officer laid before the Senate a message from the House as follows:

S. 496

Resolved, That the bill from the Senate (S. 496) entitled ''An Act to reauthorize and improve the program authorized by the Apalachian Regional Development Act of 1965'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Appalachian Regional Development Act Amendments of 2008''.

SEC. 2. LIMITATION ON AVAILABLE AMOUNTS; MAXIMUM COMMISSION CONTRIBUTION.

(a) GRANTS AND OTHER ASSISTANCE.—Section 14321(a) of title 40, United States Code, is amended—

(1) in paragraph (1)(A) by striking clause (i) and inserting the following:

''(i) the amount of the grant shall not exceed—

''(I) 50 percent of administrative expenses;

''(II) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which a distressed county designation is in effect under section 14526, 75 percent of administrative expenses; or

''(III) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which an at-risk county designation is in effect under section 14526, 70 percent of administrative expenses;''; and

(2) in paragraph (2) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), of the cost of any activity eligible for financial assistance under this section, not more than—

''(i) 50 percent may be provided from amounts appropriated to carry out this subtitle;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this subtitle; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this subtitle.''.

(b) DEMONSTRATION HEALTH PROJECTS.—Section 14502 of title 40, United States Code, is amended—

(1) in subsection (d) by striking paragraph (2) and inserting the following:

''(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized to be appropriated by this section, may be made for up to—

''(A) 50 percent of the cost of that operation;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of the cost of that operation; or

''(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of the cost of that operation.''; and

(2) in subsection (f)—

(A) in paragraph (1) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(B) by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to the lesser of—

''(A) 70 percent; or

''(B) the maximum Federal contribution percentage authorized by this section.''.

(c) ASSISTANCE FOR PROPOSED LOW- AND MIDDLE-INCOME HOUSING PROJECTS.—Section 14503 of title 40, United States Code, is amended—

(1) in subsection (d) by striking paragraph (1) and inserting the following:

''(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be made for up to—

''(A) 50 percent of that cost;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of that cost; or

''(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of that cost.''; and

(2) in subsection (e) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—A grant under this section for expenses incidental to planning and obtaining financing for a project under this section that the Secretary considers to be unrecoverable from the proceeds of a permanent loan made to finance the project shall—

''(A) not be made to an organization established for profit; and

''(B) except as provided in paragraph (2), not exceed—

''(i) 50 percent of those expenses;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of those expenses; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of those expenses.''.

(d) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Section 14504 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts appropriated to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.''.

(e) ENTREPRENEURSHIP INITIATIVE.—Section 14505 of title 40, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts appropriated to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.''.

(f) REGIONAL SKILLS PARTNERSHIPS.—Section 14506 of title 40, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts appropriated to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.''.

(g) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 14507(g) of title 40, United States Code, is amended—

(1) in paragraph (1) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to 70 percent.''.

SEC. 3. ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.

(a) IN GENERAL.—Subchapter I of chapter 145 of subtitle IV of title 40, United States Code, is amended by adding at the end the following:

''§ 14508. Economic and energy development initiative

''(a) PROJECTS TO BE ASSISTED.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the Appalachian region for projects and activities—

''(1) to promote energy efficiency in the Appalachian region to enhance the economic competitiveness of the Appalachian region;

''(2) to increase the use of renewable energy resources, particularly biomass, in the Appalachian region to produce alternative transportation fuels, electricity, and heat; and

''(3) to support the development of regional, conventional energy resources to produce electricity and heat through advanced technologies that achieve a substantial reduction in emissions, including greenhouse gases, over the current baseline.

''(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts appropriated to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.

''(c) SOURCES OF ASSISTANCE.—Subject to subsection (b), grants provided under this section may be provided from amounts made available to carry out this section in combination with amounts made available under other Federal programs or from any other source.

''(d) FEDERAL SHARE.—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission decides is appropriate.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of title 40, United States Code, is amended by inserting after the item relating to section 14507 the following:

''14508. Economic and energy development initiative.''.

SEC. 4. DISTRESSED, AT-RISK, AND ECONOMICALLY STRONG COUNTIES.

(a) DESIGNATION OF AT-RISK COUNTIES.—Section 14526 of title 40, United States Code, is amended—

(1) in the section heading by inserting ***'', at-risk,''*** after ***''Distressed''***; and

(2) in subsection (a)(1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in subparagraph (A) by striking ''and'' at the end; and

(C) by inserting after subparagraph (A) the following:

''(B) designate as 'at-risk counties' those counties in the Appalachian region that are most at risk of becoming economically distressed; and''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of such title is amended by striking the item relating to section 14526 and inserting the following:

''14526. Distressed, at-risk, and economically strong counties.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 14703(a) of title 40, United States Code, is amended to read as follows:

''(a) IN GENERAL.—In addition to amounts made available under section 14501, there is authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—

''(1) $87,000,000 for fiscal year 2008;

''(2) $100,000,000 for fiscal year 2009;

''(3) $105,000,000 for fiscal year 2010;

''(4) $108,000,000 for fiscal year 2011; and

''(5) $110,000,000 for fiscal year 2012.''.

(b) ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.—Section 14703(b) of such title is amended to read as follows:

''(b) ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.—Of the amounts made available under subsection (a), the following amounts may be used to carry out section 14508—

''(1) $12,000,000 for fiscal year 2008;

''(2) $12,500,000 for fiscal year 2009;

''(3) $13,000,000 for fiscal year 2010;

''(4) $13,500,000 for fiscal year 2011; and

''(5) $14,000,000 for fiscal year 2012.''.

(c) ALLOCATION OF FUNDS.—Section 14703 of such title is amended by adding at the end the following:

''(d) ALLOCATION OF FUNDS.—Funds approved by the Appalachian Regional Commission for a project in a State in the Appalachian region pursuant to a congressional directive shall be derived from the total amount allocated to the State by the Appalachian Regional Commission from amounts appropriated to carry out this subtitle.''.

SEC. 6. TERMINATION.

Section 14704 of title 40, United States Code, is amended by striking ''2007'' and inserting ''2012''.

SEC. 7. ADDITIONS TO APPALACHIAN REGION.

(a) KENTUCKY.—Section 14102(a)(1)(C) of title 40, United States Code, is amended—

(1) by inserting ''Metcalfe,'' after ''Menifee,'';

(2) by inserting ''Nicholas,'' after ''Morgan,''; and

(3) by inserting ''Robertson,'' after ''Pulaski,''.

(b) OHIO.—Section 14102(a)(1)(H) of such title is amended—

(1) by inserting ''Ashtabula,'' after ''Adams,'';

(2) by inserting ''Mahoning,'' after ''Lawrence,''; and

(3) by inserting ''Trumbull,'' after ''Scioto,''.

(c) TENNESSEE.—Section 14102(a)(1)(K) of such title is amended by inserting ''Lawrence, Lewis,'' after ''Knox,''.

(d) VIRGINIA.—Section 14102(a)(1)(L) of such title is amended—

(1) by inserting ''Henry,'' after ''Grayson,''; and

(2) by inserting ''Patrick,'' after ''Montgomery,''.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate concur in the House amendment and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

HAZARDOUS WASTE ELECTRONIC MANIFEST ESTABLISHMENT ACT

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1039, S. 3109.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3109) to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Thune amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5672) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 3109), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

MERCURY MARKET MINIMIZATION ACT OF 2007

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1038, S. 906.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 906) to prohibit the sale, distribution, transfer, and export of elemental mercury, and other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mercury Export Ban Act of 2008''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mercury is highly toxic to humans, ecosystems, and wildlife;

(2) as many as 10 percent of women in the United States of childbearing age have mercury in the blood at a level that could put a baby at risk;

(3) as many as 630,000 children born annually in the United States are at risk of neurological problems related to mercury;

(4) the most significant source of mercury exposure to people in the United States is ingestion of mercury-contaminated fish;

(5) the Environmental Protection Agency reports that, as of 2004—

(A) 44 States have fish advisories covering over 13,000,000 lake acres and over 750,000 river miles;

(B) in 21 States the freshwater advisories are statewide; and

(C) in 12 States the coastal advisories are statewide;

(6) the long-term solution to mercury pollution is to minimize global mercury use and releases to eventually achieve reduced contamination levels in the environment, rather than reducing fish consumption since uncontaminated fish represents a critical and healthy source of nutrition worldwide;

(7) mercury pollution is a transboundary pollutant, depositing locally, regionally, and globally, and affecting water bodies near industrial sources (including the Great Lakes) and remote areas (including the Arctic Circle);

(8) the free trade of elemental mercury on the world market, at relatively low prices and in ready supply, encourages the continued use of elemental mercury outside of the United States, often involving highly dispersive activities such as artisinal gold mining;

(9) the intentional use of mercury is declining in the United States as a consequence of process changes to manufactured products (including batteries, paints, switches, and measuring devices), but those uses remain substantial in the developing world where releases from the products are extremely likely due to the limited pollution control and waste management infrastructures in those countries;

(10) the member countries of the European Union collectively are the largest source of elemental mercury exports globally;

(11) the European Commission has proposed to the European Parliament and to the Council of the European Union a regulation to ban exports of elemental mercury from the European Union by 2011;

(12) the United States is a net exporter of elemental mercury and, according to the United States Geological Survey, exported 506 metric tons of elemental mercury more than the United States imported during the period of 2000 through 2004; and

(13) banning exports of elemental mercury from the United States will have a notable effect on the market availability of elemental mercury and switching to affordable mercury alternatives in the developing world.

SEC. 3. PROHIBITION ON SALE, DISTRIBUTION, OR TRANSFER OF ELEMENTAL MERCURY.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

''(f) MERCURY.—

''(1) PROHIBITION ON SALE, DISTRIBUTION, OR TRANSFER OF ELEMENTAL MERCURY BY FEDERAL AGENCIES.—Except as provided in paragraph (2), effective beginning on the date of enactment of this subsection, no Federal agency shall convey, sell, or distribute to any other Federal agency, any State or local government agency, or any private individual or entity any elemental mercury under the control or jurisdiction of the Federal agency.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) a transfer between Federal agencies of elemental mercury for the sole purpose of facilitating storage of mercury to carry out this Act; or

''(B) a conveyance, sale, distribution, or transfer of coal.

''(3) LEASES OF FEDERAL COAL.—Nothing in this subsection prohibits the leasing of coal.''.

SEC. 4. PROHIBITION ON EXPORT OF ELEMENTAL MERCURY.

Section 12 of the Toxic Substances Control Act (15 U.S.C. 2611) is amended—

(1) in subsection (a) by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c) PROHIBITION ON EXPORT OF ELEMENTAL MERCURY.—

''(1) PROHIBITION.—Effective January 1, 2010, the export of elemental mercury from the United States is prohibited.

''(2) INAPPLICABILITY OF SUBSECTION (a).—Subsection (a) shall not apply to this subsection.

''(3) REPORT TO CONGRESS ON MERCURY COMPOUNDS.—

''(A) REPORT.—Not later than one year after the date of enactment of the Mercury Export Ban Act of 2008, the Administrator shall publish and submit to Congress a report on mercuric chloride, mercurous chloride or calomel, mercuric oxide, and other mercury compounds, if

any, that may currently be used in significant quantities in products or processes. Such report shall include an analysis of—

''(i) the sources and amounts of each of the mercury compounds imported into the United States or manufactured in the United States annually;

''(ii) the purposes for which each of these compounds are used domestically, the amount of these compounds currently consumed annually for each purpose, and the estimated amounts to be consumed for each purpose in 2010 and beyond;

''(iii) the sources and amounts of each mercury compound exported from the United States annually in each of the last three years;

''(iv) the potential for these compounds to be processed into elemental mercury after export from the United States; and

''(v) other relevant information that Congress should consider in determining whether to extend the export prohibition to include one or more of these mercury compounds.

''(B) PROCEDURE.—For the purpose of preparing the report under this paragraph, the Administrator may utilize the information gathering authorities of this title, including sections 10 and 11.

''(4) ESSENTIAL USE EXEMPTION.—(A) Any person residing in the United States may petition the Administrator for an exemption from the prohibition in paragraph (1), and the Administrator may grant by rule, after notice and opportunity for comment, an exemption for a specified use at an identified foreign facility if the Administrator finds that—

''(i) nonmercury alternatives for the specified use are not available in the country where the facility is located;

''(ii) there is no other source of elemental mercury available from domestic supplies (not including new mercury mines) in the country where the elemental mercury will be used;

''(iii) the country where the elemental mercury will be used certifies its support for the exemption;

''(iv) the export will be conducted in such a manner as to ensure the elemental mercury will be used at the identified facility as described in the petition, and not otherwise diverted for other uses for any reason;

''(v) the elemental mercury will be used in a manner that will protect human health and the environment, taking into account local, regional, and global human health and environmental impacts;

''(vi) the elemental mercury will be handled and managed in a manner that will protect human health and the environment, taking into account local, regional, and global human health and environmental impacts; and

''(vii) the export of elemental mercury for the specified use is consistent with international obligations of the United States intended to reduce global mercury supply, use, and pollution.

''(B) Each exemption issued by the Administrator pursuant to this paragraph shall contain such terms and conditions as are necessary to minimize the export of elemental mercury and ensure that the conditions for granting the exemption will be fully met, and shall contain such other terms and conditions as the Administrator may prescribe. No exemption granted pursuant to this paragraph shall exceed three years in duration and no such exemption shall exceed 10 metric tons of elemental mercury.

''(C) The Administrator may by order suspend or cancel an exemption under this paragraph in the case of a violation described in subparagraph (D).

''(D) A violation of this subsection or the terms and conditions of an exemption, or the submission of false information in connection therewith, shall be considered a prohibited act under section 15, and shall be subject to penalties under section 16, injunctive relief under section 17, and citizen suits under section 20.

''(5) CONSISTENCY WITH TRADE OBLIGATIONS.—Nothing in this subsection affects, replaces, or amends prior law relating to the need for consistency with international trade obligations.

''(6) EXPORT OF COAL.—Nothing in this subsection shall be construed to prohibit the export of coal.''.

SEC. 5. LONG-TERM STORAGE.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 2010, the Secretary of Energy (in this section referred to as the ''Secretary'') shall accept custody, for the purpose of long-term management and storage, of elemental mercury generated within the United States and delivered to a facility of the Department of Energy designated by the Secretary.

(b) FEES.—

(1) IN GENERAL.—After consultation with persons who are likely to deliver elemental mercury to a designated facility for long-term management and storage under the program prescribed in subsection (a), and with other interested persons, the Secretary shall assess and collect a fee at the time of delivery for providing such management and storage, based on the pro rata cost of long-term management and storage of elemental mercury delivered to the facility. The amount of such fees—

(A) shall be made publically available not later than October 1, 2009;

(B) may be adjusted annually; and

(C) shall be set in an amount sufficient to cover the costs described in paragraph (2).

(2) COSTS.—The costs referred to in paragraph (1)(C) are the costs to the Department of Energy of providing such management and storage, including facility operation and maintenance, security, monitoring, reporting, personnel, administration, inspections, training, fire suppression, closure, and other costs required for compliance with applicable law. Such costs shall not include costs associated with land acquisition or permitting of a designated facility under the Solid Waste Disposal Act or other applicable law. Building design and building construction costs shall only be included to the extent that the Secretary finds that the management and storage of elemental mercury accepted under the program under this section cannot be accomplished without construction of a new building or buildings.

(c) REPORT.—Not later than 60 days after the end of each Federal fiscal year, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on all of the costs incurred in the previous fiscal year associated with the long-term management and storage of elemental mercury. Such report shall set forth separately the costs associated with activities taken under this section.

(d) MANAGEMENT STANDARDS FOR A FACILITY.—

(1) GUIDANCE.—Not later than October 1, 2009, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and all appropriate State agencies in affected States, shall make available, including to potential users of the long-term management and storage program established under subsection (a), guidance that establishes procedures and standards for the receipt, management, and long-term storage of elemental mercury at a designated facility or facilities, including requirements to ensure appropriate use of flasks or other suitable shipping containers. Such procedures and standards shall be protective of human health and the environment and shall ensure that the elemental mercury is stored in a safe, secure, and effective manner. In addition to such procedures and standards, elemental mercury managed and stored under this section at a designated facility shall be subject to the requirements of the Solid Waste Disposal Act, including the requirements of subtitle C of that Act, except as provided in subsection (g)(2) of this section. A designated facility in existence on or before January 1, 2010, is authorized to operate under interim status pursuant to section 3005(e) of the Solid Waste Disposal Act until a final decision on a permit application is made pursuant to section 3005(c) of the Solid Waste Disposal Act. Not later than January 1, 2012, the Administrator of the Environmental Protection Agency (or an authorized State) shall issue a final decision on the permit application.

(2) TRAINING.—The Secretary shall conduct operational training and emergency training for all staff that have responsibilities related to elemental mercury management, transfer, storage, monitoring, or response.

(3) EQUIPMENT.—The Secretary shall ensure that each designated facility has all equipment necessary for routine operations, emergencies, monitoring, checking inventory, loading, and storing elemental mercury at the facility.

(4) FIRE DETECTION AND SUPPRESSION SYSTEMS.—The Secretary shall—

(A) ensure the installation of fire detection systems at each designated facility, including smoke detectors and heat detectors; and

(B) ensure the installation of a permanent fire suppression system, unless the Secretary determines that a permanent fire suppression system is not necessary to protect human health and the environment.

(e) INDEMNIFICATION OF PERSONS DELIVERING ELEMENTAL MERCURY.—

(1) IN GENERAL.—(A) Except as provided in subparagraph (B) and subject to paragraph (2), the Secretary shall hold harmless, defend, and indemnify in full any person who delivers elemental mercury to a designated facility under the program established under subsection (a) from and against any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of elemental mercury as a result of acts or omissions occurring after such mercury is delivered to a designated facility described in subsection (a).

(B) To the extent that a person described in subparagraph (A) contributed to any such release or threatened release, subparagraph (A) shall not apply.

(2) CONDITIONS.—No indemnification may be afforded under this subsection unless the person seeking indemnification—

(A) notifies the Secretary in writing within 30 days after receiving written notice of the claim for which indemnification is sought;

(B) furnishes to the Secretary copies of pertinent papers the person receives;

(C) furnishes evidence or proof of any claim, loss, or damage covered by this subsection; and

(D) provides, upon request by the Secretary, access to the records and personnel of the person for purposes of defending or settling the claim or action.

(3) AUTHORITY OF SECRETARY.—(A) In any case in which the Secretary determines that the Department of Energy may be required to make indemnification payments to a person under this subsection for any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage referred to in paragraph (1)(A), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage.

(B) In any case described in subparagraph (A), if the person to whom the Department of Energy may be required to make indemnification payments does not allow the Secretary to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this subsection.

(f) TERMS, CONDITIONS, AND PROCEDURES.—The Secretary is authorized to establish such terms, conditions, and procedures as are necessary to carry out this section.

(g) EFFECT ON OTHER LAW.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section changes or affects any Federal, State, or local law or the obligation of any person to comply with such law.

(2) EXCEPTION.—(A) Elemental mercury that the Secretary is storing on a long-term basis shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)). For the purposes of section 3004(j) of the Solid Waste Disposal Act, a generator accumulating elemental mercury destined for a facility designated by the Secretary under subsection (a) for 90 days or less shall be deemed to be accumulating the mercury to facilitate proper treatment, recovery, or disposal.

(B) Elemental mercury that is stored at a facility with respect to which a permit has been issued under section 3005(c) of the Solid Waste Disposal Act (42 U.S.C. 6925(c)) shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) if—

(i) the Secretary is unable to accept the mercury at a facility designated by the Secretary under subsection (a) for reasons beyond the control of the owner or operator of the permitted facility;

(ii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will ship the mercury to the designated facility when the Secretary is able to accept the mercury; and

(iii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will not sell, or otherwise place into commerce, the mercury.

This subparagraph shall not apply to mercury with respect to which the owner or operator of the permitted facility fails to comply with a certification provided under clause (ii) or (iii).

(h) STUDY.—Not later than July 1, 2011, the Secretary shall transmit to the Congress the results of a study, conducted in consultation with the Administrator of the Environmental Protection Agency, that—

(1) determines the impact of the long-term storage program under this section on mercury recycling; and

(2) includes proposals, if necessary, to mitigate any negative impact identified under paragraph (1).

SEC. 6. REPORT TO CONGRESS.

At least 3 years after the effective date of the prohibition on export of elemental mercury under section 12(c) of the Toxic Substances Control Act (15 U.S.C. 2611(c)), as added by section 4 of this Act, but not later than January 1, 2014, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the global supply and trade of elemental mercury, including but not limited to the amount of elemental mercury traded globally that originates from primary mining, where such primary mining is conducted, and whether additional primary mining has occurred as a consequence of this Act.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Boxer substitute amendment be agreed to, the committee-reported substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5673) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 906), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

ALCOHOL AND DRUG ADDICTION RECOVERY DAY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 1084, S. Res. 659.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 659) designating September 27, 2008, as Alcohol and Drug Addiction Recovery Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 659) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 659

Whereas treatment and long-term recovery from substance use disorders can offer a renewed outlook on life for those who are addicted and their family members;

Whereas more than 23,000,000 people in the United States struggle with substance use disorders;

Whereas people who receive treatment for substance use disorders can lead more productive and fulfilling lives, personally and professionally;

Whereas studies have consistently found that treatment is essential for people to be successful in their paths of recovery;

Whereas real stories of long-term recovery can inspire others to ask for help and improve their own lives, the lives of their families, and the entire community;

Whereas it is critical that we educate our community members that substance use disorders are treatable chronic diseases, and that by reaching out to those who suffer from these disorders we can improve the quality of life for the entire community;

Whereas, to help achieve this goal, the Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the National Council on Alcoholism and Drug Dependency, the Partnership for a Drug-Free America, and A&E Television Networks, along with thousands of people from across the country, will hold a Recovery Rally on the Brooklyn Bridge and in City Hall Park in New York City on September 27, 2008; and

Whereas the Recovery Rally will be part of National Alcohol and Drug Addiction Recovery Month: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 27, 2008, as Alcohol and Drug Addiction Recovery Day; and

(2) calls upon the people of the United States to observe this day with appropriate programs, activities, and ceremonies.

50TH ANNIVERSARY OF THE FOUNDING OF AARP

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration, and the Senate now proceed to S. Res. 666.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 666) recognizing and honoring the 50th anniversary of the founding of AARP.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 666) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 666

Whereas AARP is a nonprofit, nonpartisan organization with more than 40,000,000 members that is dedicated to improving the quality of life of people who are 50 years of age or older;

Whereas Ethel Percy Andrus, a retired educator from California, founded AARP in 1958 to promote independence, dignity, and purpose for older people in the United States and to encourage current and future generations ''to serve, not to be served'';

Whereas the vision of AARP is ''a society in which everyone ages with dignity and purpose and in which AARP helps people fulfill their goals and dreams'';

Whereas the mission of AARP is to enhance the quality of life of all people as they age, to promote positive social change, and to deliver value to its members through information, advocacy, and service;

Whereas the nonpartisan advocacy activities of AARP help millions of people participate in the legislative, judicial, and administrative processes of the United States;

Whereas AARP is a trusted source of reliable information on health, financial security, and other issues important to people 50 years of age and older;

Whereas AARP provides an opportunity for volunteerism and service so that its millions of members can better their families, communities, and the Nation;

Whereas AARP Services has become a leader in the marketplace by influencing companies to offer new and better services for the members of AARP;

Whereas AARP Foundation, the philanthropic arm of AARP, delivers information, education, and direct service programs to the most vulnerable people in the United States aged 50 and over;

Whereas the job placement program of AARP Foundation has helped more than 400,000 low-income older people in the United States find jobs, contributing to their sense of purpose and dignity;

Whereas the Driver Safety Program of AARP has helped more than 10,000,000 older drivers sharpen their driving skills;

Whereas 2008 is the 50th anniversary of the founding of AARP; and

Whereas, in honor of its 50th anniversary, AARP renewed its commitment to improving

the quality of life for all older people in the United States and helping people of all generations fulfill their goals and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) commends AARP for 50 years of outstanding service to people aged 50 and older; and

(2) recognizes AARP's commitment to serving future generations.

EXECUTIVE SESSION

NOMINATION DISCHARGED

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Intelligence Committee be discharged of PN1791, the nomination of J. Patrick Rowan, to be an Assistant Attorney General; that the Senate then proceed to the nomination; that the nomination be confirmed and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD, as if read; that the President be immediately notified of the Senate's action; that the Senate resume legislative session; and that no further motions be in order.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

J. Patrick Rowan, of Maryland, to be an Assistant Attorney General.

Mr. LEAHY. Mr. President, today, the Senate confirmed the nomination of J. Patrick Rowan to be Assistant Attorney General in charge of the National Security Division at the Department of Justice.

We continue in our efforts to rebuild the Department of Justice after the scandals of the Gonzales era and the Bush administration. We have already confirmed 35 executive nominations so far this Congress, including the confirmations of 12 U.S. attorneys, seven U.S. Marshals, and a new Attorney General, Deputy Attorney General, and Associate Attorney General. We are poised to add to this total, having reported out of committee this month another 6 high-level executive nominations, including the nomination of Greg Garre to be Solicitor General of the United States, one of the highest and most prestigious positions at the Department of Justice.

At the beginning of this Congress, the Judiciary Committee began its oversight efforts. Over the 9 nine months, our efforts revealed a Department of Justice gone awry. The leadership crisis came more and more into view as I led a bipartisan group of concerned Senators to consider the United States Attorney firing scandal, a confrontation over the legality of the administration's warrantless wiretapping program, the untoward political influence of the White House at the Department of Justice, and the secret legal memos excusing all manner of excess and subverting the rule of law.

What our efforts exposed was a crisis of leadership that took a heavy toll on the tradition of independence that has long guided the Justice Department and provided it with safe harbor from political interference. It shook the confidence of the American people. Through bipartisan efforts among those from both sides of the aisle who care about federal law enforcement and the Department of Justice, we joined together to press for accountability.

That resulted in a change in leadership at the Department, with the resignations of the Attorney General and virtually all of its highest-ranking officials.

But the oversight efforts did not complete our work. We continue in the waning days of the Bush administration to try to return to the right track and ensure that the rule of law is restored as the guiding light for the work of the Department. Mr. Rowan, who currently serves as acting head of the National Security Division, has an opportunity now and if confirmed to playa significant role in that restoration.

In the wake of the tragic attacks on September 11, 2001, and toward the end of President Bush's first year in office, this country had an opportunity to show that we could fight terrorism, secure our Nation, and bring the perpetrators of those heinous acts to justice, all in a way that was consistent with our history and our most deeply valued principles. A number of us reached out to the White House in an effort to craft a thoughtful, effective bipartisan way forward. The White House, supported by the Republican leadership in Congress, chose another path. They diverted our focus from al-Qaida and capturing Osama bin Laden to war and occupation in Iraq. They chose to enhance the power of the President and to turn the Office of Legal Counsel, OLC, at the Department of Justice into an apologist for White House orders—from the warrantless wiretapping of Americans to torture. In my view, that approach has made our country less safe.

We are all too familiar now with the litany of disastrous actions by this administration: rejecting the Geneva Conventions—which the President's counsel referred to as ''quaint''—against the advice of the Secretary of State; establishing a system of detention at Guantanamo Bay in an effort to circumvent the law and accountability; attempting to eliminate the Great Writ of habeas corpus for any non-citizen designated by the President as an enemy combatant; setting up a flawed military commission process that, after 6 years, has finally resulted in its first trial of a terrorist after more than 80 have been tried successfully in our court system; and permitting cruel interrogation practices that in the worst cases amount to officially sanctioned torture.

These misguided actions and policies have rested upon a legal edifice built in secret by OLC opinions that have turned the rule of law on its head by interpreting laws Congress has passed. This week the Judiciary Committee authorized subpoenas relating to those opinions. For the better part of 8 years, OLC's work has largely been kept secret from this oversight Committee, despite our efforts. Keeping binding interpretations of secret law from Congress is wrong.

The advice we have seen from OLC has been deeply flawed, sloppy, and flat out wrong—but it has been permitted to happen because secrecy has prevented our oversight. Unjustified secrecy continues to prevent the review by this Committee that would provide a check and some control on how the administration is interpreting the law that is Congress's constitutional responsibility to write. That obsessive secrecy even prevents us from knowing the subject matter on which OLC has written opinions.

There is no justification for keeping OLC legal interpretations secret from this committee, let alone the index I have long sought. That is why I sought and now have the authorization for subpoenas after years of being rebuffed and slow-rolled in our attempts to find out how this administration has interpreted and applied the laws written by Congress.

Another one of the misguided policies of the Bush-Cheney administration was rebuked earlier this summer in the Supreme Court's 5–4 decision in Boumediene v. Bush. That decision reaffirmed our core American values by concluding that detainees at Guantanamo have the right to bring habeas corpus claims in Federal court. I applauded that decision because I have maintained from the beginning that the provisions of the Military Commission Act that purported to strip away those rights were unconstitutional and un-American.

This should not have been a hard decision, but I hope Mr. Rowan understands that it was a vitally important one. The Courts have a long history of considering habeas petitions and of handling national security matters, including classified information. I have great confidence in our system of justice and its ability to handle these issues. The administration made this mess by seeking to avoid judicial review at all costs, causing years of delay and profound uncertainty. It has now been rebuked four times by the Supreme Court. Habeas Corpus is the ultimate guarantee of fairness and a check on executive excess.

It is vital that we ensure that we have a functioning, independent Justice Department, and that this sad era in the history of the Department is not repeated. We have seen what happens when the rule of law plays second fiddle to a President's agenda and the partisan desires of political operatives. It is a disaster for the American people. Both the President and the Nation are best served by a Justice Department

that provides sound advice and takes responsible action, without regard for political considerations—not one that develops legalistic loopholes and ideological litmus tests to serve the ends of a particular administration.

I congratulate Mr. Rowan and his family on his confirmation today.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 110–22

Mr. WHITEHOUSE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on September 26, 2008, by the President of the United States: Agreement on Conservation of Albatrosses and Petrels, Treaty Document No. 110–22. I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to accession, I transmit herewith the Agreement on the Conservation of Albatrosses and Petrels, with Annexes. In addition, I transmit for the information of the Senate the report of the Department of State, which includes a detailed analysis of the Agreement.

The Agreement, done at Canberra on June 19, 2001, and that entered into force on February 1, 2004, was adopted pursuant to the Convention on the Conservation of Migratory Species of Wild Animals (the ''Convention''), done at Bonn on June 23, 1979. Although the United States is not a Party to the Convention, the United States may nonetheless become a Party to the Agreement. The Agreement's objective is to achieve and maintain a favorable conservation status for albatrosses and petrels.

I believe the Agreement to be fully in the U.S. interest. Its provisions advance the U.S. goals of protecting albatrosses and petrels. As the Department of State's analysis explains, the Agreement is not self-executing and thus does not by itself give rise to domestically enforceable Federal law. Implementing legislation would be required, which will be submitted separately to the Congress for its consideration.

I recommend that the Senate give early and favorable consideration to the Agreement and give its advice and consent to accession.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 26, 2008.*

ORDERS FOR SATURDAY, SEPTEMBER 27, 2008

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow, Saturday, September 27; that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume the House message to accompany H.R. 2638, the consolidated security, disaster, continuing resolution; that the time until 10 a.m. be equally divided between the two leaders or their designees; and that at 10 a.m. the Senate proceed to vote on the motion to invoke cloture on the motion to concur in the House amendment to the Senate amendment to H.R. 2638.

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

PROGRAM

Mr. WHITEHOUSE. Mr. President, at approximately 10 a.m. tomorrow, there will be a cloture vote on the House message to accompany the consolidated appropriations bill.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. WHITEHOUSE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 8 p.m., recessed until Saturday, September 27, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF ENERGY

F. CHASE HUTTO III, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF ENERGY (INTERNATIONAL AFFAIRS AND DOMESTIC POLICY), VICE KAREN ALDERMAN HARBERT, RESIGNED.

DEPARTMENT OF STATE

MICHAEL S. DORAN, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL INFORMATION PROGRAMS), VICE JOHN STERN WOLF.

DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY

PAUL A. QUANDER, JR., OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA FOR A TERM OF SIX YEARS. (REAPPOINTMENT)

THE JUDICIARY

PHILIP P. SIMON, OF INDIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT, VICE KENNETH F. RIPPLE, RETIRED.

KATHRYN A. OBERLY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE MICHAEL W. FARRELL, RETIRED.

SMALL BUSINESS ADMINISTRATION

JOHN GRASTY CREWS II, OF NEW MEXICO, TO BE INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION, VICE ERIC M. THORSON.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JAMES N. STEWART

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DAVID L. WEEKS

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be lieutenant commander

MICAH N. ACREE
MICHEL K. ADAMS
ERIN N. ADLER
EDWARD W. AHLSTRAND
ERIC C. ALLEN
NAHSHON I. ALMANDMOSS
JAMIE T. AMON
JEREMY J. ANDERSON
RICHARD A. ANGELET
JOHN D. ANNONEN
KYLE S. ARMSTRONG
DOUGLAS G. ATKINS
STEPHEN D. AXLEY
PATRICK T. BACHER
JAMES J. BAILEY
JORDAN M. BALDUEZA
ROBERT J. BARONAS
HEINZ G. BARTNICK
DAVID M. BARTRAM
TAB A. BEACH
CLAYTON R. BEAL
DEREK C. BEATTY
PAUL R. BEAVIS
BRIAN J. BEHLER
DAVID S. BENNETT
BRENT R. BERGAN
JAMES R. BIGBIE
JAMES A. BINNIKER
STEPHEN R. BIRD
JEFFREY A. BIXLER
TODD X. BLOCH
JOSE M. BOLANOS
MATTHEW T. BOURASSA
MATT A. BOURNONVILLE
RALPH J. BOYES
JEFFREY R. BRAY
CURTIS G. BROWN
SCOTT D. BUETTNER
CHANING D. BURGESS
PATRICK C. BURKETT
DERREK W. BURRUS
CONRADO R. CABANTAC
THELMA CABANTAC
MICHAEL R. CAIN
GREGORY A. CALLAGHAN
TIMOTHY F. CALLISTER
JAMES C. CAMPBELL
ERIC M. CARRERO
ROBERT W. CARROLL
JONATHAN A. CARTER
JUSTIN M. CARTER
DREW M. CASEY
THOMAS M. CASEY
SEAN R. CASHELL
JOHN D. CASHMAN
ANTHONY B. CAUDLE
DEBORAH D. CAWTHORN
STEVEN E. CERVENY
SHERRI L. CHAMBERLIN
ROBERT B. CHAMBERS
JOHN V. CHANG
RANDALL T. CHONG
MICHAEL A. CILENTI
JOSEPH A. COMAR
BRADLEY C. COOK
JEFFREY K. COON
DANIEL H. COST
THOMAS G. COWELL
LAUREN E. COX
MICHAEL A. CRIDER
EDGARDO CRUZ
MEGAN L. CULL
PATRICK A. CULVER
CHRISTOPHER H. DAILEY
ASA S. DANIELS
DOUGLAS K. DANIELS
STEPHEN DAPONTE
JOHN G. DAUGHTRY
ELAINA DAVIS
JAY E. DAVIS
JAVIER A. DELGADO
MATTHEW J. DENNING
DANIEL T. DEUTERMANN
SHANA R. DONALDSON
JASON J. DORVAL
REBECCA W. DORVAL
JEFFREY B. DORWART
JOHN F. DRUELLE
DANIEL D. DUMAS
BRIAN J. ECKLEY
RACHEL M. ELDRIDGE
ROBIN A. ELLERBE

RYAN S. ENGEL
ANTHONY ENNAMORATO
THOMAS C. EVANS
CHAD A. FAIT
JESSICA A. FANT
PETER E. FANT
MICHAEL P. FISHER
LEE A. FLEMING
AMY E. FLORENTINO
CHARLES K. FLUKE
MARK C. FOCKEN
JAMES T. FOGLE
STEVEN P. FORAN
JAMIE C. FREDERICK
MATTHEW S. FURLONG
MARIANNE M. GELAKOSKA
SHAWN T. GERAGHTY
SHANNON B. GIAMMANCO
THOMAS A. GILL
MATTHEW S. GINGRICH
MARK P. GLANCY
SHIELDS R. GORE
ANDREW C. GORMAN
JEFFREY R. GRAHAM
SEAN W. GREEN
ROBERT P. GRIFFITHS
DOUGLAS C. HALL
ALAN D. HANSEN
JAMES J. HARKINS
WENDY L. HART
JOHN M. HARTLOVE
ANTHONY H. HAWES
SUZANNE E. HEMANN
JEFF S. HENDERSON
JOHN G. HENIGHAN
JOHN HENRY
THOMAS G. HICKEY
DAVID S. HILL
GARY A. HILLMAN
DEAN A. HINES
JAMES E. HOLLINGER
CHAD B. HOLM
MICHAEL T. HOLMES
TERRY D. HOLOM
ASHLEY R. HOLT
ANNA K. HOPKINS
THOMAS J. HOPKINS
WALTER R. HOPPE
MICHAEL J. HOSEY
CHRISTOPHER M. HOWARD
JEFFERY S. HOWARD
THOMAS A. HOWELL
BRIAN P. HUFF
TIMOTHY A. HUNTER
EDWARD V. JACKSON
MICHAEL S. JACKSON
JAMES L. JARNAC
DARWIN A. JENSEN
JAY J. JEROME
JASON J. JESSUP
ANDREW S. JOCA
GEOFFREY W. JOHANNESEN
BRADLEY K. JOHNSON
DEAN E. JORDAN
MERIDENA D. KAUFFMAN
DANIEL P. KEANE
WHITNEY S. KEITH
BRAD W. KELLY
JOHNNY J. KIDWELL
SHANELL M. KING
ROBERT R. KISTNER
JAMES A. KLEIN
BREANNA L. KNUTSON
ZACHARY A. KOEHLER
HENRY M. KONCZYNSKI
BRIAN M. KOSTECKI
FRANK A. KRATOCHVIL
JERRY J. KRYWANCZYK
JULIE P. KUCK
MARK I. KUPERMAN
HEATHER P. KUTA
MICHAEL R. LACHOWICZ
GREGORY S. LAMBRECHT
KENNETH R. LANGFORD
KEVIN LAPE
MATTHEW H. LAUGHLIN
SONYA L. LEIBOWITZ
DONNA D. LEOCE
DEBORAH S. LINDQUIST
MANUEL P. LOMBA
DANIEL W. LONG
OSCAR B. LORENZO
TROY T. LUNA
EVELYN L. LYNN
ANTHONY J. MAFFIA
NEIL C. MARCELINO
MATTHEW I. MARLOW
HEATHER R. MATTERN
ROMULUS P. MATTHEWS
ERIC J. MATTHIES
LONNIE L. MATTOON
WILLIAM L. MCGOEY
EUGENE D. MCGUINNESS
STEVEN J. MCKECHNIE
BRIAN J. MCLAUGHLIN
LOUVENIA MCMILLAN
BRIAN J. MCSORLEY
ANN M. MCSPADDEN
WILLIAM L. MEES
DAVID L. MELTON
ANDREW J. MEYERS
STACY L. MILLER
DAVID W. MITCHELL
CHAD A. MOORE
MATTHEW J. MOORLAG
JASON W. MORGAN
KEVIN T. MORGAN
PAUL I. MORGAN
GUY A. MORROW
ANDREW J. MOTTER
EDWARD X. MUNOZ
ANDRE C. MURPHY
MAURICE D. MURPHY
SCOTT A. MURPHY
DAWN W. MURRAY
WILLIAM A. NABACH
ROBERT A. NAKAMA
MONTY NIJJAR
JOSEPH B. NOTCH
LOAN T. OBRIEN
MICHAEL G. ODOM
CRAIG T. OLESNEVICH
CHRISTOPHER A. ONEAL
MICHAEL P. ONEIL
THOMAS A. OTTENWAELDER
ANTHONY R. OWENS
PHILBERT C. PABELLON
JOHN D. PACK
MARK S. PALMER
BRYAN C. PAPE
ERIC G. PARA
GREGORY L. PARSONS
ERIC W. PEARSON
LATASHA E. PENNANT
JOSHUA D. PENNINGTON
BENJAMIN L. PERKINS
CRAIG R. PETERSEN
EBEN H. PHILLIPS
KENNETH G. PHILLIPS
NATHAN R. PHILLIPS
WILLIAM E. PICKERING
ROBERT M. PIRONE
CHRISTOPHER M. PISARES
WILLIE E. PITTMAN
KEVIN L. PLYLAR
JUAN M. POSADA
ROBERT H. POTTER
DAVID J. POTYOK
WILLIAM W. PRESTON
HAROLD PRICE
SCOTT A. RAE
MICHAEL J. RASCH
FELICIA K. RAYBON
MICHAEL C. REED
DAVID J. REINHARD
RYAN S. RHODES
RONALD E. RICHARDS
FELIX S. RIVERA
BRIAN W. ROBINSON
HELENA H. ROBINSON
LEN M. ROBINSON
PAUL A. RODRIGUEZ
REX E. ROEBUCK
STEPHANIE S. RONCHETTO
BLANCA ROSAS
ROBERT A. ROSENOW
RHETT R. ROTHBERG
PAUL F. RUDICK
GREGORY K. SABRA
SCOTT M. SANBORN
MARK C. SAWYER
NORBERT M. SCHWEINSBERG
WILLIAM A. SCOTT
FRED W. SEATON
MARC R. SENNICK
DONALD E. SHAFFER
MICHAEL D. SHARP
GREGORY A. SHOUSE
RYAN T. SIEWERT
CHAD S. SKILLMAN
JAMES S. SMALL
KEITH L. SMITH
GREGORY M. SOMERS
EDWARD P. SORIANO
WARREN P. SPROUL
JAMES B. STELLFLUG
FRAMAR L. STENSON
HILARY STICKLE
GLENN J. STPIERRE
HEATHER J. STPIERRE
WILLIAM E. STRICKLAND
JAMES B. SUFFERN
MARYANN C. SWENDSEN
DANIEL A. TALLMAN
CHRISTOPHER J. TANTILLO
GREGORY M. TARPEY
DALE T. TAYLOR
TRAVIS G. TAYLOR
RONALD S. TEAGUE
BRIAN S. THOMAS
BRETT J. THOMPSON
GREGORY P. TORGERSEN
KEITH A. TREPANIER
TODD C. TROUP
PRUDENCIO M. TUBALADO
MARC E. TUNSTALL
SHAWN TUTT
DANIEL R. URSINO
JEFFREY M. VAJDA
KURT M. VANHAUTER
CHRISTOPHER D. VARGO
OMAR VAZQUEZ
GUILLERMO VEGA
GREG E. VERSAW
JOWCOL I. VINA
RICHARD E. VINCENT
RANDY S. WADDINGTON
MATTHEW J. WALDRON
THOMAS W. WALLIN
ROBERT B. WALLS
RICHARD B. WALSH
JON T. WARNER
DONIS W. WATERS
CHARLES E. WEBB
KIMBERLY S. WHEATLEY
CHRISTOPHER J. WILLIAMMEE
JERRED C. WILLIAMS
SCOTT R. WILLIAMS
TIMOTHY C. WILLIAMSON
NORMAN C. WITT
WILLIAM C. WOITYRA
PHILLIP D. WOLF
LANCE M. WOOD
MICHAEL J. WOODRUM
ROBERT S. WORKMAN
DOUGLAS E. WYATT
ROBERT D. WYMAN
MATTHEW D. YORK
JAMES T. ZAWROTNY
MICHAEL J. ZERUTO

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

DARRYL D. BYBEE
MARCO V. GALVEZ

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

BRITT B. HILL

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS A CHAPLAIN UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

KENNETH CARLSON

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

RAYMOND L. CAPPS

To be lieutenant colonel

DAVID C. TAPP
ADEL S. ZARAA

To be major

SHANE RUSSELLJENKINS

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

ANTHONY H. SAVAGE

To be major

KARL F. WOODMANSEY

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTION 531 AND 3064:

To be major

GRACE LACARA
CHESLEY D. OVERBY

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

JOHN E. MURRAIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DANA STOMBAUGH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

PAUL J. FOSTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DEBORAH A. HINKLEY

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CHAS FAGAN, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014, VICE JERRY PINKNEY, TERM EXPIRED.

JOANN FALLETTA, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 2012, VICE FORESTSTORN HAMILTON.

LEE GREENWOOD, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014, VICE MAKOTO FUJIMURA, TERM EXPIRED.

BARBARA ERNST PREY, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014, VICE MARK HOFFLUND, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

RICHARD BRINKER
PATRICIA L. HARRALSON
NADIA C. SHOCKLEY

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

JOHN F. KASEL

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

MAX L. DIVINE
NORMA TORRES

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

MICHAEL L. NIPPERT
ROBERT C. TURNER

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

LAURENCE W. GEBLER
LINA HU

To be major

VISETH NGAUY

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

IRVIN MAYFIELD, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014, VICE KAREN LIAS WOLFF, TERM EXPIRED.

DISCHARGED NOMINATION

The Senate Select Committee on Intelligence was discharged from further consideration of the following nomination and the nomination was confirmed:

J. Patrick Rowan, of Maryland, to be an Assistant Attorney General.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, September 26, 2008:

DEPARTMENT OF JUSTICE

J. PATRICK ROWAN, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

THE JUDICIARY

CLARK WADDOUPS, OF UTAH, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF UTAH.

MICHAEL M. ANELLO, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

MARY STENSON SCRIVEN, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

CHRISTINE M. ARGUELLO, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

PHILIP A. BRIMMER, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

ANTHONY JOHN TRENGA, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

C. DARNELL JONES II, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

MITCHELL S. GOLDBERG, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

JOEL H. SLOMSKY, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

ERIC F. MELGREN, OF KANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF KANSAS.